HM Government

Elliott Review into the Integrity and Assurance of Food Supply Networks – Final Report

A National Food Crime Prevention Framework

July 2014

PB 14192

Preface

In June 2013 I was asked by the Secretaries of State for Environment, Food and Rural Affairs, and for Health, to conduct a review into the integrity and assurance of food supply networks, and to make recommendations. The Government should be congratulated for commissioning this report as it shows strong commitment to improving the integrity and assurance of food supply networks, and a determination to protect UK consumers. I published my interim report in December 2013 which set out what should be done to address weaknesses in the system. Stakeholders welcomed the interim report and the opportunity to provide further feedback before I published this final report. I have since completed a further round of meetings and evidence gathering. Stakeholders felt that the final report should provide additional background about the recommendations and their implementation. Feedback has further shaped my recommendations and this, my final report, sets out the issues and the best way to tackle them in more detail.

I am most grateful for all the contributions and help I have received during the course of this review. I would like to thank my small but excellent team of subject matter experts whose detailed knowledge and expertise have informed this review. My thanks also go to the secretariat for all their help, sound advice and hard work.

My systems approach is based on **eight pillars of food integrity** and means that no part can be considered in isolation and cherry picking of the recommendations will not work. For each pillar I describe the foundations, bricks and mortar that need to be put in place for it to be strong and robust. The public should be reassured that industry has taken my report seriously and has already started to implement many of the recommendations. The recommendations for Government to implement will take more time to complete given that the work cuts across a number of departments. There needs to be a partnership approach between Government, regulators and industry to implement this **national food crime prevention framework**. I am confident that there is clear commitment from all those who have engaged with my review, but I realise that implementing some of my recommendations will not be easy and will require a culture change. The food industry must above all else demonstrate that having a safe, high integrity food system for the UK is their main responsibility and priority.

The review has reached a number of key conclusions. Industry must recognise that audits should be about ensuring a safe, high integrity supply chain that protects their

business and their customers. The move towards modular and unannounced audits will help to deliver more effective outcomes. Public Analyst laboratories are in a fragile position and this review provides an opportunity to develop a sustainable national asset. A food crime unit is urgently needed to protect our food industry and consumers from criminal activity, but it will repay investment by protecting the majority of businesses who work hard to provide safe and authentic food for UK consumers. Establishing better links with food crime agencies across the EU and beyond will help combat international criminal activity in food supply. The willingness by industry to share sensitive information with a regulator will be required to deliver a national food crime prevention framework. The role of food crime prevention must be considered one of the priorities of a more robust and confident Food Standards Agency. This is vital to the UK. The Agency will need to be more proactive in deterring and investigating food crime and to show leadership as it works in partnership with local authorities.

As with all reviews which impact on industry, particularly small businesses, there are sensitivities about imposing additional costs, and I have been clear that I see no need for additional regulatory burdens. I believe that the systems I am proposing will help lift some existing burdens, especially from small businesses.

The current industry focus on developing shorter supply chains and on sourcing locally produced foods in long term partnerships is of enormous importance in terms of having a more resilient, higher integrity UK food system which will strengthen our nation's food security, maintain the UK's reputation in export markets, and contribute to economic growth. However we cannot escape the need to actively participate in global food supply systems and must develop a new mentality when sourcing from sometimes highly complex international markets.

The changes I am recommending to regain and enhance public trust will take time to implement. Prompt and thorough implementation, however, will ensure mechanisms are in place to deter and punish criminals. If the Government-industry partnership works, it will create a robust system which will prevent a repeat of an incident like 'Horsegate' which had far reaching impacts, and better protect food businesses and drive consumer confidence.

Professor Chris Elliott July 2014

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Executive Summary & Recommendations

1. This review was prompted by growing concerns about the systems used to deter, identify and prosecute food adulteration. The horse meat crisis of 2013 was a trigger, as were concerns about the increasing potential for food fraud and **'food crime'**. Food fraud becomes food crime when it no longer involves random acts by 'rogues' within the food industry but becomes an organised activity by groups which knowingly set out to deceive, and or injure, those purchasing food. These incidents can have a huge negative impact both on consumer confidence, and on the reputation and finances of food businesses.

2. The Terms of Reference for the review are at Annex A. Evidence was taken from a wide range of views beginning with a call for written evidence in June 2013, and followed by meetings and visits to a wide range of food premises (a list of organisations contributing to the review is included at Annex C). This first phase was completed with the publication of an interim report in December 2013.

3. The review has taken a systems approach based on eight pillars of food integrity, and this report deals with each in turn, making clear that no one element can stand alone. The result is a robust system that puts the needs of consumers before all others; adopts a zero tolerance approach to food crime; invests in intelligence gathering and sharing; supports resilient laboratory services that use standardised, validated methodologies; improves the efficiency and quality of audits and more actively investigates and tackles food crime; acknowledges the key role Government has to play in supporting industry; and reinforces the need for strong leadership and effective crisis management.

4. UK Consumers have access to perhaps the safest food in the world and all those involved in supplying food and regulating industry should be commended for what has been achieved. But there is no room for complacency, and there must be a focus on tackling food crime to protect consumers and the UK's reputation for food safety, and promoting the interests of honest and hard-working food businesses. The recommendations seek to enhance the UK's reputation and develop effective barriers against fraudsters who operate here and abroad. Implementation should not lead to additional regulatory burdens on industry, particularly on small and medium enterprises which make up the majority of UK food businesses.

5. This final report and the following interdependent recommendations form the basis of a **national food crime prevention framework** with clear roles and responsibilities for Government and industry.

Recommendation 1 - Consumers First: Government should ensure that the needs of consumers in relation to food safety and food crime prevention are the top priority. The Government should work with industry and regulators to:

- Maintain consumer confidence in food;
- Prevent contamination, adulteration and false claims about food;
- Make food crime as difficult as possible to commit;
- Make consumers aware of food crime, food fraud and its implications; and
- Urgently implement an annual targeted testing programme based on horizon scanning and intelligence, data collection and well-structured surveys.

Recommendation 2 - Zero Tolerance: Where food fraud or food crime is concerned, even minor dishonesty must be discouraged and the response to major dishonesty deliberately punitive. The Government should:

- Encourage the food industry to ask searching questions about whether certain deals are too good to be true;
- Work with industry to ensure that opportunities for food fraud, food crime, and active mitigation are included in company risk registers;
- Support the development of whistleblowing and reporting of food crime;
- Urge industry to adopt incentive mechanisms that reward responsible procurement practice;
- Encourage industry to conduct sampling, testing and supervision of food supplies at all stages of the food supply chain;
- Provide guidance on public sector procurement contracts regarding validation and assurance of food supply chains; and
- Encourage the provision of education and advice for regulators and industry on the prevention and identification of food crime.

Recommendation 3 - Intelligence Gathering: There needs to be a shared focus by Government and industry on intelligence gathering and sharing. The Government should:

- Work with the Food Standards Agency (to lead for the Government) and regulators to collect, analyse and distribute information and intelligence; and
- Work with the industry to help it establish its own ‘safe haven’ to collect, collate, analyse and disseminate information and intelligence.

Recommendation 4 - Laboratory Services: Those involved with audit, inspection and enforcement must have access to resilient, sustainable laboratory services that use standardised, validated approaches. The Government should:

- Facilitate work to standardise the approaches used by the laboratory community testing for food authenticity;
- Work with interested parties to develop 'Centres of Excellence', creating a framework for standardising authenticity testing;
- Facilitate the development of guidance on surveillance programmes to inform national sampling programmes;
- Foster partnership working across those public sector organisations currently undertaking food surveillance and testing including regular comparison and rationalisation of food surveillance;
- Work in partnership with Public Health England and local authorities with their own laboratories to consider appropriate options for an integrated shared scientific service around food standards; and
- Ensure this project is subject to appropriate public scrutiny.

Recommendation 5 - Audit: The value of audit and assurance regimes must be recognised in identifying the risk of food crime in supply chains. The Government should:

- Support industry development of a modular approach to auditing with specific retailer modules underpinned by a core food safety and integrity audit to agreed standards and criteria;
- Support the work of standards owners in developing additional audit modules for food fraud prevention and detection incorporating forensic accountancy and mass balance checks;
- Encourage industry to reduce burdens on businesses by carrying out fewer, but more effective audits and by replacing announced audits with more comprehensive unannounced audits;
- Encourage third party accreditation bodies undertaking food sampling to incorporate surveillance sampling in unannounced audits to a sampling regime set by the standard holder;
- Work with industry and regulators to develop specialist training and advice about critical control points for detecting food fraud or dishonest labelling;
- Encourage industry to recognise the extent of risks of food fraud taking place in storage facilities and during transport;

- Support development of new accreditation standards for traders and brokers that include awareness of food fraud; and
- Work with industry and regulators to introduce anti-fraud auditing measures.

Recommendation 6 - Government Support: Government support for the integrity and assurance of food supply networks should be kept specific, measurable, attainable, realistic and timely (SMART). The Government should:

- Support the Food Standards Agency's strategic and co-ordinated approach to food law enforcement delivery, guidance and training of local authority enforcement officers;
- Support the Food Standards Agency to develop a model for co-ordination of high profile investigations and enforcement and facilitate arrangements to deal effectively with food crime;
- Ensure that research into authenticity testing, associated policy development and operational activities relating to food crime becomes more cohesive and that these responsibilities are clearly identified, communicated and widely understood by all stakeholders;
- Ensure that oversight of the 'Authenticity Assurance Network' becomes a role for the National Food Safety and Food Crime Committee';
- Re-affirm its commitment to an independent Food Standards Agency; and
- Engage regularly with the Food Standards Agency at a senior level through the creation of a National Food Safety and Food Crime Committee.

Recommendation 7 - Leadership: There is a need for clear leadership and co-ordination of effective investigations and prosecutions relating to food fraud and food crime; the public interest must be recognised by active enforcement and significant penalties for serious food crimes. The Government should:

- Ensure that food crime is included in the work of the Government Agency Intelligence Network and involves the Food Standards Agency as the lead agency for food crime investigation;
- Support the creation of a new Food Crime Unit hosted by the Food Standards Agency operating under carefully defined terms of reference, and reporting to a governance board;
- Support the Food Standards Agency in taking the lead role on national incidents, reviewing where existing legislative mechanisms exist, while arrangements are being made to create the Food Crime Unit; and
- Require that the Government lead on Operation Opson passes from the Intellectual Property Office to the Food Standards Agency.

Recommendation 8 - Crisis Management: Mechanisms must be in place to deal effectively with any serious food safety and/or food crime incident. The Government should:

- Ensure that all incidents are regarded as a risk to public health until there is evidence to the contrary;
- Urge the Food Standards Agency to discuss with the Cabinet Office in their role as co-ordinating body for COBR (Cabinet Office Briefing Room) the planning and organisation of responses to incidents;
- Urge the Food Standards Agency to implement Professor Troop's recommendations to put in place contingency plans at the earliest opportunity; and
- Work closely with the Food Standards Agency to ensure clarity of roles and responsibilities before another food safety and/or food crime incident occurs.

Next Steps

6. The Review is now complete, but tackling food crime will require ongoing effort by the Government regulators and industry. The EFRA Committee and the House of Lords Science and Technology Select Committee have undertaken to keep under review action being taken in response to this review when deciding on issues which they can investigate and report on in future.

Chapter 1: Introduction & Background

1.1. In June 2013 the Secretaries of State for Environment, Food and Rural Affairs, and for Health, commissioned a review into the integrity and assurance of food supply networks, and to make recommendations for how the systems used to deter, identify and prosecute food adulteration could be improved. Whilst this review was commissioned by Secretaries of State in England, there is an important role for liaison across boundaries to ensure protection of the UK as a whole. The review engaged with Ministers in the devolved administrations to ensure that it took account of their interests.

1.2. Over the last 20 years a great deal of work has been done to ensure that food is safe to eat, and is free from chemical and microbiological contamination. This has resulted in the UK having one of the safest food supply systems in the world, and all those involved in supplying food and for developing and enforcing legislation should be commended for what has been achieved. However, much less attention has been focused on food authenticity, food fraud and food crime. A key ambition of the review is to restore consumer confidence, strengthen our primary global position in agri-production, and protect consumers and honest businesses through an effective regulatory framework.

Conduct of the Review

1.3. In June 2013 the review issued a call for evidence and a summary of responses is available on the Elliott Review website[1]. The team carried out site visits across the UK, and met industry stakeholders, regulators and consumers. They also visited food crime units in other Member States. The review has been conducted in an open and transparent manner, publishing information on the review website, mindful of the need to respect commercial and other sensitivities.

1.4. The first phase of the review was completed with the publication of the interim report in December 2013. Following discussions with stakeholders during the second phase there have been changes to the recommendations so that the eight pillars of food integrity are clearly identified together with actions required to put them in place. This report marks the conclusion of the review.

[1] https://www.gov.uk/government/policy-advisory-groups/review-into-the-integrity-and-assurance-of-food-supply-networks

1.5. The findings in this report should not be seen as a threat, but as a means of tackling food crime both inside and outside the UK. There must be a focus on food crime because of the threat it poses to our hard-earned reputation for food safety, protecting consumers and promoting the interests of honest and hard-working food businesses. The recommendations are not intended to add regulatory or financial burdens, particularly on small and medium enterprises (SMEs)[2], which make up the majority of UK food businesses, but are kept to the minimum commensurate with effectively tackling food crime. This final report and the interdependent recommendations form the basis of a **national food crime prevention framework** with clear roles and responsibilities for Government and industry.

Food Fraud and Food Crime

1.6. This report covers food fraud and food crime, terms which are often used interchangeably but have distinct characteristics. Food fraud encompasses 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. The types of fraud include adulteration, tampering, product overrun, theft, diversion, simulation, and counterfeiting[3]. 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 (see definitions in Annex D). There is always the potential for food fraud to lead to severe illness, or in the worst case, death due to consumption of contaminated food or food that is not what it claims to be.

1.7. Concerns have been expressed during this review that the term food fraud creates an impression of some kind of low grade infraction of the law, of a harmless minor breach of technical regulations of the kind that many hard pressed businesses may be tempted to resort to in difficult times. But the serious end of food fraud is organised crime, and the profits can be substantial. The recommendations in this report will not stop food crime, but are intended to make it much more difficult for criminals to operate in the UK. The Government must

[2] The European definition of SME covers the category of micro entities(companies with up to 10 employees), small companies (which employ up to 50 workers) and medium-sized enterprises (which have up to 250 persons) and which have an annual turnover not exceeding 50 million euro, and/or an annual balance sheet total not exceeding 43 million euro.

[3] http://onlinelibrary.wiley.com/doi/10.1111/jfds.2011.76.issue-9/issuetoc

take action to prevent and deter criminal activity, requiring effective co-operation at a strategic level across the UK, Europe and internationally.

Drivers of Food Crime

1.8. The food industry is of huge importance to the UK economy. Total consumer expenditure in the UK on food, drink and catering in 2013 was estimated by Defra to be worth £196bn[4], while the Gross Value Added of the UK food manufacturing industry was estimated at £24bn.

1.9. The global food market gives UK consumers access to all types of seasonal and unseasonal products and has become a highly complex system. Consumers have become accustomed to variety and access at low cost, and at marginal profit to suppliers. These factors have increased opportunities for food crime. As the food industry places more reliance on global ingredients, there is a growing awareness of the importance and complexity of assurance in food supply networks. Since the horse meat incident there has been a concerted effort by industry to simplify supply chains where possible.

1.10. The UK food industry is very competitive and there is a constant drive to reduce costs and maximise profits. Consumers are reliant on the leadership, good intentions and good practices of those who supply food and regulate it. Consumers expect Government and industry to provide a food system which is safe, resilient and free from criminal interference. Consumers must be able to trust that the food they consume is what it claims to be.

1.11. Each supply chain is unique, showing that there is no single approach to assuring supply chain integrity. The review has seen many examples of good industry practice that give cause for optimism. There is not space within this final report to reference all the good industry practices but those that have stood out include McDonald's and Morrisons (see case studies in Annex J).

Impact of Food Fraud

1.12. Food fraud is not a 'victimless crime'. Wherever fraud occurs in the supply chain, the costs get passed on to consumers. Industry claimed to be the victim of the horse meat incident because of the cost of recalling products and the impact

[4] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/307106/foodpocketbook-2013update-29apr14.pdf

on brand reputation. In fact, consumers were the real victims as they purchased food which was not of the nature and substance expected.

1.13. Whilst all consumers are at risk from food fraud, lower income groups spend a higher proportion of their income on food, particularly processed foods which are more susceptible to fraud. Some consumers are at risk if they have to rely on others for food preparation, such as those in care homes, or hospitals. Recent surveys by local authorities such as Leicester City Council, West Yorkshire, North Yorkshire and West Sussex, and the consumer organisation Which? (see Annex E) have shown that consumers using fast food outlets in inner city areas are often buying food which is not what it claims to be. In some cases the evidence suggests that problems arose because of unintentional labelling mistakes, but there is a concern that other fast food outlets may have been sourcing cheaper meat which increased the risk of food fraud.

1.14. Small businesses are vulnerable to food fraud, and many have said that they are struggling to stay in business as they are competing against those that cheat. The cost of criminal activity could be substantial and could be having a serious impact on responsible food businesses, particularly SMEs which make up around 70% of UK food businesses. The protection of legitimate businesses, and the creation of an environment that allows them to thrive, is a crucial part of the Government's policy to make the UK more competitive. Both the industry's profitability and the Government's growth agenda and export drive will be damaged if the mechanisms to effectively tackle food crime are not put into place.

Quantifying the Level of Food Crime

1.15. Estimates of the extent of criminality and serious organised crime in food provision vary widely and the full extent of the problem in the UK is unknown. This is why the interim report said that data collection and well-structured surveys must be undertaken to fill this knowledge gap. The experience of other countries suggests that wherever there has been a systematic approach to look for food crime evidence has quickly been uncovered (see Annex L). There are strong indications that food crime is happening within the UK and the review has been presented with information about threats made by criminals to regulators inspecting food businesses, and by honest businesses trying to compete with cheats. Specific information about food crime has been passed on to the relevant enforcement bodies where appropriate. The sensitive nature of that information means no details can be provided in this report.

Gathering Evidence of Food Crime

1.16. During the second stage of the review more information about the extent of food crime was sought. The review contacted food businesses through trade associations and also territorial police forces. Details of the responses are in Annex E. Whilst it may appear from this feedback that food crime is not widespread in the UK, it is more likely that this confirms that evidence of food crime is not currently sought at the required level or with the necessary expertise. The horse meat incident and other reported cases of food crime have demonstrated that criminals infiltrate supply chains of legitimate businesses without their knowledge. Some trade bodies have their own arrangements for collecting and sharing information on potential criminal activity, but these mechanisms alone are not a safeguard against organised criminals.

1.17. A total of 18 police forces responded to the request for information, 12 of which recorded no such cases. Several police forces highlighted a problem with extracting data on cases involving food crime as there is not currently a Home Office Crime Code for food contamination meaning it is not possible to search crime recording systems for food fraud. Food fraud may be costing UK food businesses a substantial amount of money and risks causing significant reputational damage. Importantly, some of the examples uncovered pose food safety risks. However, due to factors such as a lack of intelligence-based detection, the scale of the problem remains unknown.

A Systems Approach to Tackling Food Crime

1.18. The review took a systems approach to ensuring the integrity and assurance of food supply networks and this has informed the final recommendations. The approach is intended to provide a means to allow implementation of a national food crime prevention framework. The following are key pillars of a system: Consumers First; Zero Tolerance; Intelligence Gathering; Laboratory Services; Audit; Government Support; Leadership; and Crisis Management. This final report deals with each of these pillars in turn, and highlights their importance, the weaknesses in existing parts of systems and action necessary to address those weaknesses. In a number of areas work is already underway, but more needs to be done. This report updates and expands the interim report, and contains more detailed information to underpin the recommendations, which have been updated and consolidated to reflect progress and feedback since the publication of the interim report, and following engagement with stakeholders during the second stage of the review.

Chapter 2: Consumers First

*Industry, Government and enforcement agencies should, as a precautionary principle, always put the needs of consumers above all other considerations, and this means giving **food safety and food crime prevention** – i.e. the deterrence of dishonest behaviour – absolute priority over other objectives.*

2.1. Food crime tends to be identified, if discovered at all, after much of the food has been distributed and eaten; too late in terms of risk to consumers and the loss of confidence in food supply networks. Evidence from recent local authority authenticity testing appears to show high levels of 'failures' particularly in meat authenticity (see Annex E). Any undeclared food substitution or adulteration must be considered a potential risk to public health unless proven otherwise. This is most evident where there is contamination by allergens, where adulteration or substitution can have serious consequences. There have been instances where ground almonds were substituted by peanuts. This practice could have fatal consequences and although death by anaphylaxis to a food allergen is rare, one fatal case would be one too many.

2.2. All those involved in the governance of the food chain should prioritise consumer confidence in the food they eat over all other aims. Contamination and adulteration of food, and making false claims about food products must be made as difficult as possible. Food safety and food crime prevention must be considered the primary objective.

2.3. Deterrence of food crime starts with consumer awareness and helping them take action when they suspect it is happening. Social media could be used to inform consumers and to help them make informed choices. Retailers and suppliers should support consumer choice by making information easy to understand. This could be provided on websites, and when there has been fraud, further advice could be provided on what action consumers need to take. This could also highlight that consumers need to question when food appears to be very cheap, and to consider the potential serious risks of consuming food of dubious provenance.

2.4. The review welcomes the recent launch by the consumer organisation Which? of its campaign 'Stop Food Fraud'[5], calling for action to help restore consumer

[5] http://www.which.co.uk/campaigns/meat-takeaways-horsemeat/

confidence. It wants local authorities to effectively and efficiently carry out food enforcement and make the best use of limited resources by sharing services and expertise across councils; the Food Standards Agency (FSA) to ensure there is joined up action at national and local level that prioritises consumers' interests; and the Government to implement the recommendations from this review and to prioritise food controls, standards and their enforcement.

2.5. Consumers are often faced with a huge amount of information when shopping and they need help to make informed choices. Regulations on food information for consumers will shortly come in to force, and will be helpful. The interim report overstated the responsibility on consumers themselves to ask searching questions about the food they buy, and the review has concluded that the onus is on the FSA to identify problems which impact on consumers, and to provide information for consumers about food crime. For example their website could explain to consumers and businesses how to avoid food fraud, and give tips about buying food to ensure it is what it says it is. The media also has an important role in reporting incidents in an accurate and timely way.

2.6. To protect consumers there needs to be a good understanding about the extent of food fraud in the food supply network. Estimates of the scale of the problem vary widely and the police and food businesses hold limited information on food crime. Experience in other countries strongly suggests that evidence of food crime will only be found once it is investigated systematically and thoroughly (see Annex L). Government should ensure that its annual targeted testing programme makes use of horizon scanning and intelligence to fill the current knowledge gap about food crime.

Recommendation 1 - Consumers First: Government should ensure that the needs of consumers in relation to food safety and food crime prevention are the top priority. The Government should work with industry and regulators to:

- **Maintain consumer confidence in food;**
- **Prevent contamination, adulteration and false claims about food;**
- **Make food crime as difficult as possible to commit;**
- **Make consumers aware of food crime, food fraud and its implications; and**
- **Urgently implement an annual targeted testing programme based on horizon scanning and intelligence, data collection and well-structured surveys.**

Chapter 3: Zero Tolerance

In sectors where margins are tight and the potential for fraud is high, even minor dishonesties must be discouraged and the response to major dishonesties deliberately punitive.

3.1. The principle of zero tolerance is widely accepted but must be adhered to and implemented by regulators and industry.

Local Authority Enforcement

3.2. Whilst resource constraints have affected many local authorities, more effective enforcement and prioritisation is needed to deal with food crime. The review has found that two initiatives might help in these respects; namely greater use of earned recognition, and more information sharing amongst regulators. Not only could both improve the effective and efficient use of public sector resources, they also have the potential to cut burdens on businesses. Sectors where assurance schemes and earned recognition operate have reduced inspection rates with a clearer focus on non-compliant operations.

3.3. Using earned recognition for those already complying with food law requirements through accredited assurance schemes and Primary Authority Schemes could help to free up resources to tackle food crime. Both local authorities and SMEs would welcome this higher prioritisation of food fraud. More information about the benefits of earned recognition is at Annex K. A survey by the FSA in 2013 showed that consumers recognise the benefits of industry assurance schemes.

Information Sharing By Regulators

3.4. The Department of Business Innovation and Skills (BIS) has recently initiated a consultation on information sharing between regulators[6]. This work may identify where Government agencies can work together to share information about businesses. This would avoid businesses providing duplicate information to each regulator. It could also help to target enforcement activity towards businesses which repeatedly fail to comply with appropriate legislation.

[6] https://www.gov.uk/government/consultations/data-sharing-for-non-economic-regulators

3.5. A central register of food law convictions kept by the Office of Fair Trading discontinued some time ago. This could be re-introduced by the FSA (see the Health and Safety Executive model[7]). The benefits of this central register include:

- The major players would make sure that significant resources were provided for compliance both now and in the future in order to protect their brand;
- Enforcement officers would have ready access to previous convictions of a business for the purpose of intelligence gathering and investigation;
- The courts would be able to sentence a business with accurate and up to date information; and
- It would be open to public viewing, allowing consumers to make informed choices about the food they buy.

Industry Culture

3.6. Prevention of food crime needs to become an industry wide culture. Businesses must recruit the right staff that have pride in their company and its products. Staff can play a key role in providing early feedback about problems, through staff suggestions and whistleblowing. This culture of food crime prevention should be part of a company's social responsibility, which can also deliver commercial benefits. It should be considered more important than other concerns identified during the review, such as:

- Anxiety that Government agencies will publish specific and detailed information about particular brands or companies that may have identified any related concerns;
- Industry protecting information about supply chains that might be vulnerable to being lost to competitors;
- Refusal to share information about products or suppliers on the grounds that this might be considered anti-competitive (i.e. an abuse of commercial position); and
- Reluctance to rethink and redesign how auditing is performed.

3.7. Following the interim report, discussions with industry have shown that businesses understand the importance of these issues and the need to think differently. Industry is actively considering what more needs to be done to work in partnership to tackle food crime. The final recommendations should support

[7] www.hse.gov.uk/enforce/prosecutions.htm

industry by suggesting solutions to help businesses with the challenges they will face.

3.8. Risk management is important and starts with knowing who you are doing business with. Understanding the complexities of supply chains is much more than maintaining a paper trail. When things go wrong, this alone will not provide a defence against allegations of negligence or handling counterfeit goods (which constitute criminal property under the Proceeds of Crime Act 2002[8]). The priority must be to make it as difficult as possible to introduce fraudulent produce into supply networks. Some in the industry have said that there will always be an element of trust involved when sourcing products. But there are risks in taking such an approach and industry must ensure it has procedures in place to verify that suppliers are acting responsibly. Food businesses must understand the risks they face and set these out in a company risk register which describes and shows how they will be mitigated. Shareholders also have a role in holding companies to account where shortcomings are identified in how businesses are being managed.

Whistleblowing

3.9. Any incident of suspected and known food crime should be reported directly by staff to their own employers and by industry customers to the senior management of those companies with responsibility for the goods. Mechanisms to enable whistleblowing and reporting of general concerns about food crime need to be further developed.

3.10. All organisations, including food businesses and Government bodies, must ensure that mechanisms are in place to enable their staff to 'whistleblow' and to enable consumers to raise concerns about suspected and known food crimes. In respect of whistleblowing, arrangements must comply with the Public Interest Disclosure Act 1998[9]. If the systems are easy to understand whistleblowers will feel more confident that they will be protected and that their information will be handled appropriately. The FSA has procedures to enable whistleblowers to provide information and to ensure their identity will be protected, but this service must be better publicised. The review has also identified a number of whistleblowing arrangements in food businesses but they need to do more. They

[8] http://www.legislation.gov.uk/ukpga/2002/29/contents
[9] http://www.legislation.gov.uk/ukpga/1998/23/contents

could usefully take account of advice issued by the Committee on Standards in Public Life in developing their arrangements[10]. Details are at Annex F.

Understanding the Risk of Complicity

3.11. Industry should not ignore attempted or actual frauds and should consider the ethics of withholding intelligence from competitors. They should seriously consider that they may be obstructing the course of justice and be committing an offence by not giving well evidenced information to regulators. The law on dishonest handling is clear and starts with stolen goods. A person knows that goods are stolen if he or she has actual knowledge of this, or is told of this by someone with first-hand knowledge (such as the person who committed the theft). 'Belief' in property being stolen becomes a problem when the person could not say for certain that the goods were stolen, but there was no other reasonable conclusion in the light of all the circumstances. There is more risk of being accused of complicity when food becomes subject to the offence of fraud by misrepresentation. For example, if a retailer were to secure a foodstuff for a price well below the recognised market price, then it might be inferred that the most obvious way the supplier was meeting that price was by committing the offence of fraud by misrepresentation. In such a case it is for the retailer to be able to produce evidence that it checked that there were no grounds for suspicion of the product being counterfeit or adulterated, because in such a case the counterfeit or adulterated goods would amount to criminal property. Any party that can be shown to have profited from criminal property while knowing or even suspecting that it was such, would be culpable under the Proceeds of Crime Act 2002 (POCA) which covers the transfer, acquisition and possession (also known as "laundering") of criminal property.

Procurement Policies

3.12. Procurement policies in some food businesses, particularly some of the larger retailers, are a matter of concern. The culture of adversarial procurement has not changed and in some cases the review has learned that it has got worse. The review cautions against procurement of goods for less than the recognised reasonable price, based on market knowledge. This is neither good for the sustainability of UK farming nor the integrity of the food industry and ultimately impacts negatively on consumers. Whilst not currently within the remit of the Groceries Code Adjudicator, pressure on companies to supply goods at below

[10] http://www.legislation.gov.uk/ukpga/1998/23/contents

market price could usefully be considered at some point in the future. Recent reports in the media show the emergence of a new price war between some of the major retailers, and suppliers are already under pressure to further reduce prices. The food industry needs to realise the extent of their exposure should adulteration or substitution occur, both in terms of the potential for the endangerment of consumers, and brand damage and loss of revenue.

Comment on Procurement Practices by Dr Clive Black[11], Head of Research Shore Capital Stockbrokers

'The causes of the European horse meat scandal were multi-faceted. However, at its heart were pressure points that exposed breakdowns and created opportunities for inappropriate minds in and between the components of the supply chain to take advantage. Most simply, where economic priorities of one component or another of the chain encourages shortcuts; that is a breakdown that exposes consumers to risk.

As the UK grocery industry enters a period of heightened price pressure in 2014, taking the supermarket's price cutting statements at face value, the potential for further breakdowns must surely become a greater concern for everyone involved, including the regulator.

Accordingly, other retailer and supply chain rhetoric since this scandal broke needs to remain at the fore; the need to demonstrably put the authenticity and safety of food first particularly commitment to source British product, the need for real and balanced partnerships that respect the needs of the whole of the supply chain and, the need for retailer and regulator alike to make sure that the reputation and effectiveness of the British supply chain is supported on a sustained basis, not just in the fall-out of the crisis, because that is the best basis to provide consumers with a secure product in the long-term and an industry with a stable modus operandi.'

3.13. Whilst larger food businesses may be able to improve procurement, SMEs may increasingly be targeted by criminals dealing in illegal food. They may be tempted to purchase cheaper food which could have serious public health consequences. Industry incentive mechanisms should reward responsible procurement practice and support improvements in technical controls.

[11] http://www.shorecap.gg/who-we-are/senior-management

3.14. The prevention of food crime can be achieved by all parties involved in production, handling and transport following good practice; by agreeing food specifications; checking and ensuring conformity through sampling; adhering to recognised standards of testing; and deciding whether their governance of production, processing or labelling systems is adequate. The interim report included a case study from Young's Seafood Limited the 'Seven Sins of Fish' to demonstrate the steps it had taken to identify the potential for food fraud and to mitigate these risks. This has been further developed by Young's to describe the risks associated with the upstream supply chain (see Annex J).

3.15. Food and drink sales in public sector organisations accounted for £2.4bn (5.5%) of total sales in the food service sector in 2012[12]. Consumers reliant on public sector food provision have little opportunity for choice and so diligent procurement is very important. The Government's British Food Plan seeks to improve public procurement of food, working with buyers and food producers to create a systematic approach to food procurement. This will include reference to integrity and assurance in food supply networks, and is working with the key UK assurance bodies. The ambition to protect vulnerable consumers through this public sector procurement approach is welcome.

3.16. The National Offender Management Service (NOMS, part of the Ministry of Justice) recognises that food is a very important factor in prisoner physical and mental wellbeing. Those in custody have little choice over the food that they eat. NOMS responded quickly to the horse meat incident, focusing on restoring consumer confidence through better procurement policy and information about the supply chain. The NOMS food procurement contract is comprehensive and places a large burden of assurance responsibility on suppliers.

3.17. The review has engaged with those responsible for public sector procurement in institutions such as schools and hospitals. This is a complex area of work. There are particular responsibilities for those who take overall responsibility for providing food for institutions and they should be provided with guidance on what to include in contracts to ensure the validation and assurance of their supply chains. The review has found that since the horse meat incident, significant steps have been taken to improve the food supplied to these groups, by

[12] 'Horizons For Success' http://www.hrzns.com/

introducing more effective checks and audits throughout the supply chain and statutory guidance, which was proposed in the interim report, is not required.

Education and Support

3.18. Reliance on formal action, such as enforcement notices or criminal prosecutions, has its place in a hierarchy of enforcement. Trade associations and local authority enforcement officers have commented during the review that thorough training of practitioners and time spent with new businesses (particularly SMEs) is the most effective way to secure ongoing and long term improvement in business compliance. In order to respond effectively to increasing challenges to the safety and integrity of the food supply new approaches are required. There is a need to share knowledge, improve intelligence and work collaboratively across public, private, academic and civil society in order to be more efficient and effective in protecting the food supply and ultimately consumers.

3.19. The Chartered Institute of Environmental Health (CIEH) has established a new collaborative membership body, the Institute of Food Safety, Integrity & Protection (IFSIP). IFSIP will bring together individuals and businesses through sharing of knowledge and information, and by supporting the development of new skills. The need to strengthen collaborative working has been demonstrated by the horse meat incident and an early role for IFSIP will be to facilitate broad, informal partnerships aimed at building more robust food supply chain integrity.

3.20. In summary, education and advice is required on the prevention and identification of food crimes for regulators and industry. Advice should follow a format already familiar to the food industry, such as the critical control points for hygiene in a food safety management system (the Hazard Analysis and Critical Control Point (HACCP) approach).

Recommendation 2 - Zero Tolerance: Where food fraud or food crime is concerned, even minor dishonesty must be discouraged and the response to major dishonesty deliberately punitive. The Government should:

- **Encourage the food industry to ask searching questions about whether certain deals are too good to be true;**
- **Work with industry to ensure that opportunities for food fraud, food crime, and active mitigation are included in company risk registers;**
- **Support the development of whistleblowing and reporting of food crime;**
- **Urge industry to adopt incentive mechanisms that reward responsible procurement practice;**
- **Encourage industry to conduct sampling, testing and supervision of food supplies at all stages of the food supply chain;**
- **Provide guidance on public sector procurement contracts regarding validation and assurance of food supply chains; and**
- **Encourage the provision of education and advice for regulators and industry on the prevention and identification of food crime.**

Chapter 4: Intelligence Gathering

There needs to be shared investment between Government and industry in intelligence gathering and sharing, although to ensure its effectiveness all organisations must have regard to the sensitivities of the market.

4.1. During the course of the review it has been evident from discussions with all parties that there should be a mechanism for gathering information and sharing intelligence about potential and actual fraud, providing a focus where none previously existed. It may have some value as a deterrent, but should primarily be used to disrupt or stop food fraud. Businesses seeking to exploit new market opportunities overseas will want to minimise the reputational risk posed by the failure to share information.

4.2. Whilst anecdotal evidence may have limited value, and may be incidentally or deliberately unreliable, incomplete and inaccurate, this view must never be allowed to support complacency. An absence of solid, evidence-based intelligence does not mean there is an absence of problems. Most large organisations engage in some type of horizon scanning, with various levels of sophistication (see Annex G). Food production is affected by both the global and the political climate, and new issues and concerns are always emerging. There are currently reported global shortages of limes, prawns, pork, avocado, mango and chocolate (cocoa). These problems in supply are linked with plant and animal health issues in other parts of the world.

4.3. The solution needs to be pragmatic, effective and sustainable. Industry is considering how best to improve intelligence gathering and create an intelligence hub ('safe haven'). There will be practical difficulties to make this operational, but it is important that efforts to develop a solution are encouraged and options carefully explored. Problems will arise through the development of multiple intelligence hubs and that would defeat the purpose of a single 'safe haven'.

Industry 'Safe Haven'

4.4. Industry is very keen to work with regulators, but is cautious about the legal implications of providing information and intelligence unless information has previously been anonymised from any direct attribution to a particular source. This flow of intelligence from industry to Government is a vital part of the systems that must be developed. The industry intends to take forward proposals set out in

the interim report for new arrangements for a ‘safe haven’. Given the concerns about sharing even sanitised information with regulators, industry will need further reassurances. The industry must ensure that all those with an interest, including key trade associations, as well as SMEs, are involved in developing the ‘safe haven’ and that it is set up as soon as possible.

4.5. Discussions with industry have led to agreement that the ‘safe haven’ should be based on the following characteristics:

- The collection and ‘sanitisation’ of information and intelligence from industry, through a confidential source register. Undertaken by an organisation with its own legal status, it should be supported and funded directly by industry;
- Converting information into intelligence that can be disseminated both to regulators and across industry organisations, which may be in competition with one another;
- Appointed by its contributors in such a way that it can rely on legal privilege in receiving information and is trusted, again through legal privilege, to protect market sensitive disclosures from being shared with competitors;
- Giving information to this industry service should be free, but the costs associated with the running of the service should be paid for by subscription from those who want to share relevant intelligence outputs;
- The service must share intelligence with the FSA, and other regulators, as a protected disclosure unless there is clear evidence suggesting that public health would be protected by immediate, full and open public disclosure; and
- The service should be as open as possible about its activities; perhaps through the mechanism of an annual, or more regular, public report.

4.6. Placing a responsibility on industry to fund its ‘safe haven’ should not lead to significant cost burdens on SMEs. It should be possible to set up a system that bases charges on, for example, the type of information accessed. A small cheese-making company would only need information about a limited number of commodities. There is a crucial role for trade associations and a number have indicated they would be willing to take responsibility for supplying and accessing information to disseminate to members, helping to minimise costs. Industry also sees benefits from larger companies taking on a greater proportion of the running costs, enabling SMEs to access information at a reduced cost. There is recognition that the widest possible dissemination of information will also help protect all in the industry from future food fraud incidents.

4.7. Engagement with both industry and the FSA has led to agreement that these characteristics are vital in order to create an effective, robust and, most importantly, confidential intelligence source that industry would have the confidence to share information with.

4.8. A number of organisations, including Food and Drink Federation (FDF), IGD, Leatherhead Food Research and the Intellectual Property Office (IPO), have already assisted in developing the structure for a 'safe haven'. On behalf of the FSA, Leatherhead Food Research carried out a mapping exercise about the nature and type of data collected by industry relating to authenticity testing. The IPO has the UK lead for Operation Opson (see Annex E) working with UK regulators, the food industry, and EU bodies in co-ordinated action, to track down and deal with food fraud. The IPO has capacity and capability relating to intelligence gathering and analysis, but no direct regulatory responsibility and it relies on other regulators to take enforcement action. IPO is in a strong position to help develop a 'safe haven', without the risks associated with confidential handling of any information provided. Discussions are continuing between industry and IPO, and it is hoped that a pilot scheme may be set up. The FDF has been leading work with its members to develop a model for the 'safe haven'. FDF has consulted the British Retail Consortium (BRC) and has been working in parallel with IGD, and has said that trade bodies are well placed to help develop good practice guidance about the operation of the 'safe haven'. Trade bodies could offer access to respected technical and sector experts to analyse or scope trends. Some food businesses that are not members of trade bodies, or businesses that are members, will not want to provide any information. Trade associations are now considering how they could enable non-members to access their services, but it will take time to establish trust, and to demonstrate how intelligence can be effectively used.

4.9. There are two schemes in operation in other sectors that would be good models to follow in relation to intelligence sharing; the 'Operation Safer Cash'[13] run for the banking sector and 'Grapevine'[14], run by the Post Office. The two schemes are being merged, or at least discussions have been initiated.

[13] http://www.bsia.co.uk/safer-cash
[14] http://www.grapevine.co.uk/

FSA Intelligence Hub

4.10. The FSA has been investigating and developing new arrangements for horizon scanning, intelligence gathering, analysis, and sharing as recommended by the Troop review[15]. This has been very helpful and timely.

4.11. The interim report made a number of recommendations for a similar intelligence hub to be set up within the FSA. The characteristics are described in Annex G. The FSA and other interested groups have agreed that these characteristics are vital to develop a service capable of interacting with both regulators elsewhere (e.g. other Member States) and industry.

4.12. The FSA should take the lead in the collection, analysis and distribution of information and intelligence from a wide range of sources (including Governmental e.g. local authorities, police, EU counterparts) acting as an 'intelligence hub'. Through this intelligence hub, the FSA needs to develop its links with the research sector to produce and share horizon scanning analyses of the commodities or markets considered at most risk from crime due to trade route complexity, commodity price fluctuations, crop failures, fishing restrictions, the development of premium markets through labelling, and criminal ingenuity.

4.13. Industry has said that a key outcome from sharing information with the FSA is that effective action must result and that it is essential that a Food Crime Unit with an effective investigative capability should be established. Chapter 8 sets out detailed proposals for a Food Crime Unit hosted by the FSA.

Recommendation 3 - Intelligence Gathering: There needs to be a shared focus by Government and industry on intelligence gathering and sharing. The Government should:

- **Work with the Food Standards Agency (to lead for the Government) and regulators to collect, analyse and distribute information and intelligence; and**
- **Work with the industry to help it establish its own 'safe haven' to collect, collate, analyse and disseminate information and intelligence.**

[15] http://www.food.gov.uk/multimedia/pdfs/board/board-papers-2013/fsa-130704-prof-troop-report.pdf

Chapter 5: Laboratory Services

Those involved with audit, inspection and enforcement must have access to resilient, sustainable laboratory services that use standardised, tested approaches.

5.1. The interim report set out the role of food sampling and laboratory analysis in the prevention, detection and prosecution of food crime. Food fraud is often undetectable except by scientific analysis and there is a common acceptance of the role food forensic science plays underpinning effective investigation and enforcement. A resilient laboratory service using standardised, established approaches is a key part of the multi-agency collaboration needed to prevent food crime. The review's considerations on the laboratory services that undertake food authenticity testing have been focused on standards of analysis, the way in which sampling is conducted (e.g. general surveillance or risk-based sampling) and availability of laboratory services themselves.

Standards of Analysis

5.2. The processes and methodologies used to ensure the integrity and assurance of food should be undertaken according to recognised standards and agreed performance criteria. An efficient scientific service must review and adapt its testing methodologies regularly to keep up to date with possible frauds and detection techniques. There are key roles for the Joint Research Centre of the European Commission, the technical sub-groups of Defra's Food Authenticity Steering Group, the Analytical Methods Committee of the Royal Society of Chemistry and the academic communities in developing these standardised approaches and they are encouraged to continue with this work.

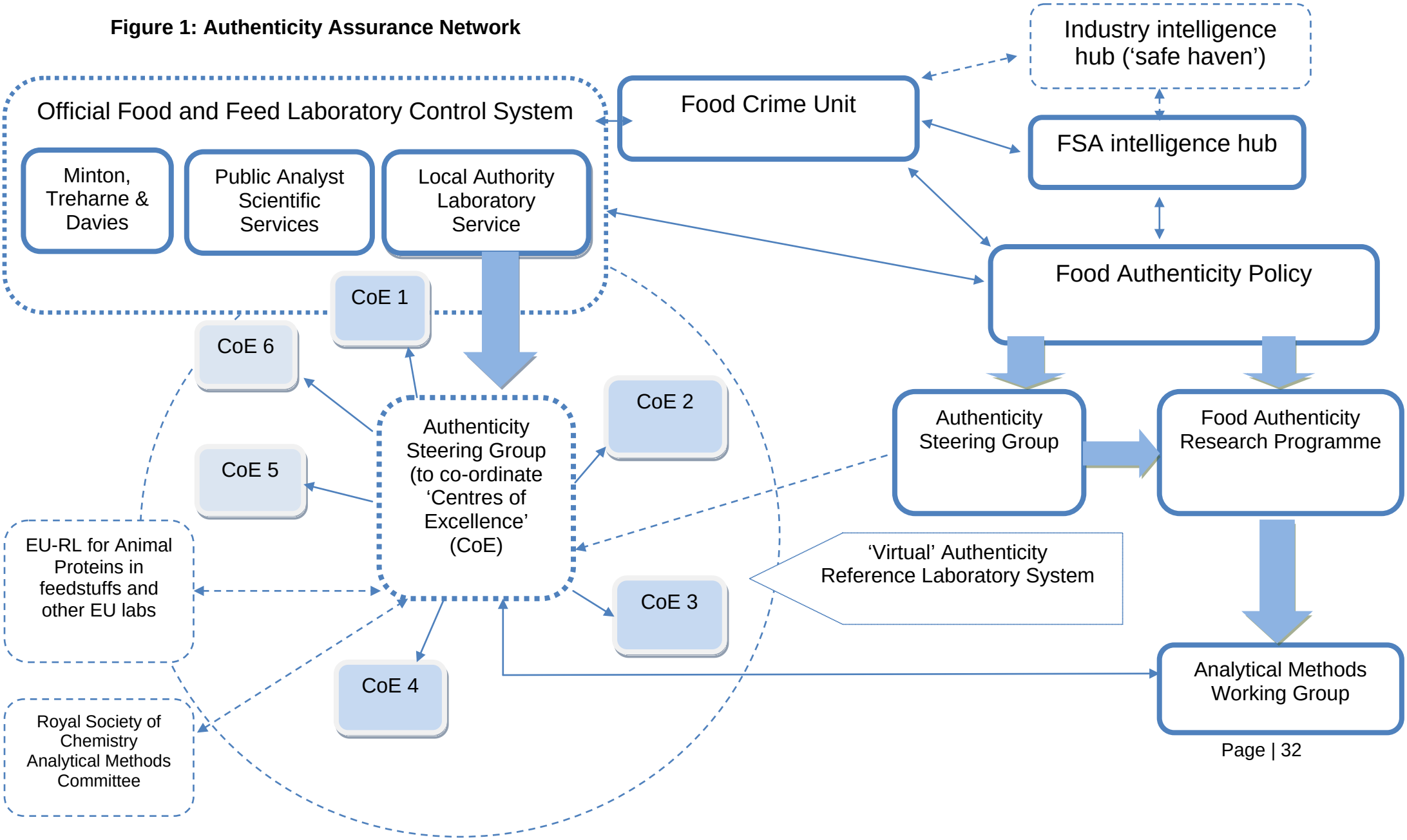
5.3. Innovation should not be stifled, but as new approaches are developed good measurement science practice must be observed. Results that are consistently valid must be assured. Assessments must be undertaken by competent people, according to acknowledged principles and delivered according to standardised methodologies and performance criteria[16].

[16] Eurachem Guide, 1998, 'The Fitness for Purpose of Analytical Methods: A Laboratory Guide to Method Validation and Related Topics' which also advocates laboratories act to an agreed requirement using fit for purpose methods and equipment, under well-defined quality control and quality assurance procedures, with regular independent assessment of their technical performance so that they are able to demonstrate that they can perform the analysis properly

5.4. There is a European network of laboratories in the area of food safety[17], but not for food authenticity. The review wrote to the Government (see Annex H) recommending that an EU Reference Laboratory system be identified for food authenticity testing. Official controls of food authenticity require a wide range of analytical and molecular biological techniques, many with exacting instrumentation requirements and in-depth scientific interpretation of the datasets generated. No single institution in the UK could field the complete range of such techniques with the required expertise. To future proof regulation of food authenticity there should be a virtual network of laboratory 'Centres of Excellence' co-ordinated by the Food Authenticity Steering Group, (advised by its Analytical Methods and Technical Working Groups) which should act as the secretariat and liaise with policy officials and with non-UK institutions, particularly European institutions with an interest and expertise in food (and feed). Such a virtual network will make the most effective and efficient use of each laboratory's individual capabilities. Figure 1 sets out the structure of a network of 'Centres of Excellence', covering the key areas of testing. Further future proofing will also require active investigation of the changing needs of regulators and scientific developments, for example the drive to more rapid, economic and point of use screening devices. Proactive co-operation between 'Centres of Excellence' in food authenticity will demonstrate the UK's potential as a world leader in this area.

[17] Reference Laboratories: Articles 32 and 33 of Regulation (EC) No 882/2004 *on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare* prescribe the responsibilities of EU and National Reference Laboratories in promulgating internationally approved procedures, criteria-based performance standards and validated methods of analysis. Reference laboratories contribute to a high quality and uniformity of analytical results by activities such as development and dissemination of validated analytical methods, ensuring that reference materials are available, the organisation of comparative testing and the training of staff from laboratories.

Figure 1: Authenticity Assurance Network



5.5. Informed by discussions, the review recommends that officials from Defra's Food Authenticity Programme, Food and Environment Research Agency (FERA), LGC[18] and other interested parties should work to develop a network of 'Centres of Excellence', creating a framework for standardising authenticity testing. The 'Centres of Excellence' include Public Sector Research Establishments (PSREs), private laboratories, University departments and enforcement laboratories and professional bodies such as the Royal Society of Chemistry's Analytical Methods Committee and its sub-committees. The structure proposed is designed to achieve maximum combined expertise and co-ordination without undue additional cost. Examples of technique areas include: DNA; Mass Spectrometry; Sensors; Spectroscopy; Microscopy; Immunology; Elemental analysis; Systems Biology and Nitrogen Factors.

Co-ordinating Sampling Programmes and Results

5.6. Since the horse meat incident there has been a considerable increase in authenticity testing, carried out as part of general surveillance work and targeted and planned testing (mostly by industry). Risk-based intelligence should be used to support targeted sampling and testing i.e. where the industry 'safe haven' indicates a strong risk of fraud in a particular commodity[19]. Alongside this there should be more testing programmes and systematic policing across a wide range of commodities known to be vulnerable to fraud, conducted by both industry and regulators. This should apply across the whole food supply chain. The industry should co-operate with local authorities to reduce the cost burden and broaden the scope of testing. There are examples that demonstrate the effectiveness of this kind of approach[20]. Guidance should be developed by the current Food Authenticity Programme and the FSA, setting out the considerations that need to be taken into account when introducing and developing programmes of surveillance.

5.7. There is more scope for public sector bodies undertaking routine surveillance to share information on their testing regimes. The review has tried to collate information about the sampling and testing that is undertaken by a range of bodies in relation to food authenticity testing but this has not been

[18] As the National Institute for Chemical and Bioanalytical Measurement

[19] Including probability of criminal activity, profit margin or scarcity of a particular product, premium claims on labelling e.g. country of origin, water and fat content, animal welfare, organic status, feed purity and breed.

[20] An industry driven scheme operated by the Northern Ireland Grain Trade Association demonstrated how such industry wide co-operation can be cost neutral but increase testing levels significantly and in a much more strategic manner.

straightforward. In addition to local authorities, there are more than four public bodies that undertake routine food testing and surveillance[21]. Although some surveillance activity is run jointly, it has been difficult to develop a comprehensive picture of the authenticity testing performed. Whilst it may not be feasible for all public bodies that deal with food to have operations capable of sharing information, regular consultation and updates on surveillance and testing activities that are being undertaken would ensure that the maximum benefit is derived from public spending on food authenticity. Those public sector organisations that currently undertake food surveillance and testing e.g. FSA, Defra, Public Health England (PHE), local authorities and others, should come together on a regular basis to compare, and where possible rationalise food surveillance through sampling and testing activity. A sub-group of the Food Authenticity Steering Group would be an appropriate forum for these discussions.

Laboratory Structure

5.8. The interim report raised concerns about reductions in laboratory capacity, an issue that been mentioned in other reports[22]. The availability of robust, resilient laboratory capacity to support testing, especially in times of crises, is a growing issue for the UK. Resilience and sustainability need to be accepted as common goals and joint responsibilities in the organisation of laboratory services. Official laboratories[23] serving the public sector are showing clear signs of strain. The priority for all UK laboratories supporting food safety and authenticity analysis, whether public or private, is not just to survive but to benefit from current opportunities for innovation and transformational change. Local authorities are already focusing on improving service, delivery and access to their laboratory services through a range of alternative business models such as integration and partnerships, new commissioning and procurement models, creative working and management techniques, and technological improvement. Whilst these efforts are welcome, a more radical approach is necessary if we are to secure a sustainable public sector laboratory provision in the long-term.

[21] Public Health England, Food Standards Agency, Defra (through the Food Authenticity Programme) and the Food and Environmental Research Agency, Port Health Authorities etc.
[22] http://www.nao.org.uk/report/food-safety-and-authenticity-in-the-processed-meat-supply-chain/
[23] The Official Control Laboratory System for Food and Feed, OCL, see Article 12 Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules.

Role of the private sector

5.9. The review has considered the possibility of leaving laboratory provision for authenticity testing to develop as market forces dictate. This course of (in) action depends on there being an existing, functioning market for food authenticity testing supporting a range of providers. This is not the case. Routine sampling and analysis has been decreasing for many years. There was no national survey for food authenticity from 2008 until after the horse meat incident. Local authorities face the pressure of fiscal constraints and the need for savings from laboratory services at a time when public expectations have been heightened. In addition, local businesses turn to their Public Analyst for advice that secures food law compliance and consumer protection without the need for enforcement action, stimulating innovation and growth – an approach especially valued by SMEs. There will be a risk of market failure, or worse, no scientific provision for food testing. It is Government's responsibility to provide resilience in the event of an emergency and to benchmark for standards of testing. The service recommended offers the opportunity to realise savings, yet retain local control of a sustainable laboratory service to police food authenticity and safety. Abandonment of that local provision in the absence of a viable national alternative would entail significant reputational risk for Government.

A shared service

5.10. Continuing technical development that supports food authenticity and safety testing requires a healthy mix of private and public sector laboratory provision. The best way of securing this is to bring together the remaining public sector laboratories into a merged, shared service. A public sector 'spine' to laboratory provision for food testing would create a resilient, competitive service that would prevent laboratory provision becoming monopolistic. The creation of a modernised, integrated, national 'Local Authority Laboratory Service' comprising Official Food and Feed Control and other public health protection would offer considerable added value. This would lead to the Service working alongside private sector provision. Private sector delivery in the Official Control Laboratories (OCL) system has demonstrated that through establishing a 'critical mass' of Public Analysts operating as a team, optimised utilisation of equipment and buildings and 'lean' management, efficiency gains are possible and many technique areas are scalable. The current local authority provision could benefit from developing similar efficiencies. Bringing together the remaining six public sector laboratories in England, through a process of strategic rationalisation, would secure a scientific service that is accustomed to dealing with local issues

and understands their context, but supports nationally planned programmes. This would create a sustainable national asset, comparable with PHE's microbiological laboratory network and there is a significant degree of common ground between potential partners when it comes to investments in plant, equipment, and staff.

5.11. The benefits of such a service would include:

- Securing a robust, sustainable, world class national asset using state of the art techniques; to secure public trust in regulatory science, discharge European responsibilities and provide an authoritative scientific voice on food fraud nationally and on the European stage;
- Generating intelligence for local authorities and central Government and ensuring that information flows to the FSA;
- Creating partnerships that are capable of responding flexibly, both to emergency situations, offering immediate access to dedicated scientific support for food and feed authenticity and safety;
- Creating an organisation with the footprint and expertise to bid competitively for large national and international testing contracts;
- Providing locally accessible expertise to guide sampling, interpretation of resulting data on a whole UK, or regional, basis, including an ability to provide assistance in factory and on-site audits, inspections and investigation;
- Developing an organisation that is capable of planning for and demonstrating tangible, beneficial national outcomes of improved food and feed safety and authenticity for public protection [24]; and
- Preserving the corporate knowledge of food science, food law and how they interface in enforcement that resides in Public Analyst laboratories and is being progressively lost as local authority food standards teams reduce[25].

5.12. In addition to their central role in relation to food and feed law enforcement, Public Analysts also provide expert scientific support with a broad public health focus to local authorities and other bodies in a wide variety of areas. Whilst each laboratory has its own individual mix of analytical work they undertake, they all agree that none of the remaining public sector laboratories would survive without the additional revenue provided by these analyses. The possibility of absorbing these activities into a shared service could also be considered.

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[24] For example in protecting communities from carcinogenic mycotoxins

[25] Trading Standards National Annual Plan recognises that LAs enforce the majority of food law in the UK - http://www.actso.org.uk/component/attachments/download/685

Next steps

5.13. Since publication of the interim report, the review has engaged with all those who would be involved in a project to bring together and rationalise the current public sector laboratories. Overall, the response has been positive (see local authority responses at Annex I) with each organisation recognising the benefits that a shared service could provide. All six local authorities that own laboratories have agreed to join central Government stakeholders to discuss possible ways forward to secure an integrated public sector laboratory service around food standards. This project is now under the leadership of DH and PHE which created a core set of laboratories in 2012 to deliver the services they required.

5.14. Interested parties now need to form a 'project group', to discuss next steps. It is critical that this group has the right expertise and skills to tease out difficult issues involved (e.g. governance structures). 'Future-proofing' is a vital aspect of the work to ensure an effective and sustainable solution for public sector food authenticity testing, reflecting the future needs of customers and stakeholders. It is critical that the project should establish appropriate financial modelling and projections in order to predict the levels and frequency of testing. The PHE model ensured that regional 'field scientists' are available across the country. Staff are not assigned to a particular laboratory, but are available to assist local authority enforcement staff (and others) with specialist testing, or other issues that may require scientific expertise. The project group can draw upon these examples of effective shared services.

5.15. A shared, merged public sector laboratory service is the only option to secure the public sector laboratory system. This sort of project has been discussed before, but has never progressed. The urgency is increasing; in 2010 there were 10 public sector Public Analyst laboratories, now there are only six[26]. This may be the last opportunity to create a resilient, robust, shared service that will provide a sustainable national asset to the UK. It needs to retain momentum, and the commitment of those involved. There are two key roles here; one to provide objective, neutral facilitation of the project group and one to scrutinise progress and make recommendations for how the process can be improved. The first role could be fulfilled by a professional body like the Institute of Food Science

[26] Since 2010, the public sector Public Analyst laboratories at Bristol, Durham, Leicester and Somerset have closed.

and Technology and the second by the House of Lords Science and Technology Select Committee.

5.16. The model currently being explored in Scotland, the Scottish Shared Scientific Services Project[27] could be useful to consider. The Improvement Service in Scotland has been considering options for creating a shared service to deliver scientific services. Those taking forward this project in England may benefit from continuing to follow the progress of this work. Furthermore, Government and the relevant local authorities should engage with the Improvement Service to ensure they derive maximum benefit from this opportunity.

Recommendation 4 - Laboratory Services: Those involved with audit, inspection and enforcement must have access to resilient, sustainable laboratory services that use standardised, validated approaches. The Government should:

- **Facilitate work to standardise the approaches used by the laboratory community testing for food authenticity;**
- **Work with interested parties to develop 'Centres of Excellence', creating a framework for standardising authenticity testing;**
- **Facilitate the development of guidance on surveillance programmes to inform national sampling programmes;**
- **Foster partnership working across those public sector organisations currently undertaking food surveillance and testing including regular comparison and rationalisation of food surveillance;**
- **Work in partnership with Public Health England and local authorities with their own laboratories to consider appropriate options for an integrated shared scientific service around food standards; and**
- **Ensure this project is subject to appropriate public scrutiny.**

[27] http://www.improvementservice.org.uk/scottish-shared-scientific-services-programme/

Chapter 6: Audit

Industry and regulators must give weight to audit and assurance regimes, so as to allow credit where it is due; but also work to minimise duplication where possible. Audits of food supplies by producers, storage facilities, processors and retailers are undertaken both routinely and randomly.

6.1. The FSA has taken the lead in setting out standards for the food industry to adhere to in complying with the regulations. The interim report noted the growth in private audit regimes to satisfy contractual obligations and demand for 'due diligence' documentation. The review has found that the quality and completeness of these private audits are variable, and some of their requirements appear futile or unreasonable. The growing number of audits commissioned by retailers is not achieving the intended purpose. The auditing regime has, in some cases, become an industry in itself, because it requires food businesses to pay for their audit. As a result, there is a danger that an audit regime can be used for raising revenue, placing unnecessary costs on food businesses, particularly SMEs.

Rationalising Audits

6.2. The industry now has a proliferation of customer, retailer and third party audits as well as separately conducted inspections by local authorities in which the same basic food safety requirements are assessed. This leads to duplication of audits which adds substantial costs to industry without any apparent benefit. In addition, food business representatives are concerned that retailers and some food service companies are requiring their suppliers to carry out audits of secondary suppliers i.e. audits of the suppliers to their suppliers. This means that several primary suppliers could each be auditing the same secondary suppliers thus creating a second tier of duplicate audits.

6.3. There is industry support to improve and expand the standard audits developed by organisations such as the BRC Global Standards (BRC), particularly in relation to producers of 'own brand' foods. However, this can sometimes increase the paper burden. In some cases, the paper burden may have increased accidentally as a by-product of the desire to send representatives physically into factories.

6.4. Following engagement with food businesses, standards owners and those involved in undertaking audits, the review concluded that the best way forward would be for the industry to move towards a modular system of auditing. This would entail:

- A core food safety and integrity audit recognised by the Global Food Safety Initiative (GFSI) and agreed by major retailers and standards owners.
- Individual retailer modules designed according to their business priorities. It would become a requirement of suppliers wanting to do business with a particular retailer to be audited against its own module. This would enable retailers to demonstrate due diligence whilst reducing duplication. These audits could be undertaken at the same time as the core module.

Certification bodies should offer audits combining the core food safety and integrity audit along with additional modules.

6.5. If such agreed standards can be put in place, the frequency of audits to food businesses which show best practice could be reduced and thus so could their cost. In addition, a modular approach would help facilitate earned recognition for food businesses, which is being developed by the FSA, as it would be able to focus on the core element to ensure that it meets statutory requirements. Once an audit scheme has earned recognition from the FSA, the food businesses subject to it gain from having fewer local authority inspections saving them time and money. This, combined with the benefits of the Primary Authority scheme (now extended to trade bodies, which count a significant number of SMEs among their membership[28]), could make a real impact in rationalising the overall inspection and audit landscape. The suggested changes would require collaboration and co-operation between scheme holders, specifiers, food businesses and regulators on a global basis to achieve such harmonisation.

6.6. The review engaged with the chief executives of the major retailers and other representative organisations setting out proposals for a new modular approach to audits. The review received a generally positive response to this approach although some felt that their current arrangements were sufficient. Change will not be easy to achieve but BRC has shown a real commitment to drive this work forward and should work with the FSA to develop this modular approach. All those with an interest in audits must work with them to achieve the change

[28] https://www.gov.uk/government/news/thousands-more-firms-to-benefit-from-enterprise-friendly-regulation-scheme

necessary. In particular, the support of GFSI, as the body that approves schemes by benchmarking standards against its own guidance document, will be essential. Once the new arrangements are in place and being used by sectors of the industry, market forces will come into play and more companies will see the commercial benefits of being involved.

6.7. Current food safety audits are neither designed to assure the authenticity of food products nor to identify fraudulent practices. Separate third party modules for food fraud prevention and detection should be created. It will be for individual food businesses to decide if they wish to invest in these in order to satisfy customer requirements; however retailers should consider making accreditation a condition of contract. Encouraging progress has been made towards this objective by standards owners, and those bodies should collaborate in order to agree standards for food fraud prevention and detection. Such standards should incorporate disciplines such as forensic accountancy and mass balance checks to guarantee their rigour. Non-compliances and suspicions of wrongdoing should be shared to generate intelligence.

Developing Standards, Guidance and Training

6.8. The review discussed the role of official standards with the British Standards Institute (BSI). BSI has worked with Defra and industry, to develop a Publicly Available Specification 'Defending Food and Drink' (PAS 96)[29]. Whilst PAS 96 is more focussed on the security of food and drink in the context of malicious contamination, elements such as the use of the threats analysis and critical control points, or 'TACCP' approach, are relevant in the prevention of food crime. BSI and Defra should continue to focus on the TACCP approach, and to consider the overlap and avoid duplication between malicious contamination and food crime, for example in the contamination of alcohol. This approach will provide the building blocks of any future standards that could be developed on preventing food crime.

6.9. It is clear from the review's engagement with food businesses that there is a willingness to learn more about food crime prevention. However, there is insufficient knowledge of best practice amongst food businesses and standards owners. Freely available guidance on what is expected from businesses in respect of assessing risks in the supply chain is urgently needed. The review

[29] http://www.cpni.gov.uk/documents/publications/non-cpni_pubs/pas96_vis14.pdf?epslanguage=en-gb

welcomes the FDF's 'Food Authenticity: Five steps to help protect your business from food fraud'[30] document as a first step towards achieving this objective.

6.10. Through safeguarding the ongoing adherence to contract terms and legal obligations, auditors have a key role in helping to prevent and deter food crime. Their training and professional practice therefore needs to be consistent with recognised standards of good practice if their work is to be trusted by the sector and by the FSA so that the overall burden of their activities is minimised. BRC has made a welcome start in this area by introducing category exams for auditors to ensure that they have reached an agreed level of competency required to carry out their duties, but progress now needs to accelerate. Auditors, buyers and enforcement officers need to undertake specialist training (e.g. the proposed food fraud module for environmental health courses currently being developed by BRC and CIEH) and receive advice from their employers about critical control points for detecting food fraud or dishonest labelling. This should be delivered in much the same way as they are trained in food hygiene issues.

Unannounced Audits

6.11. The conduct and scope of audit and inspection may vary according to local circumstances, but reliance on standardised specifications and criteria will reduce activity significantly. Excessive and often duplicative third party and retailer announced audits place an unnecessarily high burden on food businesses, particularly those supplying retailer branded products. There is anecdotal evidence of suppliers being audited on an almost daily basis resulting in significant business resource being tied up in preparing for and facilitating each inspection. Industry audit regimes should be rebalanced from announced to unannounced audits. Companies that achieve a consistently high level of compliance should earn recognition for their good record, allowing the industry audit resource to focus on those businesses that represent greater risk. Food businesses should operate premises on an 'audit ready' basis. Unannounced audits will serve to maintain year round high standards whilst reducing the burden of resource dedicated to preparing for announced audits. By agreeing rigorous standards for unannounced audits, which give greater weighting to detection of food crime, the number of audits could be significantly rationalised as retailers would be more inclined to accept third party accreditation. All standards owners should offer an unannounced option as part of their package, so that

[30] http://www.fdf.org.uk/corporate_pubs/Food-Authenticity-guide_2013.pdf

comprehensive unannounced audits become the industry norm unless there is a compelling reason to provide advance notice to businesses.

Steps already being taken by industry

In July 2013, Asda announced plans to introduce unannounced BRC audits for all of its Asda brand suppliers starting 1st October 2013. Asda firmly believes that unannounced audits provide the strongest mitigation for criminal activity and should be an industry standard. As of May 2014, 99.9% of suppliers had committed to switching to unannounced audits. They have reacted positively to the change, reporting time savings because business resources that were previously invested in preparing for audits have been better employed elsewhere.

Asda remains the exception rather than the rule and the vast majority of third party and retailer audits are still undertaken on an announced basis. However, recent moves by standards owners to increase the focus given to unannounced audits are encouraging. In particular, Safe Quality Food Institute (SQF) will introduce a requirement for unannounced audits in the next revision of its code. The new requirement is for sites to receive one unannounced re-certification audit in every three re-certification cycles. The new protocol will be implemented in July 2014.

6.12. Further standardisation of audit will release resources for other purposes, such as surveillance and risk based sampling and testing. Currently there is no requirement on auditors to carry out product sampling as part of a standard food safety audit. Concerns have been raised that new requirements for sampling and testing will lead to additional costs on businesses, particularly SMEs. That should not happen. Sampling is not the same as testing. Samples do not always have to be tested so those costs do not automatically accrue. Sampling will provide a significant deterrent as fraudsters will not know when or if testing will take place, nor which products are being sampled. Samples can also be stored for later reference if subsequent problems occur. One such exemplar already being undertaken by some in the UK meat industry is DNA based sampling and testing. This is further detailed in Annex J. Third party accreditation bodies are ideally positioned to undertake food sampling. Surveillance sampling to the standards set out in Chapter 5 should be incorporated into unannounced audits to a sampling regime set by the standard holder.

Supply Chain Checks

6.13. This review concerns the supply of all types of foods but due to the attention arising from the horse meat incident, the main issue that many wished to discuss was red meat fraud and the controls, including audits, to deter food crime. Areas at particular risk of meat fraud, including the mitigating measures to be considered by a food business, are in Annex J.

6.14. The table below summarises the key issues in the supply chain, and how they might be mitigated.

Risk factors	**Mitigation**
Storage[31]	
• Meat from a number of different sources, species, and suppliers can be stored together to keep running costs down. • Assumed to be lower food safety risk than manufacturing or processing plants, so may be subject to infrequent inspections. • Evidence of fraudulent practices can be extremely difficult to detect, especially in cold stores (extremely inhospitable environment, ample opportunity to hide suspect material and make thorough inspection inconvenient).	• Owners of storage facilities should report any suspicious activity to the appropriate authorities. • Industry should take steps to ensure that storage facilities are audited and inspected regularly, including thorough, unannounced audits outside of regular business hours. • Where food materials are kept in storage, other than their own, businesses should implement anti-tampering measures.
Meat commodity market and traders and brokers	
• May never take physical possession of the meat or own it, but merely arrange the deal. May thus escape both registration and monitoring requirements. • Driven mostly by price, not provenance; variable ethics. • Vulnerable to ever increasing pressures to keep costs down or	• Accreditation bodies should develop new, fraud aware standards that cover traders and brokers. • Adoption of these new standards will give retailers greater visibility of their supply chain and not just production facilities.

[31] The interim report focussed on the potential for food fraud in cold stores. During the second part of the review a number of stakeholders pointed out that the potential for food fraud was not limited to cold storage and all storage is vulnerable to food fraud.

careless procurement practices. • Complex and global market network, and informal transactions makes tighter regulation difficult.	• Standards should become a condition of contract.
Transport	
• Vehicles are not generally sealed (although there are excellent examples of controls), and thus are vulnerable to tampering in transit. • For journeys within the EU/Schengen area, consignments are not subject to any border controls or veterinary health checks. • Within the EU/Schengen area, the required international road consignment note (CMR) [32] contains scant information. They are not designed to prevent food crime. For split or reassembled loads, consignment notes can be written anywhere and at any time.	• Industry must recognise the extent of risk of food crime being perpetrated during transport. • Industry audits incorporating anti-fraud measures should include haulage and transport. • Whether using their own transport or group haulage the use of tamper evident seals would mitigate this risk.
Frozen blocks of meat trim	
• Highly susceptible to fraudulent interference. The less fat is visible in frozen blocks of smaller pieces of meat including 'trim', the higher quality the meat trim is judged to be. Lower quality trim can be made to look like higher quality trim by the addition of lean meat such as red offal (e.g. heart, lungs), lean meat from cheaper species, or lean meat reclaimed from meat not suitable for human consumption. • Low risk of detection: only when thawed can substitution be more easily identifiable. As modern processing plants handle frozen blocks mechanically there may be limited opportunity to undertake effective inspection and sampling.	• Industry audits should incorporate effective inspection, unannounced audits and sampling (surface and core) to address risks of fraud associated with frozen blocks of meat.

[32] https://www.gov.uk/shipping-goods/cmr-note

Animal By-Products (ABP)

6.15. Much of the meat which is suitable only for pet food looks no different to meat which is fit for human consumption. This meat is classified as lower risk Category 3 ABP. Purchase of such meat at pet-food price, for resale as meat fit for human consumption, would be extremely profitable. Where Category 3 ABP cold stores are adjacent to licensed cold stores holding meat and meat products for human consumption the opportunity for fraud is greater and fraudulent activities less likely to be detected. Even when far apart, frozen meat may be easily transported between an ABP store and a cold store. Category 1 ABP is deemed to be high risk. It consists largely of those parts of the carcass which represent a potential disease risk to humans. It is eligible only for rendering and incineration which incurs a cost; however the cost can be turned to significant profit if it can be substituted for Category 3 ABP before or after rendering. Information has been passed to the review of Category 1 ABP being treated as Category 3 ABP. No direct evidence has been supplied that Category 1 ABP is finding its way into the food supply. Further background on risks arising from the handling of ABP and mitigating measures is in Annex J.

6.16. Auditing of ABP cold stores is the responsibility of Animal Health and Veterinary Laboratories Agency (AHVLA) which conducts infrequent inspections based on risk in relation to hygiene not fraud. The type and frequency of these checks are unlikely to detect or deter fraud. Both industry and Government should introduce audits that include anti-fraud checks such as mass balance and forensic accountancy to address the risks of substitution of meat not fit for human consumption entering the human food chain. These audit tools should be applied appropriately based on risk analysis, by skilled, well trained and knowledgeable auditors. A review by industry of its audit approaches will create extra capacity. This will allow greater scrutiny of high risk premises, such as cold stores, and improved security controls over transport.

6.17. There could be benefits from a new accredited assurance scheme, owned by the ABP industry, designed to ensure that Category 3 ABP is handled effectively. More importantly, such a scheme could make a valuable contribution in ensuring Category 1 ABP does not enter the human food chain. The integrity and assurance of the supply chain for Category 3 ABP could be made more robust if the animal feed producers only sourced supplies from accredited companies.

6.18. The review welcomes the fact that an accredited assurance scheme is currently being considered by the Foodchain & Biomass Renewables Association (FABRA), one of the two main trade associations for the rendering sector (the United Kingdom Renderers' Association being the other). The intention is that the scheme would cover all parts of the Category 3 ABP supply chain and all the companies handling ABP, not just FABRA members. The cost burdens on companies to achieve accreditation would need to be minimised to ensure companies, especially SMEs, are not prevented from joining the scheme. The review engaged with the Agricultural Industries Federation (AIC) which is the agri-supply industry's leading trade association. AIC was very supportive and has agreed to work with the sector towards developing a workable accreditation scheme.

6.19. The key elements of the proposed scheme for collection, processing and utilization of Category 3 ABP have been detailed in Annex J. Once in place, animal feed producers should only source Category 3 ABP from accredited suppliers. The Government should support the ABP industry as it develops an accredited assurance scheme.

Recommendation 5 - Audit: The value of audit and assurance regimes must be recognised in identifying the risk of food crime in supply chains. The Government should:

- **Support industry development of a modular approach to auditing with specific retailer modules underpinned by a core food safety and integrity audit to agreed standards and criteria;**
- **Support the work of standards owners in developing additional audit modules for food fraud prevention and detection incorporating forensic accountancy and mass balance checks;**
- **Encourage industry to reduce burdens on businesses by carrying out fewer, but more effective audits and by replacing announced audits with more comprehensive unannounced audits;**
- **Encourage third party accreditation bodies undertaking food sampling to incorporate surveillance sampling in unannounced audits to a sampling regime set by the standard holder;**
- **Work with industry and regulators to develop specialist training and advice about critical control points for detecting food fraud or dishonest labelling;**
- **Encourage industry to recognise the extent of risks of food fraud taking place in storage facilities and during transport;**
- **Support development of new accreditation standards for traders and brokers that include awareness of food fraud; and**
- **Work with industry and regulators to introduce anti-fraud auditing measures.**

Chapter 7: Government Support

Government support for the integrity and assurance of food supply networks is kept specific, measurable, attainable, realistic and timely (SMART).

7.1. Regulatory offences may be simple omissions, but those intent on fraud will invariably commit them. Regulatory enforcement is the front line in detection of, and protection against, food crime.

Local Authority Responsibilities

7.2. The local authority landscape is complicated, and regulatory services for food controls may have their own department or be allocated alongside other functions. Local authorities are required to discharge their statutory responsibilities, but have the discretion to determine their own priorities and budgets. In England, food hygiene is enforced by District Councils, with composition and labelling enforced by County Councils. Unitary Authorities (including London Boroughs) have responsibility for both functions and may choose to combine the roles and workforce or run separate operational delivery teams. While localism is the main strength of this approach as authorities can concentrate on supporting local businesses; this can also be the main challenge when criminals move into food or when co-operation or consistency of approach is called for across geographical boundaries. Enforcement activity is also very vulnerable when local authority services are cut to the bone. Official data collected by the FSA from local authorities and provided to the review, shows that between 2009 and 2013 there has been a 27% reduction of trading standards officers (dealing with food matters) in post at County Councils. Information provided by the Trading Standards Institute[33] (TSI) suggests that trading standards services (as a whole, not just in relation to food work) in England and Wales will have been cut by an average of 40% over the lifetime of this Parliament, and has raised concerns that further cuts are not sustainable. CIEH is undertaking a detailed phased workforce survey. Phase 1 was published in August 2013[34]. The review acknowledges that local authorities face very difficult decisions about how they spend limited resources, but they must ensure that life is not made easier for fraudsters by cutting the resources devoted to food law

[33] http://www.tradingstandards.gov.uk/policy/WorkforceSurvey2014.cfm
[34] http://www.cieh.org/assets/0/72/1126/100736/602a8d73-aa95-46ab-9c38-5424c3055303.pdf

enforcement to the point where they are unable to effectively protect the interests of consumers.

7.3. There are no reasons to change the responsibilities of local government relating to food law enforcement and advice. Small businesses in particular benefit from the educative and support activities of local authority enforcement officers. For minor non-compliance with regulations, the service of statutory notices to require compliance can be highly effective in dealing with minor infractions without having to resort to court action. Such notices will be introduced for labelling offences under the forthcoming Food Information for Consumers Regulations.

7.4. Scarce resources need to be used effectively by local authorities, and mutual aid between local authorities is appropriate when it comes to undertaking more complex inspections and enforcement. The review commends the Primary Authority scheme for food businesses with multiple locations. The sharing of information between the food business and Primary Authority about matters such as surveillance and testing results can help re-direct resources to deter food fraud. Primary Authorities are able to pass on information about problem consignments or products to other local authorities or the FSA. There is the developing role of the new National Trading Standards Board (NTSB) funded by BIS, and supported by the Association of Chief Trading Standards Officers (ACTSO), which undertakes regional co-ordination of local authorities for certain activities.

FSA Responsibilities

7.5. All parties want a sustainable approach to local regulation that can deliver real benefits for businesses; but it is also important to ensure consumers are protected. Local authorities want the freedom, flexibility and tools to deliver their own objectives, but when it comes to food supply networks they also need to consider information about national priorities, risks and business history of their area. Occasionally, wider co-ordination of effort is needed and local authorities need to follow the lead of another agency. The FSA must take this role. When the FSA was established its primary purpose was to protect consumers. It was tasked with setting policy relating to public health, food safety, and other interests of consumers in relation to food; and was authorised to obtain, compile, keep under review and publish information about matters connected to these issues. There is no need for new statutory powers. .

7.6. Since 2010, the FSA has developed an operational and enforcement function through taking direct responsibility for approval of certain meat establishments and meat inspection duties, which means FSA staff are ideally placed to identify and share intelligence about meat fraud/crime issues with industry and other regulators. For matters other than meat inspection, legislation authorises local authorities to enforce food hygiene and food standards regulations. The FSA has prescribed powers to step in as a last resort where a local authority is judged to have failed. The FSA influences and supports local authority activities through statutory advice and grants for specific monitoring activity. The FSA has power to direct local authorities to take any necessary steps to ensure that their regulatory activities comply with the statutory Food Law Code of Practice. The FSA can also issue Practice Guidance to which local authorities must have regard. Local authorities must sign up to the Framework Agreement on Local Authority Food Law Enforcement[35] which underpins FSA audits of how local authorities are undertaking their statutory duties. This strategic and co-ordinated approach to food law enforcement could be strengthened through improved guidance and training for enforcement officers co-ordinated by the FSA and the professional bodies (CIEH and TSI). The Food Standards Act 1999[36] does not provide the FSA with a statutory power to direct the activities or spending decisions of local authorities. The FSA should continue to work with both environmental health officers and trading standards officers and lead the co-ordination of local authority high profile investigations and enforcement. Those involved must have the required knowledge and skills to deal effectively with food crime.

7.7. Clarity around Government responsibilities and leadership is essential. Engagement with non-governmental stakeholders has confirmed that many believe the machinery of government change in 2010 which led to the transfer of authenticity testing and policy over compositional labelling has led to confusion around responsibilities within Defra and the FSA and this played a role in the horse meat incident. The review investigated this issue and was able to ascertain that the winding down of the FSA's food authenticity programme was initiated prior to the machinery of government changes. While not attributing any blame for this decision, it was certainly not helpful in relation to identifying major issues pertaining to food fraud in the UK. While sympathetic to the view that authenticity should return to the FSA, the review has identified that wherever

[35] http://www.food.gov.uk/enforcement/enforcework/frameagree/
[36] http://www.food.gov.uk/enforcement/regulation/foodstandardsact

boundaries are drawn there will still be issues that need a co-ordinated, joined-up approach across many Government departments, especially if the Food Crime Unit is established as outlined in Chapter 8.

7.8. There needs to be stronger partnership working between Government departments which have a role in protecting the consumer from criminal activity in food systems. Responsibilities need to be clearly identified, clearly communicated, executed quickly and effectively and widely understood within and outside Government. In particular, there needs to be much closer working between Defra and the FSA on authenticity policy, the management of the authenticity research programme and food surveillance. How this 'Authenticity Assurance Network' should operate is set out in Chapter 5. It is important for this work to establish better links with other surveillance activity and should be overseen at the highest level, i.e. by the 'National Food Safety and Food Crime Committee', the creation of which is proposed in paragraph 7.10. The goal for Government should be for the UK to re-establish itself as a world leader in food authenticity research and implement this research through structured monitoring programmes which support business and consumers.

Governance of the FSA

7.9. To ensure that the FSA is effective and credible in its role, it needs to retain its current independence from political direction, and improve political awareness and operational agility. The review considered whether the FSA can best do so as a non-ministerial department or whether becoming an executive agency or Non-Departmental Public Body would work better. One example is the Environment Agency which is directly responsible and accountable to Defra Ministers; another model is PHE, which operates at arm's-length from DH but recognises DH's clear sponsor role and public health responsibilities. Implementing those options would require change to the Food Standards Act 1999. However, the FSA's independence would be compromised by changing its statutory relationship with Government and during discussions with Government there has been no indication of support for this idea. The Government should re-affirm its commitment to an independent FSA so that the it has the necessary security to enable it to continue to develop its long term strategic plans and so ensure it can become as competent in authenticity as it is in food safety and gain international recognition for leading in authenticity.

7.10. There are no arrangements in place for regular high-level round table meetings between the FSA Chair and both the Secretaries of State for Health

and for Defra. The FSA is accountable to Parliament through Health Ministers; Defra has the policy lead for food authenticity and composition; while the FSA oversees local authority enforcement. There are other issues of mutual interest that may draw in the Ministers of other departments. For example, the Home Office has an obvious interest in how the FSA deals with food crime. BIS has an interest in how the FSA engages with food businesses. The Better Regulation Executive has a particular interest around minimising the burdens on businesses and SMEs. Given the status of the FSA, cross-Government meetings at a very senior level are essential if the FSA is to both set and have support for its strategic direction. This could be achieved through a suitable forum e.g. a new National Food Safety and Food Crime Committee. The FSA's independence would not be affected by putting in place formal arrangements for such meetings, which would support those currently held at official level. It would also ensure that the FSA can be more confident that Ministers will support it during serious national incidents, such as during the horse meat incident.

7.11. Discussions in the National Food Safety and Food Crime Committee could cover horizon scanning and intelligence gathering that has identified risks to the UK consumer and industry about which wider Government Departments may be otherwise unaware. How those discussions could be conducted could be set out in a Memorandum of Understanding. This approach would help ensure that an independent and robust FSA would have the added benefit of partnership with Government in how it takes forward its role to protect consumers. The National Food Safety and Food Crime Committee will have a major proactive role, but will also be able to provide detailed support to the Cabinet Office Briefing Room (COBR) – the crisis response committee set up to co-ordinate a cross Government UK response to national or regional crises, or an event abroad with major food implications for the UK.

Recommendation 6 - Government Support: Government support for the integrity and assurance of food supply networks should be kept specific, measurable, attainable, realistic and timely (SMART). The Government should:

- **Support the Food Standards Agency's strategic and co-ordinated approach to food law enforcement delivery, guidance and training of local authority enforcement officers;**
- **Support the Food Standards Agency to develop a model for co-ordination of high profile investigations and enforcement and facilitate arrangements to deal effectively with food crime;**
- **Ensure that research into authenticity testing, associated policy development and operational activities relating to food crime becomes more cohesive and that these responsibilities are clearly identified, communicated and widely understood by all stakeholders;**
- **Ensure that oversight of the 'Authenticity Assurance Network' becomes a role for the 'National Food Safety and Food Crime Committee';**
- **Re-affirm its commitment to an independent Food Standards Agency; and**
- **Engage regularly with the Food Standards Agency at senior level through the creation of a National Food Safety and Food Crime Committee.**

Chapter 8: Leadership

There is clear leadership and co-ordination of investigations and prosecutions, and the public interest is recognised in active enforcement and meaningful penalties for significant food crimes.

8.1. The interim report made the case for the setting up of a new Food Crime Unit hosted by the FSA. The review has subsequently engaged further with the enforcement community, Government and industry stakeholders and this chapter sets out the way forward on this subject.

Effectiveness of Penalties

8.2. Current legislation provides for enforcement measures in relation to food crime but this does not of itself make enforcement effective. Food fraud, in its many guises, represents deliberate breaches of the criminal and civil law for individual or corporate gain. The risks of it occurring are rarely diminished by simply passing more law.

8.3. Investigations and prosecution of food crimes are most often not pursued beyond the basic disruption of the relevant activity. This creates a huge incentive for the criminal to pursue food crime instead of other types of crime with comparable financial return, and risks system-wide proliferation if unchecked. There needs to be a more aggressive attitude towards dealing with these offences. Life can be made considerably more difficult for those who wish to break the rules by improving safeguards to achieve greater deterrence, and improving the investigation and prosecution of crime. Deterrence and intervention are strongest when Government and industry work together.

8.4. Engagement with stakeholders has identified concerns about the low level of sanctions imposed following formal action by local authority enforcement officers in relation to food law offences. New sentencing guidelines in relation to fraud have been agreed, and will take effect from 1 October 2014. These will provide clarity and consistency to sanctions imposed for these serious offences, and may help to deter food fraud. The FSA advised the review that the Sentencing Council has yet to consider development of proposals for sentencing guidelines in relation to food safety, authenticity and labelling legislation. These offences relate to risks created by omission or fault, as well as actual harm caused (including acute illness, chronic conditions such as kidney failure, allergic

reactions and death). While recognising that the limits of sanctions are set out by statute, the review urged the Chairman of the Sentencing Council for England and Wales to ensure that offences relating to such serious matters are treated with equal severity in order to act as a deterrent to protect consumers from this type of criminal activity when the Council comes to consider sentencing proposals.

8.5. The Chairman of the Sentencing Council confirmed that it had received representations from interested parties (including the FSA) that the penalties currently imposed by courts are too low to reflect the seriousness of the offences committed, and that this is an area that could benefit from sentencing guidelines. However, the Sentencing Council has a very packed work plan. In prioritising requests, a key consideration is the number of offences coming before the courts. For food offences this number is relatively small and whilst this does not make them any less important, it has resulted in the work on a food offences guideline being delayed. The Council plans to review the timetable for producing a food offences guideline. Sanctions relating to these types of offences are an issue that could be discussed by the proposed National Food Safety and Food Crime Committee.

Balance Between Local, Regional and National Attention to Food Crime

8.6. Local authorities are the largest enforcement operation in England, supported primarily by funds determined at the discretion of the local authority concerned. This funding is not 'ring fenced' by Government. They contribute to more than 60 public regulatory objectives including action against bogus or rogue traders, counterfeit and piracy scams. Whilst they all provide the same core services, protecting consumers and helping and encouraging legitimate businesses, they vary locally in the range of functions and manner in which they deliver them. The drive for greater efficiency has been a catalyst for combining services. The local authority response to the horse meat incident showed a great deal of determination to give reassurance to local consumers. Local authorities should be commended for their continuing efforts to provide their consumers and businesses with the best possible service. As mentioned earlier, unless sufficient resources are made available to local enforcement teams consumers will be at greater risk, either because of increased incidents of food crime or because local businesses do not have the advice they need to meet their statutory duties. Both can have serious food safety consequences.

8.7. Each local authority is required to have an enforcement policy and this may take both local and national factors into consideration. Local pressures may mean that there is some reluctance to close local businesses in straightened times, which could result in local unemployment. There may be a preference for continuing educative and advisory work for longer than would normally be appropriate. Capability in the very specialist area of food crime is needed and this could be facilitated by increasing knowledge and training of enforcement officers. Increasingly there is potential for local authority enforcement officers to be threatened or intimidated. It is therefore unreasonable to expect that local authorities should be regarded as the whole answer in securing effective disruption of criminal activity. More generally local authority officers could benefit from more support as they undertake their day to day activities. The review understands that in Denmark there is a specific obligation on police to respond to a call for assistance where their Food Crime Unit is faced with 'resistance'. In the absence of similar legislation local authorities should seek service level agreements with local police so that regulators might go about their business with more confidence. For example, the Buckinghamshire County Council Trading Standards team has recently been supplemented with an officer on secondment from Thames Valley Police. There is also a former Metropolitan police inspector who advises on approaches to investigations and prosecution, in particular how to use the POCA to recover criminal profits. Local authority enforcement officers need effective co-ordination, training, protection and the support of specialists.

Consultations with Police Forces and Other Enforcement Bodies

8.8. The interim report considered who should take the lead in future serious criminal investigations into alleged food crimes and described the review's initial consultations with a number of police forces and other enforcement bodies. These are set out again, updated where appropriate. It will be important to ensure that the police are content to share intelligence and work in co-operation with other regulatory bodies where criminal activity is identified.

8.9. The Serious Fraud Office (SFO) is a small, highly specialised Government department, which investigates and, where appropriate, prosecutes cases of serious or complex fraud. In deciding which cases to take forward, the SFO considers the scale, impact, effect, complexity and the wider public interest. In relation to possible future referrals of food fraud cases, the SFO would not act in the capacity of a 'lead force', but would be prepared to review any information and make a determination on a case by case basis.

8.10. The Metropolitan Police advised that: "*The Metropolitan Police would contend that there are other agencies that could and should be better placed to tackle food fraud, and it is not tenable for the Police Service to step in to fill the void in terms of capacity and capability."*

8.11. The City of London Police is the national lead force on fraud and houses the National Fraud Intelligence Bureau (NFIB). In May 2013, at the request of the FSA, it launched a major criminal investigation to discover how food products had become adulterated with horse meat. Its press statement on this operation reads: '*This is an extremely complex investigation covering a number of jurisdictions and a variety of businesses. We are working closely with police forces, other law enforcement agencies and regulators to determine whether horse meat being used in a range of meat products was deliberate and coordinated criminal activity'*. One of those police forces was Dyfed Powys Police, which quickly responded to the identification of criminal activity in its jurisdiction by launching a major investigation of its own into horse meat crime. This investigation is still active. The City of London Police has since advised: "*As a consequence of our investigation into the discovery of horse meat in the human food chain we have developed some specialist understanding of this type of crime and can see that there may be a legitimate role for police in partnership with other agencies, but, given the range and nature of our core responsibilities, we could not realistically be the lead agency. There needs to be an element of full time dedicated expertise outside of policing but with well-established links to it."*

8.12. Before the City of London Police accepted the major part of this case, the investigation was being co-ordinated by the FSA and conducted, at least in part, by regulators with insufficient experience or expertise in the investigation of serious food crime and none at all in tackling complex organised crime.

8.13. The food industry in Northern Ireland is a very important part of the local economy. The head of organised crime for the Police Service of Northern Ireland (PSNI) has advised: "*Given a strategic problem profile that develops 'the rich picture', it is quite possible that food crime might find a place on the ladder of police priorities but it is likely only rarely to get near the top so the FSA is going to have to look hard at its own internal resources and to the development of multi-agency solutions*".

8.14. The view of the Association of Chief Police Officers lead on Organised Crime (ACPO OC) is clear: "*The ACPO OC line on food fraud is that this is not necessarily a police service matter in the first instance and there should be a national lead agency to handle intelligence, investigation and prosecution – and that lead agency should **not** be the police."* ACPO OC also suggests how police might support that 'other' lead agency: "*Insofar as food fraud might amount to organized crime, there could be a partnership role for the Regional Organised Crime Units and the Regional Asset Recovery Teams in the same way that these units already engage in appropriate cases with other lead agencies in the Government Agency Intelligence Network – for example, organised criminal fly tipping of toxic materials, for which the lead enforcer is the Environment Agency. Food fraud cases led by organised criminal networks would always have to be considered just like any other, by reference to a matrix of harm, threat and risk, and they would be adopted if they met the threshold relative to other threats under consideration at any point in time."*

8.15. Where food fraud is of a scale amounting to serious and organised crime, it will fall under the Government's Serious and Organised Crime strategy, which was published in October 2013[37]. It echoes the four strands of the counter-terrorist strategy: pursue; prevent; protect; and prepare. It aims to reduce the threat from serious and organised crime, bring criminals to justice and strip them of the proceeds of their crimes. Serious and organised crime is estimated to cost the UK £24bn[38] a year; this takes no account of food crime. The National Crime Agency (NCA) was established to develop and bring together intelligence on all types of serious and organised crime, prioritise crime groups according to the threats they present and, in conjunction with police, then lead, coordinate and support the operational response. The NCA is supported by nine Regional Organised Crime Units (ROCUs) which include the Regional Asset Recovery Teams (RARTs). The review made enquiries of the NCA and received a very helpful and encouraging response from their Director General, including: '*We would of course be very interested in any information regarding the involvement of organised crime in food fraud. Although not traditionally a high priority for law enforcement this is an area of concern."*

8.16. The ACPO OC lead on Intelligence suggests that: "*National Organised Crime Mapping has demonstrated that the majority of Organised Crime Groups are*

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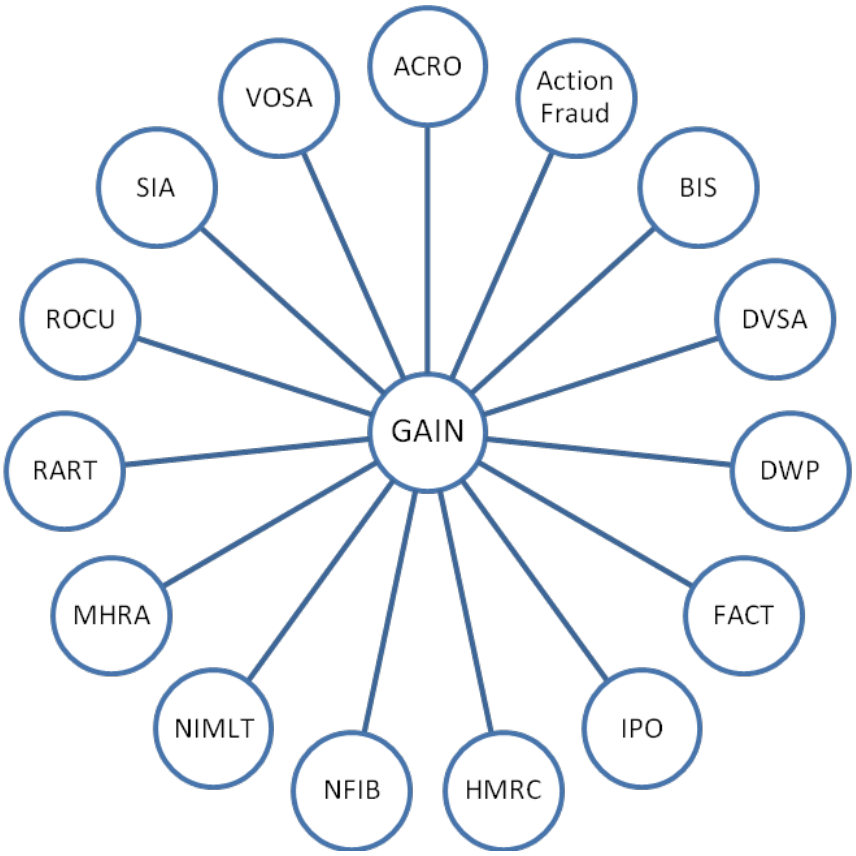
[37] http://www.official-documents.gov.uk/document/cm87/8715/8715.pdf

[38] http://www.sia.homeoffice.gov.uk/Documents/conference/nca-partners-serious-crime.pdf

flexible enterprises that adapt their methodology to achieve the most benefit – that is to say they are multi-commodity and will manage a criminal business that will move fluidly between commodities. Partnership working in relation to organised criminality has clearly demonstrated the benefits of sharing intelligence between agencies, as well as a collaborative approach to disruption. Although specific intelligence in relation to fraud is limited, there would seem to be benefits in sharing intelligence with the designated lead authority for this area. Rather than adopting a bilateral approach to this between the police service and any lead authority for food fraud, the most productive route would seem to be inclusion within an already established model, the Government Agency Intelligence Network (GAIN)."

8.17. A diagram of GAIN partners is shown at Figure 2.

Figure 2: Government Agency Intelligence Network (GAIN) Model



Key to acronyms in Figure 2:
ACRO - ACPO Criminal Records Office
Action Fraud – The UK's national fraud and internet crime reporting centre

BIS – Business, Innovation and Skills
DVSA - Driver & Vehicle Standards Agency
DWP - Department of Work and Pensions
FACT - Film and Copyright Theft
IPO – Intellectual Property Office
HMRC - Her Majesties Revenue and Customs
NFIB - National Fraud Intelligence Bureau
NIMLT – National Illegal Money Lending Team
MHRA - Medicines and Healthcare products Regulatory Agency
RART - Regional Asset Recovery Teams
ROCU - Regional Organised Crime Units
SIA – Security Industry Authority
VOSA - Vehicle and Operator Services Agency

8.18. On the basis of the evidence and advice received, the interim report recommended that a Food Crime Unit hosted by the FSA should be set up and this recommendation stands.

8.19. As a result of the link established in 2013 with Dyfed Powys police, the FSA was given access to GAIN in Wales. The FSA (which has its own regulatory and enforcement powers) is now a core GAIN member across all regions, and is able to access the GAIN process, either in responding to information requests or through the submission of referrals. At a local level, Government has said that there should be Local Organised Crime Partnership Boards to ensure all available information and powers are used to tackle the threat from serious and organised crime. They should have representatives from police local authorities, education, health and social, and immigration enforcement. If the role as lead agency for food crime is passed to the FSA, then it would have to acquire the necessary systems and culture to seek, hold and develop criminal intelligence. This would go some way to resolving the current impasse whereby police do not become involved in food crime for lack of criminal intelligence justifying their involvement, while criminal intelligence is not sought in relation to food crime because it is not a police priority. There is a distinction between industry intelligence and criminal intelligence of the kind that is generated by covert police sources. It would be more likely that such intelligence would be identified and developed if a lead ‘customer’ for it was established and this should be the FSA.

Specialist Food Crime Units

8.20. The review considered arrangements in the Environment Agency (EA) which investigates perpetrators of illegal waste disposal; and in the regional capabilities of the NTSB. It also considered arrangements in Northern Ireland. The NTSB operates a national intelligence team, regional investigation analysis, and a national tasking process to co-ordinate the work of a number of regional investigation units. This aim is to tackle serious national and regional consumer protection issues and fraud, much of it controlled by organised crime. In recent years, the team has had significant successes against 'crash for cash' car insurance scams, illegal money lending and frauds against small businesses. NTSB was established in 2011 and is centrally funded through a grant from BIS. Because of this funding arrangement it currently has no remit for food crime, but it does have a contract with the FSA for specific work in relation to animal feed.

8.21. The EA National Environmental Crime Team (NECT) was established in 2008 under the leadership of a senior detective from the Greater Manchester Police. Development of NECT is a particularly instructive case study as it has already travelled the same path and constructed the same set of capabilities as those set out below. The NECT comprises a mix of technical experts, experienced detectives, financial investigators, intelligence specialists and analysts. Its actions are targeted against organised crime and one indication of its success is the growing value of criminal asset confiscation orders, which was around £2m for 2013-14.

8.22. In 2003, the Department of Agriculture & Rural Development (DARD) in Northern Ireland created a Veterinary Service Central Enforcement Team (CET) to deal with the more complex cases of criminality associated with breaches of animal health and welfare, and veterinary public health regulations. More serious criminality is referred to the police, and DARD officers provide assistance and expertise. The CET was initially developed to deal with complex investigations that local veterinary offices were not resourced to handle, for example animal identification fraud, cross border livestock smuggling and use of illegal veterinary drugs. More recently the role and contribution of the CET has advanced further, particularly in the area of large multi-agency investigations sharing resources and expertise with other regulatory bodies, tackling different aspects of criminality. The CET works closely with the PSNI tackling rural crime, sharing intelligence, exchanging training and conducting joint operations and investigations. The CET

participates in multi-agency investigations with other regulators, including the FSA and HMRC and the Republic of Ireland.

8.23. The review also considered a number of agencies in European countries on which a Food Crime Unit could be modelled. The French food crime unit is part of the environmental & pharmaceutical crime unit (OCLAESP) that sits within the French Ministry of the Interior. It has access to police powers and resources, and seized over €3m (£2.43m) in criminal assets last year. The Italian Food Crime Unit is part of the Carabinieri, and has police powers to deal with emergencies and to make arrests and to seize goods. The French and Italians initiated Operation Opson in the EU, originally for the purpose of appellation protection. Opson has grown into a significant food crime intelligence network involving much of Europe and beyond, including a week each year of focused enforcement action. The IPO is able to work on intelligence aspects of this operation, but is not able to 'task' regulators. Leadership and co-ordination from the FSA may have helped encourage engagement by local authorities, resulting in more successful outcomes.

8.24. In Germany, long established Food Crime Units operate at the Lander level. This year, partly in response to the horse meat incident, Germany has moved to set up a Federal food fraud unit in addition to those in the regions.

8.25. In February 2014, the review visited Food Crime Units in Denmark and the Netherlands to obtain further information about their operations.

8.26. The Danish food crime unit was established in 2006, following a meat scandal, and its size has more than doubled since it has uncovered more illegal activity in the food industry. It operates a combination of high visibility uniformed regulation enforcement and intelligence-led investigation, including a covert surveillance capability. It has the capacity to conduct 16 major investigations a year. The review concluded that whilst this Danish unit may provide a suitable model for a Food Crime Unit hosted by the FSA, the review felt that the approach taken by the Dutch may be more appropriate for the UK.

8.27. The Dutch food crime unit has existed in various forms for over 60 years. In its current form it has access to the full range of police powers. It is focused specifically on tackling organised crime. In 2012, it developed intelligence packages from 246 'food crime signals', some derived from the 120,000 calls to its telephone hotline, some coming from its covert surveillance capabilities and

investigative leads. Fifty investigation packages were developed on the basis of that intelligence; 26 were placed with other agencies for investigation or disruption. From the 24 major investigations it conducted there were 77 convictions and seizure of €6.5m in criminal assets. During 2013, the unit conducted three major investigations arising from the horsemeat incident and arrested a trader for allegedly selling 300 tonnes of horse meat as beef. It found evidence of criminal activity between the Netherlands and the UK but found no partner organisation in the UK to talk to. Further details are included at Annex L.

FSA Food Crime Unit

8.28. The review has been persuaded by the information it has collected that food crime already is or has the potential to become serious. Food crime deserves to be considered by the Government Agency Intelligence Network. A new Food Crime Unit (described in more detail in Annex M) based on the Dutch model, should be created within the FSA which would become the lead agency for food crime.

8.29. The new Food Crime Unit will need to develop a genuine professional investigative capability at Professional Investigators Programme (PIP) level 3-4. Without it the FSA will have no cutting edge and will be dependent on others to investigate when the next incident occurs. Also, the UK will continue to be excluded from the joint activities of the relevant agencies in Europe. Along with investigative capability, the Food Crime Unit will need, over time, to develop a covert intelligence capability. It will need a director of investigations with the appropriate law enforcement background and seniority. Without this the FSA will have no focal point, crucially no national leadership, and nobody to negotiate on equal terms at a senior level with other investigative agencies. It might realistically take two to five years to build a PIP level 3-4 capability, and so it would seem wise to enter discussions quickly to establish a range of potential law enforcement partners who could deal with any incident during that time, including NTSB, who might be engaged on contract to conduct investigations temporarily beyond the capacity of the Food Crime Unit. Proposals, functions and framework for the new Food Crime Unit are set out in Annex M.

8.30. Given the wide range of responsible and interested parties, it would be sensible for the Food Crime Unit to operate under carefully defined terms of reference and reporting to a governance board. This might comprise key players, including the FSA; CIEH; TSI; Local Government Association, AHVLA; Defra; DH; and ACPO.

8.31. Given the assessment of the seriousness and complexity of food crime, it would be appropriate for the new Food Crime Unit to take over the Government lead on Operation Opson from the IPO.

8.32. There are cost implications attached to setting up a new Food Crime Unit (based on the framework in Annex M) and the review has estimated that these will be about £2-4m a year. The costs in year one would be lower, as this would be the period when staff are recruited, and are unlikely to exceed £2m. This could rise to £4m a year from year two as work gets underway. While this may be an additional burden on the FSA the proposed model will provide an effective return for that investment. The review has had substantial and ongoing engagement with the FSA regarding the Food Crime Unit since the interim report was published. In May 2014, the FSA provided the following statement to the review:

"The FSA recognises that in order to establish a workable Food Crime Unit it will need to build a credible intelligence and investigative capability, developing initially from a small team in Consumer Protection and Commercial Support Division. We understand that this will be an iterative process and may take some years to develop a fully functional unit. We will look to existing models, both in the UK and EU Member States and draw on best practice in the development of this capability. We envisage the scope of operations should cover the farm to fork continuum.

We are clear that the development of the necessary intelligence and investigative capabilities (including any need to handle covert sources in strict accordance with RIPA requirements) will require collaboration with other agencies with pre-existing expertise. The FSA will look for secondments from these agencies to facilitate the rapid development of capability within the Unit. This will involve the further development of partnerships with the National Trading Standards Board, National Crime Agency, ACPO, Intellectual Property Office, National Fraud Intelligence Bureau, Defra agencies and others. It is also recognised that the Government Agency Intelligence Network (GAIN) will have a significant role to play in facilitating the sharing of intelligence packages and the development of multi-agency investigations with the intention of pursuing a joined-up disruptive approach rather than single-agency prosecutions. This is in line with the recently revised Home Office Serious and Organised Crime Strategy that has the GAIN at

its centre. It should be noted that the FSA already has a seat at the GAIN table and is also represented at the National Executive.

Whilst the GAIN approach is a valuable initiative, the FSA is well aware that it will need to continue to build investigation skills and expertise in order that the Food Crime Unit can develop stand-alone cases that can either be passed to other prosecuting agencies (primarily police forces) or be taken forward with a view to prosecution by the FSA itself. However, in the case of organised criminality we are clear that primacy for this lies with the National Crime Agency. The FSA has always drawn on the expertise and abilities of former police officers in its investigative work and fully appreciates the importance of this in maintaining effective relationships with police forces and in overcoming case acceptance thresholds. This experience was reinforced during the development of the horsemeat cases."

8.33. The review welcomes the FSA concept of the Food Crime Unit having 'farm to fork' responsibility and it should open negotiations with AHVLA to bring it on board. It is understandable that the FSA has not explored the potential to establish law enforcement partnerships given its relationship with the City of London Police established through Operation Boldo. It is very likely that other police forces will step forward in the knowledge that financial resources will be provided by the FSA for investigation as was the case in the horse meat incident.

8.34. A case was put to the review that there should be a two phase approach to creating a new Food Crime Unit. Phase one would be an evidence gathering and business case development period. Phase one would need to be subject to a fundamental review before the case for moving to phase two could be demonstrated. Phase two would then put in place the mechanisms required to investigate cases and take action. A phased approach is sensible, with phase one taking around two years to complete during which the initial building blocks for the new Food Crime Unit will be put in place. A review after two years to determine the need for expansion based on development of a business case seems appropriate.

8.35. While the optimal outcome would be to create a new Food Crime Unit to deal with food fraud incidents, there is action the FSA should consider now to enable it to take a lead role in dealing with national incidents. Under Section 6(3) of the Food Safety Act 1990 the Secretary of State '*may direct in relation to cases of a particular description or a particular case that any duty imposed on food*

authorities by subsection (2) above shall be discharged by the Secretary of State or the Food Standards Agency and not by those authorities'. (Subsection (2) refers to the duty of local authorities to enforce the Act unless it expressly falls to another authority). Advice suggests that because the wording of section 6(3) refers to *"cases of a particular description";* the Direction from the Secretary of State could be a standing generic Direction and does not have to be issued each time a national incident arises. Instead, the terms and limitations of the Direction could be set out in secondary legislation. Those regulations could define the nature of the incident to which the Direction applies such as geographical area, credible threat and national co-ordination.

8.36. The regulations could also set out the FSA's powers of entry when dealing with national incidents and would enable formal scrutiny by Parliament. Alternatively, it might be possible to achieve the same outcome through consulting and obtaining agreement on a Direction if not issued in the form of regulations. Either approach would ensure transparency because Ministers will have agreed the Direction and the arrangements in any regulation and both routes would involve consultation. That consultation would enable local authorities and businesses to raise any concerns about the scope of the FSA's powers. The FSA is currently looking at how it could make use of these existing powers and is reviewing the need for new legislation before seeking the agreement of the FSA Board.

8.37. An additional issue identified during the course of the review was the apparent lack of robust powers available to local authorities to enable them to seize and detain products on authenticity grounds alone. This is not a problem caused by any shortcomings in EU regulations. Article 54.2 of EU Regulation 882/2004 on official controls[39] provides the necessary underpinning for domestic legislation to prevent products being placed on the market where non-food safety non-compliance is identified. If these remedies are sanctioned in directly applicable EU regulations, there may be a way to empower local authorities to prevent products being placed on the market where the non-compliance relates to authenticity. The review understands the FSA is seeking advice from the European Commission on this issue and looks forward to clarification on its position.

[39] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:165:0001:0141:EN:PDF

Developing and Leading Local Solutions to Food Crime

8.38. A number of the recommendations in the final report relate to actions at a national level to assure the integrity of food supply networks, but many more are directed at groups and individuals working in the interests of the communities they serve. Tackling food crime also requires leadership at a local level to ensure consumers have access to safe and authentic food. Tackling problems at a local level will form a key part of delivering a successful food crime prevention strategy, with stakeholders working in partnership to develop coordinated, preventative approaches and deterrents to help protect consumers.

8.39. The review engaged with the City of Birmingham on its initiative to develop locally based arrangements based on the systems approach and co-hosted a workshop in Birmingham with The New Optimists, a not for profit venture based in Birmingham. Further information on the workshop is at Annex N.

Recommendation 7 - Leadership: There is a need for clear leadership and co-ordination of effective investigations and prosecutions relating to food fraud and food crime; the public interest must be recognised by active enforcement and significant penalties for serious food crimes. The Government should:

- **Ensure that food crime is included in the work of the Government Agency Intelligence Network and involves the Food Standards Agency as the lead agency for food crime;**
- **Support the creation of a new Food Crime Unit hosted by the Food Standards Agency operating under carefully defined terms of reference, and reporting to a governance board;**
- **Support the Food Standards Agency in taking the lead role on national incidents, reviewing where existing legislative mechanisms exist, while arrangements are being made to create the Food Crime Unit; and**
- **Require that the Government lead on Operation Opson passes from the Intellectual Property Office to the Food Standards Agency.**

Chapter 9: Crisis Management

When a serious incident occurs the necessary mechanisms are in place so that regulators and industry can deal with it effectively.

9.1. No matter what mitigating arrangements have been put in place, it is inevitable that there will be future food-related incidents requiring a quick, decisive response by regulators and industry in order to protect public health, maintain public confidence and to protect the reputation of our industry. Effective collaboration across Government, including providing timely support to the FSA, will be vital if the combined response is to be effective. The proposed National Food Safety and Food Crime Committee will help ensure this support is received. Any serious incident (food safety or fraud related) should trigger a system whereby members of the National Food Safety and Food Crime Committee are immediately informed.

9.2. Wherever particular aspects of food policy reside, there will be some areas where there appears to be an artificial separation of responsibilities across the relevant Government departments. The joint high level meetings recommended in this report between Government departments and the FSA will help when an incident arises and should be supported by continued joint working and development of constructive working relationships with officials across Government departments. Stakeholders, including industry and local authorities, must be clear about the respective responsibilities of FSA, DH and Defra to ensure there is no repeat of the confusion which occurred at the beginning of the horse meat incident. The action taken since publication of the interim report demonstrates that all parties are aware of the need to address this issue.

9.3. All incidents should be regarded in the first instance as potential risks to public health, until there is evidence to the contrary. Once one part of the system fails, we cannot have confidence in the whole. This has implications for the planning and organisation of any response, which the FSA should explore with the Cabinet Office, in its role as co-ordinating body for COBR (Cabinet Office Briefing Room).

9.4. As mentioned previously, effective contingency planning is as important in a food authenticity incident as it is in a food safety incident. In both cases, as the lead regulator for major incidents, the FSA must have robust mechanisms in place to respond quickly and decisively. This was an issue which Professor

Troop addressed in her June 2013 report[40]. It noted that the FSA has an incident protocol for food safety incidents but recommended that the FSA strengthen its Major Incident Plan with partners and that it should be supported by a robust programme of testing and practice. In December 2013, the FSA invited comment from internal and external stakeholders on its contingency planning arrangements. The FSA has advised the review that responses were positive with comments from particular bodies addressing specific concerns relating to their own areas of work alongside constructive advice based on respondents' own incident plans.

9.5. During the latter stages of the review the FSA provided an update on its contingency planning systems. It advised that it will conduct an exercise in February 2015. Prior to that it intends to hold a number of desktop exercises in order to test the updated plan due to be launched in spring 2015. It is regrettable that the necessary exercises have not been held earlier and the FSA must move forward quickly if it is not to be caught out in the event of another serious incident. The review urges the FSA to continue to implement Professor Troop's recommendations relating to contingency planning and handling of incidents at the earliest opportunity. For any plan to be effective it must be exercised and accompanied by the right infrastructure and training across the organisation.

9.6. The interim report set out examples of comprehensive contingency plans in other areas of Government policy, including Defra's Contingency Plan for Exotic Notifiable Diseases of Animals, a revised version of which was published in March 2014[41]. A key characteristic of an effective contingency plan is its ability to evolve as the situation demands and conflicting priorities emerge. The FSA should continue to take account of Defra's own contingency planning and should keep its contingency planning arrangements for all food incidents under review.

9.7. Risk assessment and development of counter-measures is another area where lessons can be learned from the experience of handling disease outbreaks. The interim report noted Defra's Exotic Animal Disease Risk Pathways & Countermeasures[42] report of 2009. This continues to be a useful document for the FSA to refer to, in addition to a number of other protocols. The

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[40] http://multimedia.food.gov.uk/multimedia/pdfs/board/board-papers-2013/fsa-130704-prof-troop-report.pdf
[41] https://www.gov.uk/government/publications/contingency-plan-for-exotic-notifiable-diseases-of-animals
[42] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69427/pb13567-risk-pathways-countermeasures-100310.pdf

FSA should endeavour to make effective use of existing expertise and knowledge within Defra in dealing with risk assessment and management.

Recommendation 8 - Crisis Management: Mechanisms must be in place to deal effectively with any serious food safety and/or food crime incident. The Government should:

- **Ensure that all incidents are regarded as a risk to public health until there is evidence to the contrary;**
- **Urge the Food Standards Agency to discuss with the Cabinet Office in its role as co-ordinating body for COBR (Cabinet Office Briefing Room) the planning and organisation of responses to incidents;**
- **Urge the Food Standards Agency to implement Professor Troop's recommendations to put in place contingency plans at the earliest opportunity; and**
- **Work closely with the Food Standards Agency to ensure clarity of roles and responsibilities before another food safety and/or food crime incident occurs.**

Chapter 10: Conclusion and Next Steps

10.1. This report sets out the actions which should be taken by Government, Regulators and industry to ensure the integrity and assurance of food supply networks and to restore consumer confidence. Achieving this outcome will be challenging and it will take time. However, the amount of work undertaken already by industry and Government to implement the systems based approach clearly indicates that the development of a national food crime prevention framework to ensure food crime prevention in the UK is underway.

10.2. The EFRA Committee and the Lords Science and Technology Committee have undertaken to keep under review actions being taken in response to this review when deciding on issues which they can investigate and report on in the future. This will be extremely helpful in reassuring consumers that the food industry and Government retain their commitment to ensuring the integrity and assurance of food supply networks.

Annex A – Terms of Reference for the review into the integrity and assurance of food supply networks

To advise the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State for Health ("the Secretaries of State") on issues which impact upon consumer confidence in the authenticity of food products, including any systemic failures in food supply networks and systems of oversight with implications for food safety and public health; and to make recommendations. [43] In particular:

1. To provide advice to the Secretaries of State on:

a) any inherent weaknesses in the current regulatory/ enforcement framework that leave food supply networks vulnerable to fraudulent activity (such as the recent horsemeat frauds);

b) how best to support consumer confidence in the integrity of their food, taking into account issues of concern to consumers and the relevant responsibilities of various bodies involved in oversight[44];

c) the audit, testing and other verification within supply networks by regulatory and enforcement authorities, drawing on the FSA review of events and lessons learned; including the role of intelligence-led and routine testing and implications for how institutions work together and exchange intelligence;

d) the roles and responsibilities of food businesses including manufacturers, catering suppliers and retailers throughout food supply networks to consumers, including:

   i. meat and meat product supply networks and practice;
   ii. other food supply networks and practice, where there may be significant incentive for fraudulent activity;
   iii. audit, testing and other verification within supply networks by those supplying food, in order to discharge both legal commitments and to meet consumer expectations;
   iv. the legislative framework in Europe and the UK including how legal responsibilities are interpreted, discharged and enforced;
   v. the role, operations and control over non-food businesses, such as brokers and traders involved in food supply networks and their relationship with the regulatory framework;

[43] These recommendations will be relevant to the exercise of their responsibilities: i.e. reserved matters relating to the United Kingdom as a whole (including the EU legal framework governing food safety and authenticity); and devolved matters in England

[44] i.e. not restricted to labelling

vi. any implications for food safety and public health, and
vii. Any implications for public sector procurement.

2. To make recommendations to the Secretaries of State on:
   a) Any changes required to the current regulatory framework and its implementation by the UK government, and to interactions between institutional players – in particular, industry, regulator, wider government, and the EU.
   b) how Government should work with industry and others to implement change;
   c) How the UK (and other Member States in Europe) might increase the resilience of their food systems, specifically against comparable challenges.

3. In formulating advice to the Secretaries of State, the Reviewer will be expected to:
   a) take evidence from the widest range of views and interest, including drawing on related review work in this area by the FSA, the private sector and civil society.
   b) take account of emerging findings from investigations into horsemeat and other frauds, primarily through FSA and other enforcement agencies (respecting the confidential nature of such investigations);
   c) highlight to Ministers any lessons relevant to the EU regulatory framework as these emerge or are required to inform EU negotiations;
   d) look to identify good practice [and the circumstances that support it], including the effectiveness of approaches taken within other jurisdictions;
   e) bear in mind constraints and competing demands on public expenditure currently and beyond the Spending Review and the need for an approach that is proportionate to the risks involved;
   f) recognise that issues relating to horse passports, phenylbutazone, and equine databases are outside the scope of the review.

4. The Review will begin in early June 2013; provide an interim report in December jointly to the Secretaries of State that will form the basis of a final report by spring 2014, as well as offering emerging advice as the Review proceeds on issues relevant to the EU regulatory framework.

Annex B – Biographies of the Review Team

Professor Chris Elliott is Director of the Global Institute for Food Security at Queen's University Belfast. Professor Elliott has published over 250 papers in the field of detection and control of chemical contaminants in agri-food commodities. He has co-ordinated one of the world's largest research projects in this area, and coordinates another major EU research project (QSAFFE**)** that deals with contaminant issues within the animal feed supply chain. He is also the director of the ASSET Technology Centre and a co-founder of the International Drug Residue School (SARAF) in Nantes, France. He received a Winston Churchill Fellowship in 1993, and is a Fellow of the Royal Society of Chemistry, the Institute of Biology and Institute of Food Science Technology.

Gary Copson served as an officer in the Metropolitan Police for over 30 years, the last eight years at chief officer level. He currently works as a freelance and associate consultant in policing strategy and leadership at home and abroad. He led on the politics of policing and prosecution of food crime in England.

Jim Scudamore has led two reviews relating to food safety and authenticity for the Scottish Government. He worked with other subject matter experts and the secretariat to ensure the report links to Scotland whilst respecting the devolution settlement.

Patricia (Pat) Troop is retired from Government. She was previously deputy Chief Medical Officer and was involved in the establishment of the Food Standards Agency (FSA) before becoming Chief Executive of the Health Protection Agency. She led on consideration of the role and statutory responsibilities of the FSA and methodologies for intelligence gathering.

Michael Steel is retired from Government and is now a consultant specialising in veterinary and animal welfare regulation and regulatory enforcement with particular expertise in the meat trade. He has previously held roles with the Veterinary Service in Northern Ireland and the Animal Health and Veterinary Laboratories Agency as director for Wales and most recently Scotland. He led on the improvement of audit and inspection approaches and inspection/enforcement by regulators, their fit with policing and prosecution by other agencies.

Michael Walker is independent of Government and is an interpretative laboratory specialist in food and a qualified Public Analyst. He led with Professor Elliott on considering laboratory capacity and ways to improve it, reference laboratory roles for standardisation of authenticity definitions, testing methodologies and tolerance thresholds. He was previously a member of the FSA Board.

Annex C – List of Organisations Contributing to the Review

2 Sisters Food Group
3663
6 Pump Court London
AB Connect
ABP Food Group
Agriculture and Horticulture Development Board (AHDB)
Agricultural Industries Confederation (AIC)
Aldi
Allergy Action
Anglia Business Solutions Ltd/LINKFRESH
Animal Health and Veterinary Laboratories Agency (AHVLA)
Apetito
Asda
Associated British Foods (British Sugar)
Association of Chief Police Officers
Association of Chief Trading Standards Officers
Association of Independent Meat Suppliers
Association of London Environmental Health Managers
Association of Public Analysts
Australian National University
Avon and Somerset Police
Bakkavör Group
BBC Radio 4 Food Programme
Bernard Matthews
Birds Eye Iglo
Booker Group
Bpex
Brakes
BRC Global Standards
Brecon Brewing/AWIB/SIBA/Drinks Wales
Brighton and Hove City Council
Brighton and Hove Food Partnership
British Frozen Foods Federation
British Hospitality Association
British Meat Processors Association
British Poultry Council Ltd
British Retail Consortium
British Services Association
British Standards Institute
Buckinghamshire County Council

Cabinet Office
Cafédirect
Cargill
Chartered Institute of Environmental Health
Cheshire Police
Chilled Foods Association
Chypraze Farm – Mervyns Happy Pigs
City of London Police
Cleveland Police
CMS Cameron McKenna
Compass Group UK & Ireland
COSLA (Convention of Scottish Local Authorities)
Cranswick
D&D London
Dairy Crest
Dairy UK
Dawn Meats
Deloitte
Department of Agriculture and Rural Development for Northern Ireland
Department for Business, Innovation and Skills
Department for Environment, Food and Rural Affairs
Department of Health
Department of Justice for Northern Ireland
Derbyshire Police
Devenish Nutrition
Devolved administrations in Northern Ireland, Scotland and Wales
Devon and Cornwall Police
Devon County Council
Diageo
Directorate General for Health and Consumers
Direct Table
Dunbia
DWF LLP
Dyfed-Powys Police
East Midlands Regional Food Leads
East of England Regional Food Leads
East of England Trading Standards Association
Eblex
Eco Centre Wales
Elior
Environment Agency
Ernst & Young
Essex Police
European Commission – DG SANCO
Europol

Eversheds
Federation of Small Businesses
Federation of Wholesale Distributors
Findus UK
FishVetGroup
Food and Drink Federation
Food and Environment Research Agency (FERA)
Foodchain and Biomass Renewables Association (FABRA)
Food Economy Task Force
Food Ethics Council
Food Forensics
Food Safety System Certification 22000 (FSSC 22000)
Food Standards Agency
Food Storage and Distribution Federation
Forensic Vet
Fresh Produce Consortium
FSA Scotland
Gael Ltd
Global Food Safety Initiative (GFSI)
GlobalG.A.P.
Greater Manchester Police
Greencore Group plc
Greenwoods Solicitors LLP
Groceries Code Adjudicator
GS1 UK
H J Heinz & Co
Hampshire County Council
Hanmere Polythene Limited
Harmony Herd
HarvestMark
Head Consultants
Health and Safety Laboratories
Hertfordshire Police
Hilton
Home Office
Hospital Caterers Association
House of Commons Select Committee on Environment, Food and Rural Affairs
House of Lords Science and Technology Committee
HSBC
IdentiGEN
IGD
Institute of Food Science and Technology
Intellectual Property Office
International Meat Traders Association
Interpol

Kent County Council
Kent Police
Kings College London
KPMG
Lamex Foods
Lancashire County Council
Lazenby's
Leatherhead Food Research
Leicestershire Police
LGC
Lidl
Lincolnshire Police
Linden Foods
Livestock and Meat Commission for Northern Ireland
Local Government Association
London and South East England Regional Food Leads
Marine Stewardship Council
Marks & Spencer
McDonald's Restaurants Ltd
Meat Trades Journal
Members of the European Parliament
Merseyside Police
Metropolitan Police Force
Ministers for Her Majesty's Official Opposition
Minton Treharne & Davies Ltd
Morrisons
Moy Park Ltd
Mumsnet
Muslim Food Board
National Association of Care Caterers
National Association of Catering Butchers
National Association of Hospital Caterers
National Crime Agency
National Farmers Union
National Laboratory Service
National Trading Standards Board
Nestlé UK & Ireland
New Optimists
NFU Mutual
Northamptonshire Police
North East England Food Group Leads
North Portslade Community Allotment Group
Northern Ireland Food and Drink Association
Northern Ireland Meat Exporters Association
North West England Regional Food Leads

North Yorkshire Police
OSI Food Solutions
Oxford Instruments Industrial Analysis
Pet Food Manufacturers Association
PDM Group
Police Service of Northern Ireland
Premier Foods
Princes
Provision Trade Federation
Public Health England
PWC
Quantum Care
Red Tractor Assurance Scheme
Safe and Local Supplier Approval (SALSA)
Safefood
Sainsbury's
Samworth Brothers
Scotland's Rural College
Scottish Improvement Service
Seafish
Sentencing Council
Simpson Ready Foods
Social Science Research Committee
Sodexo
Soil Association
SQF
Stafford Borough Council
Staffordshire County Council
Stockport Council
Subway
Suffolk County Council
Support, Training and Services Limited (STS)
Surrey County Council
Surrey Police
TDL-London
Tesco
Thames Valley Police
The Board of Deputies of British Jews
The Co-operative Group
The Government Chemist
The Grocer
The Guardian
The Jordans & Ryvita Company
The Royal Environmental Health Institute of Scotland
Thomas Ridley

Trading Standards Institute
Trading Standards North West Food Group
Tulip
UK Renderers Association (UKRA)
Ulster Farmers Union
Ulster Pork & Bacon Forum
Universal Halal Agency
University of Southampton
Veterinary Medicines Directorate
Waitrose
Wakefield Council
West Midlands Police
West Midlands Food Group Leads
West Yorkshire Joint Services
Which?
Whitbread
Wirral Community Trust
Worcestershire County Council
Worcestershire Regulatory Services
Yorkshire and Humber Regional Food Leads
Young’s Seafood

Annex D - Definitions

For the purpose of this review the following definitions have been used for food fraud, food crime, quality, safety, authenticity, integrity and assurance.

Food fraud is defined by the Food Standards Agency as: deliberately placing food on the market, for financial gain, with the intention of deceiving the consumer. Although there are many kinds of food fraud, the two main types are:

- Sale of food which is unfit and potentially harmful, such as:
  -recycling of animal by-products back into the food chain
  -packing and selling of beef and poultry with an unknown origin
  -knowingly selling goods which are past their 'use by' date.
    - Deliberate misdescription of food such as:

  -products substituted with a cheaper alternative, for example farmed salmon sold as wild, and Basmati rice adulterated with cheaper varieties.
  -making false statements about the source of ingredients, i.e. their geographic, plant or animal origin.

Food fraud may also involve the sale of meat from animals that have been stolen and/or illegally slaughtered, as well as wild game animals like deer that may have been poached.

Food fraud becomes ***food crime*** when it no longer involves a few 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.

Food quality describes those characteristics which are acceptable to consumers and include appearance, flavour, texture, and compliance with any statutory standard on the composition of the food. Any person who sells to the purchaser’s prejudice any food which is not of the nature, or substance, or quality demanded by the purchaser is guilty of an offence under the Food Safety Act 1990.

Food authenticity is about ensuring that food offered for sale or sold is of the nature, substance and quality expected by the purchaser (Section 14 Food Safety Act 1990). Authenticity can be a particular issue for faith groups or consumers with particular food preferences who do not want to purchase products containing certain ingredients.

Food Standards covers the requirement that food must be correctly and accurately labelled, that it contains legal ingredients and that any claims made are truthful. Food standards legislation sets out specific requirements for the labelling, composition and, where appropriate, safety parameters for specific high value foodstuffs which are potentially at risk of being misleadingly substituted with lower quality alternatives.

Authentic reflects a reasonable assumption made on the basis of the labelling provided on the finished product bought by the consumer (or the description in a menu entry). 'Reasonableness' should be a Wednesbury test in that it should assume no specialist knowledge of the food industry.

Safe food is defined under EU food law as food which is not injurious to health or unfit for human consumption (EU Regulation 178/2002 General Food Law). A food can become injurious to health by:

- Adding an article or substance to it;
- Using an article or substance as an ingredient in its preparation;
- Abstracting (which means "taking away") any constituent from it; or
- Subjecting it to any other process or treatment.

The Regulation prohibits food being placed on the market if it is unsafe. Unsafe food must be withdrawn from sale or recalled from consumers if it has already been sold.

Food integrity can be seen as ensuring that food which is offered for sale or sold is not only safe and of the nature, substance and quality expected by the purchaser but also captures other aspects of food production, such as the way it has been sourced, procured and distributed and being honest about those elements to consumers.

Food assurance is normally provided by schemes which provide consumers and businesses with guarantees that food has been produced to particular standards. These schemes are mainly voluntary arrangements although many food businesses make certification in an assurance scheme a specification requirement for their suppliers. Examples of assurance schemes are the Red Tractor[45], which covers production standards, and the British Egg Industry Council lion logo for eggs[46]. These schemes must ensure that communications and claims about them are accurate.

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[45] http://www.redtractor.org.uk/home
[46] www.britisheggindustrycouncil.co.uk

Annex E - Quantifying the Level of Food Crime

1. Response to Call for Industry Data on Food Crime

The review contacted food businesses via their trade associations requesting information or evidence about any incident, or suspected incident, of food crime. The majority of respondents said they had no evidence or grounds to suspect food crime and where authenticity issues had occurred they were of relatively low frequency or were issues that were already widely known. Where businesses did report suspicions of food crime these suspicions primarily involved adulteration of product received from a third party. Other more specific incidents of suspected criminal activity involved:

- Meat supplied from unapproved slaughterhouses;
- Goat casings imported as sheep casings from China;
- Falsification of cattle breed;
- Mislabelling of chicken products from third countries with EU health marks;
- Injection of blood serum into pork primals sourced for a supplier outside the UK; and
- Animal switching between purchase and slaughter.

2. Responses to Call for Police Data on Food Crime

The review contacted the 43 territorial police forces in England and Wales requesting details on any significant criminal cases where food has been the criminal commodity or food networks have been the criminal target. A total of 18 forces responded to the request of which 12 recorded no such cases. One force that retuned a 'nil response' noted that food fraud related crimes would be dealt with by the FSA and/or local authorities rather than the police. Another police force stated that it had recently tasked the Director of Intelligence of its Serious Crime Directorate to take the lead on this emerging crime type to ensure that its collection plans were able to capture incidents of this nature. Several police forces highlighted a problem with extracting data on cases involving food crime as there is not currently a Home Office Crime Code of food contamination meaning it is not possible to search crime recording systems for food fraud. A potential threat to food supply networks could take the form of a number of different offences such as blackmail or criminal damage and would be recorded as such on databases.

Of the police forces that did record criminal cases where food was the criminal commodity target, incidents of the following nature were investigated:

- Intentional food contamination (nails left inside a container of prawns and pasta) with intent to cause commercial harm to the company;
- Internet based threat to contaminate milk/dairy products for sale in a number of large supermarkets;
- A method of fraud where a food order is placed with a legitimate supplier, the product is delivered and it is only when the invoice comes to be settled that it is discovered that the original order was fraudulent and had not been placed by the purported company;
- Adulteration of olive oil with cheaper vegetable oil;
- Abuse of the emergency slaughter certificates for cattle which can end up in the human food chain;
- Theft of farm equipment;
- Horse rustling;
- Production of smoked lamb carcasses ‘smokies’, sold as smoked goat or lamb meat for specialist food markets within the UK;
- Abuses in the production of halal meat products for Islamic food retailers; and
- Dyfed Powys police is leading on the ongoing investigation into alleged mislabelling of meat.

3. Operation Opson

Fake food can prove profitable for organised criminals. It also poses a huge threat to the health of consumers and can damage the economy. Based on this assumption, INTERPOL and Europol started a joint operation (Opson) targeting fake and substandard food and drink and the organized crime networks behind this illicit trade. This operation was supported by UK partners, Including the National Crime Agency. Further to the growing success of the operation, the UK Intellectual Property Office (IPO), the lead Government department, has issued reports setting out the UK's response to the growing threat of fake and substandard food.

Operation Opson – Intellectual Property Office

Although formal deployment of national resources is beyond the scope of the IPO, a number of activities took place in 2013:

- A number of warrants were executed involving police, trading standards, Europol, the IPO, and Her Majesty’s Revenue & Customs (HMRC). These

enquiries uncovered significant criminality in Italy, France, UK and Republic of Ireland. No further details are available as operational activity continues.

- UK Border Force accepted a tasking request to alert all their staff to Operation Opson as part of 'business as usual'. Significant seizures included a forty foot container of fake vodka, stopped in Scotland (total loss to the Treasury of £250,000); and a seizure of 22 tons of long grain rice labelled as Basmati.
- A number of smaller seizures of fake foodstuffs were undertaken but not reported to the IPO. These included olive oil, and small quantities of vodka seized in the Midlands.

In conclusion there is willingness for enforcement agencies to work with the IPO and the FSA in respect of food issues. The drivers for this work are:

- Risk to public safety;
- Serious organised crime;
- Harm to the economy; and
- Harm to brands – especially reputational.

4. European Commission

The European Commission has been proactive in providing extra resources for DG SANCO to enable the establishment of an anti-fraud unit. This has been a very positive step, but food crime is a global problem, growing in scale, and it would be mistaken to assume that organised food crime only occurs in other countries.

Extract from the Summary Record of the Plenary Meeting of the Advisory Group on the Food Chain and Animal and Plant Health, 26 April 2013[47].

- The European Commission has stressed the importance of ensuring that the law is applied, even where contravention of rules is cross-border; those responsible must be accountable. That is why the proposal to review 882/2004 aims to clarify and strengthen the provisions on administrative assistance between Member States in cross-border cases. One of the provisions added to the Regulation is a new paragraph in Article 2 requesting a specific chapter be added to the multiannual control plan dedicated to anti-fraud inspections to fight intentional violation of the law.

[47] http://ec.europa.eu/dgs/health_consumer/dgs_consultations/docs/ag/sum_26042013_en.pdf

- The Commission stressed that all controls are and will continue to be unannounced; there is no prior warning to operators, except for the systematic controls, e.g. in case of certification.
- The Commission highlighted that a new anti-fraud team is being formed within DG SANCO which would deal with follow-up work. When investigating fraud cases, it is necessary to be discreet about the scope and magnitude of actions which will take place. The fraud must be proven to be deliberate and that is why the Commission must be careful and disseminate only information necessary for public health authorities without jeopardising any investigation.

5. Recent Reporting of Some Local Authority Food Integrity Testing

Leicester City Council carried out a meat products testing programme in 2013 in which 105 samples produced by 87 food producers were DNA tested. 54 out of 104 samples failed the test, the majority (47) due to the presence of undeclared species at above the 1% threshold for gross contamination. While Leicester City Council said that poor operating practice and ignorance may be the most common explanation for non-compliance it was not possible to rule out fraud for pecuniary advantage and/or maintenance of a competitive edge over other businesses.

In December 2013, West Yorkshire Joint Services reported on 873 food samples taken between April and September 2013. 331 (38%) of them received adverse reports. These included 72 (44%) out of 164 samples taken of meat products and processed meats including sausages and 41 (72%) out of 57 samples of restaurant and takeaway dishes. Common misdescription included the use of cheese analogue in place of cheese on pizzas, samples of beef containing pork or poultry, or both, and ham made from poultry meat. In a previous survey from June 2013, West Yorkshire Joint Services reported that of 16 ‘lamb curry’ samples seven were found to be made with beef.

In July 2013, North Yorkshire Trading Standards reported that just two of the lamb curries bought at 10 takeaways in North Yorkshire contained only lamb meat. Seven were found to contain a mix of chicken and lamb, while one contained both lamb and beef.

In January 2013, West Sussex Trading Standards reported that eight out of 10 kebab houses were mislabelling their lamb or doner kebabs. Many lamb kebabs also contained significant amounts of poultry, beef and veal.

In April 2012, Warwickshire Trading Standards sampled 39 lamb curries or lamb kebabs from 20 restaurants and takeaways chosen at random in Stratford upon Avon, Leamington Spa, Nuneaton and Rugby. DNA tests showed that none of the lamb kebabs contained just lamb and all contained a mixture of lamb together with either pork, beef or poultry. Of the 19 lamb curries tested, only three contained just lamb. Most contained a mixture of lamb together with either beef or poultry. Four lamb curries didn't contain any lamb at all.

Between January 2010 and June 2013 local authorities in Scotland carried out 1718 tests for meat identification and 360 tests for fish identification. Of the products tested the failure rate was 17.3% for meat and 1.7% for fish. Of the meat identification failures the highest number was in samples taken from takeaway establishments. The majority of these were lamb/beef substitutions in curries and a more recently noted substitution of ham with poultry in pizza toppings. The unsatisfactory results within the fish identification category were primarily direct substitution of haddock for whiting and vice versa.

6. BBC Report on Food Crime

In December 2013, BBC Radio 4 'You and Yours' revealed that over a period of 12-18 months at least 100 lorry loads containing food and frozen meat had been stolen by criminals posing as buyers from UK supermarkets. In a fraud estimated to be worth well over £20m, the criminals pretended to represent big supermarkets and some big wholesalers. They ordered food to be delivered to warehouses in the UK and stole it. Retailers only found out when they were invoiced by suppliers for food they didn't order.

The City of London Police confirmed that these fraudsters are very good at impersonating legitimate companies. They set up email addresses and make websites with appropriate logos then, using names of real employees, they telephone or email food producers and suppliers and order products. The criminals will say they have been let down by another supplier and are looking for an urgent delivery. Often small companies in Europe are being contacted by what they think are major UK retailers. Given that the retailers have such a good reputation, and good credit, the suppliers are keen to get a large order, and often don't look further than the email address or the website to check the order is genuine. Sometimes the criminals will direct the delivery to a warehouse completely unconnected with the supermarket, or the delivery starts off heading for the supermarket but the driver will be asked to divert en route having received information about a warehouse freezer

breakdown or technical difficulties. The paper work for the food products coming into the UK is legitimate because the original supplier is legitimate and its destination appears legitimate too.

A large wholesaler based in Stockport which provides food for convenience stores was contacted by chance by a frozen chicken supplier in the Netherlands. This timely contact prevented a lorry load of chickens ordered by the criminals leaving the Dutch factory heading to the UK. Apart from meat, criminals have stolen lorry loads of coffee, olive oil and bread. One company's name has been used on more than 20 occasions since January 2012 to steal consignments of eggs, chocolate, pistachio nuts, walnuts, sugar, dates and garlic.

Investigators are trying to find out where this food ends up. A number of criminal gangs are thought to be involved, who repackage the food, and send it back to Europe. In other cases it travels to UK cities and disappears into the food chain. Similar fraud has previously occurred. What's different this time is that thieves are stealing fresh and frozen food, which raises new questions about the security of our food supply.

Annex F – Whistleblowing Arrangements

Whistleblowing arrangements must comply with the Public Interest Disclosure Act 1998[48] which provides the legislative framework.

1. Food Standards Agency (FSA)

The FSA has procedures in place to enable whistleblowers to provide information and to ensure their identity will be protected. The availability of this service must be better publicised.

The FSA passes information to the relevant local authority or to its own Operations Group to take action (depending on enforcement responsibility). The FSA states that each case is monitored and updates are requested from the corresponding local authorities regarding the outcome of any potential investigation. Information received is recorded on its food fraud database and the whistleblower is advised accordingly (where contact details have been provided). The FSA has issued guidance to its staff on how to handle any information from whistleblowers.

The FSA collects information about the number of complaints received from whistleblowers and the type of complaint made. The most up-to-date figures are for 2013 when the FSA's food fraud team handled 134 cases. The largest number of cases related to sale of unfit food (42) and general hygiene issues (39) with adulteration (1), authenticity (1) illegal re-dating of food (7) and misdescription (13) forming a smaller proportion. In 2012, the team handled a then record 81 cases compared to 54 cases handled in 2011. FSA believe that the increase in 2012 was due to improved call handling procedures. For 2012 the largest number of cases related to sale of unfit food (41) and general hygiene issues (23) with adulteration (1) illegal re-dating of food (3) and misdescription (8) again forming a smaller proportion.

The FSA has confirmed that while some of the information it receives may lead to prosecutions, in the majority of cases enforcement action focuses on establishing the existence of malpractice and the swift rectification of the issues identified. Many local authorities prefer to act quickly to ensure that consumers are protected and unsafe food is quickly removed from the food chain, rather than carry out a long

[48] http://www.legislation.gov.uk/ukpga/1998/23/contents

investigation to uncover information about crime networks. The local authority focus is often on providing advice to the food business operator, to promote compliance, and is followed up with further inspection.

Whilst guidance is available on the FSA website about food fraud which explains how members of the public can contact the Agency to raise concerns, this could be made more prominent and easier to find. The website allows members of the public to search for the nearest local authority to the business concerned. The FSA also receives a very small number of reports of food fraud direct to its Openness team, and via the complaint page on its website. The guidance to consumers about how to provide information relating to food fraud and food crime is unclear. More information could be provided about how complaints will be handled. Reports of food fraud may also be received via the FSA's Helpline.

2. Industry

The review has looked at a selection of company websites to identify information about whistleblowing procedures within food businesses. This brief research in early 2014 suggests that companies take a number of different approaches. Some companies use third parties to handle their whistleblowing cases. Sainsbury's whistleblowing service is called Right Line and is operated by Risk Avert. Sainsbury's Audit Committee oversees its whistleblowing procedures and deals with any concerns about the effectiveness of investigations. Morrisons describe its whistleblowing arrangements in terms of an 'Internal Whistleblowing Organisation' which is run independently by Ernst & Young.

Others such as Tesco, the John Lewis Partnership, Marks & Spencer and Greggs have an internal confidential service. In Tesco, the operation of the service, number of complaints and quality of investigations is monitored by its Audit Committee. In the John Lewis Partnership the service is monitored by its Audit & Risk Committee. In Greggs, cases are handled by 'an Independent Senior Director'. Oversight is by its Audit Committee. Asda has whistleblowing arrangements which are briefly mentioned in its ethics policy but no other information is available on its website.

In a number of cases the review was unable to obtain information from company websites. The difficulty in finding useful information about company whistleblowing arrangements was noted by Middlesex University following research in 2012. Their

research found that 69 of the FTSE 100 top companies failed to provide information bout whistleblowing procedures[49]. The 31 that did only provided limited information.

Some food businesses have advised that they have decided that it is sufficient to provide whistleblowing guidance to their staff on internal intranet services rather than on their websites. They would expect those who have complaints to use customer helplines. The rationale behind this decision is understandable but food businesses need to consider whether such an approach might deter workers in external companies from raising concerns with them and whether reliance on customer helplines is sufficient.

3. Guidance to Industry on Developing Whistleblowing Arrangements

In developing their whistleblowing arrangements food businesses could usefully have regard to advice from the Committee on Standards in Public Life[50]. The Committee advised that a whistleblowing **policy** should make the following points clear:

- The organisation takes malpractice seriously, giving examples of the type of concerns to be raised, so distinguishing a whistleblowing concern from a grievance;
- Staff have the option to raise concerns outside of line management;
- Staff are enabled to access confidential advice from an independent body;
- The organisation will, when requested, respect the confidentiality of a member of staff raising a concern;
- When and how concerns may properly be raised outside the organisation (e.g. with a regulator); and
- It is a disciplinary matter both to victimise a bona fide whistleblower and for someone to maliciously make a false allegation.

On **good practice** the Committee said that organisations should:

- Ensure that staff are aware of and trust the whistleblowing avenues;
- Make provision for realistic advice about what the whistleblowing process means for openness, confidentiality and anonymity;
- Continually review how the procedures work in practice; and
- Regularly communicate to staff about the avenues open to them.

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[49] http://www.mdx.ac.uk/aboutus/news-events/news/whistleblowing-research.aspx
[50] http://www.legislation.gov.uk/ukpga/1998/23/contents

The Government endorsed the good practice recommendations in 2005.

4. BRC Global Standards 'Tell BRC' service

On 24 February 2014, BRC Global Standards launched its 'Tell BRC' service, a confidential reporting service that employees, suppliers, clients and other stakeholders can use to report concerns they may have about wrongdoing in a manufacturing site[51]. BRC Global Standards claims that it will ensure that all incidents are investigated and resolved in a timely, effective and efficient fashion by its compliance department and that it can track an incident from report to closure.

[51] http://www.brcglobalstandards.com/Home/TELLBRC.aspx

Annex G – Intelligence Gathering

1. The Role of Horizon Scanning

The food sector does not have to look far to identify risks of fraud. Commodity prices are one clear indicator, especially where there may be substitution of one species for another (e.g. 2012-13 market prices of horse meat compared to imported beef) or where country of origin is attracting a premium (e.g. comparative cost of seasonal vegetables such as asparagus bought in continental auction compared to UK grown). Crop failures must be a pointer to increasing raw materials costs and if these are not reflected by changing prices in the supply chain it should trigger an industry wide alert. Fishing restrictions or pressure on specific catch methods can similarly help forecast likely fish shortages.

Rapidly increasing supply in a foodstuff can be entirely explicable, but it can also be an indicator that closer scrutiny is needed. Recent concerns about the authenticity of manuka honey from New Zealand were prompted by seeming over-supply. Research by the main honey producers' organisation in New Zealand[52], from where almost all the world's manuka honey comes, revealed that 1,700 tons of manuka are produced there each year, compared with the estimated 1,800 tons of New Zealand 'manuka' honey sold in the UK alone. As much as 10,000 tons are sold worldwide, suggesting widespread fraud.

Around 400 beverages with the taste of pomegranate were introduced to the market globally in 2012, an increase of 13% compared to 2011. In addition producers have quickly introduced pomegranate vinegar, liqueurs and syrups, and flavourings for confectionery. Pomegranate trees take 2-3 years after planting before they produce fruit, so consumers might expect retailers to be active in testing authenticity as they expand the range and volume of goods they offer. Thus supply and demand, a basic concept in the marketplace, must be considered a potential trigger for fraud.

[52] http://www.foodsafety.govt.nz/elibrary/industry/options-for-defining-monofloral-manuka-honey/2013-38-proposals-for-nz-manuka-honey-claims.pdf

2. Characteristics of an FSA Intelligence Hub

The interim report made a number of recommendations for an intelligence hub to be set up with the following characteristics:

- The FSA should support a national food intelligence hub, with appropriately qualified staff that can study trends in commodities, commodities futures trading and differential pricing across commodities with the potential for adulteration;
- The intelligence hub should analyse information from multiple sources including international evidence, information from testing and sampling programmes and consider whether these offer new opportunities for criminal profits;
- The intelligence hub should be able to commission ‘web crawling’ services as a specialised service. This service should be supervised by the FSA and shared with industry, so that a single service collates news reports from around the world to spot any new frauds that are being enabled by new technology and innovation;
- The intelligence produced by both the industry and regulator-led information bodies suggested above will need rapid dissemination if it is to be useful, and FSA should work with industry trade associations in order to facilitate this;
- The FSA should develop close links with local authorities and the advisory services they provide for local retailers; and
- The FSA should also be proactive with Primary Authorities in using their close relationships with major companies as a means of getting information to them.

Annex H - Letter to the Government commenting on EU Regulations

HM Government

Review into the Integrity and Assurance of Food Supply Networks

Room 207, Nobel House
17 Smith Square
London SW1P 3JR

Jeremy Hunt MP
Secretary of State
Department of Health
Richmond House
79 Whitehall
London SW1A 2NS

3 October 2013

Dear Secretary of State

Review into the Integrity and Assurance of Food Supply Networks – Negotiations on the Proposed EU Regulation on Official Controls

As part of the Terms of Reference for the Review into the Integrity and Assurance of Food Supply Networks I was asked to formulate advice to you and the Secretary of State at the Department for the Environment, Food and Rural Affairs about any issues relevant to the EU regulatory framework as these emerge or are required to inform EU negotiations.

I have considered the European Commission's proposed new Regulation on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health, plant reproductive material and plant protection products. Article 14 is of particular interest as it is intended to

place obligations on operators, which will include operators of food businesses[53]. It is intended to establish rules about the way Competent Authorities (CAs) access computerised information management systems and any other information held by operators, and on the cooperation between operators and CAs in relation to consignments. The Article places a directly applicable EU duty on all operators to give access and to co-operate with inspectors carrying out official control activities. Operators would be required to make available all information to CAs concerning particular consignments.

There is, however, no specific reference to obligations on relevant operators to share information about food fraud or adulteration related to specific consignments. This contrasts with an existing requirement under EU food law for food business operators to share information with the CA about consignments where they have identified a problem where there is a perceived risk to public health.

Food fraud is a complex issue and it is not always clear, particularly when first uncovered, whether or not a food fraud problem might also be a public health problem. This was an issue with the recent horsemeat incident which was considered a potential health risk. On that basis it I believe that it is sensible and prudent to assume all food fraud may be a potential risk to public health unless proven otherwise. The question must be asked of any food business operator whose controls are lax enough to allow fraud is it likely to have taken sufficient steps to guard against a potential risk to public health.

I understand that the Food Standards Agency is leading on preparing a consultation document on the proposed Regulation and that Defra has been asked to contribute to it. In light of my advice and because there is a potential risk to public health I believe that it would be sensible for the consultation to seek views on a proposal that there should be a new obligation on operators to share information with the CA about consignments where they have identified a food fraud problem.

I also believe that it would be sensible to take the opportunity to put in place new arrangements at EU level for official laboratories undertaking authenticity testing. Currently there are legislative provisions at EU level for reference laboratories undertaking a wide range of food safety testing. But similar arrangements do not apply for authenticity. There are two kinds of reference laboratories set up by Regulation (EC) No 882/2004 on official controls, EU Reference Laboratories (EU-RL) and National Reference Laboratories (NRL). For an NRL to exist there must first of all be an EU-RL. There is no EU-RL for food authenticity. The setting up of centres of excellence for food and beverage authenticity testing would help ensure that the methods employed are fit for purpose. Benefits from this approach would include the

[53] Food businesses include any business carrying out the activities related to any stage of production, processing and distribution of food, ranging from slaughterhouses and cutting plants to retailers, cafes and restaurants.

harmonisation of methods employed to detect and quantify adulteration which we think essential for consumer protection and trade, and provision of better information to underpin prosecutions in cases of potential food fraud. I expect that establishing an EU-RL by DG Sanco is likely to be achievable without the need for any significant extra resource, since I think that a number of Member States might be willing to volunteer an existing laboratory or network. The UK may well wish to consider bidding to have the EU-RL located in a UK laboratory to help underpin the quality and authenticity of food produced in the region and to help re-establish and enhance the UK's reputation for food authenticity and integrity.

I also believe agreement should be reached at EU level around the level of substitution (cross contamination) which might trigger enforcement action. During the horsemeat incident a cut off level for substitution of 1% was set by the FSA and Defra and adopted across the EU. This appears to have been a sensible, pragmatic decision which enabled quick handling of the incident. But as the science to detect substitution and cross contamination rapidly improves, it becomes more difficult to decide what level is the result of food fraud and that which has occurred accidently. My argument is that at 1% or less substitution no meaningful economic advantage could be gained yet it allows industry to maintain food production where lines use more than one species of meat. When I raised both of these issues with Ladislav Miko, Deputy Director General DG Sanco, during a meeting in Brussels last week he was receptive to considering the setting of a tolerance limit during negotiations on the proposed new official controls Regulation. We think that this should be encouraged, although what is acceptable to consumers will clearly vary according to the food stuffs involved. In cases where a 1% level of cross contamination may pose a risk to the consumer - e.g. allergic reactions to cow's milk present as a contaminant in goats/sheep milk or cheese - lower thresholds will have to be set based on individual risk assessments.

Addition fraud - i.e. adding a substance to food to enhance its perceived value - is more complicated. If a fraud is represented by a low level (less than 1%) addition of a substance and economic benefit can still be obtained, then a lower threshold must be implemented. The Sudan Red scandal of 2005, the biggest food recall in UK history, is an example. But in that case, the recall was based on 'any detectable levels' and much of this recall was unnecessary as no economic benefit or risk to the consumer was evident at that level of adulteration. I believe that an EU Working Group should be established to look at addition fraud on a case by case basis to allow a risk based threshold to be established and implemented EU wide.

There is one final matter with regard to the proposed new official controls Regulation. The sharing of information between the Commission and Member States during a food related incident is vital. The Rapid Alert System for Food and Feed (RASFF) is used to deal with food and feed safety incidents. Experience has shown that it is an effective and valued tool. The proposed new official controls Regulation proposes a similar but separate system to deal with food fraud and authenticity incidents. I do

not see any benefits from creating a new system and I would suggest that it would be more sensible to combine food fraud and authenticity incidents within the existing RASFF mechanism. Such an approach would again reflect the fact that food fraud is complex and it is not always clear when there are also implications for food safety.

I hope this advice is helpful.

I have written in similar terms to Owen Paterson.

Yours sincerely

Professor Chris Elliott

Annex I – Public Analysts: Laboratories & Functions

1. Public Analyst Functions

- Advising businesses on food and feed law and measurement science to support compliance and innovation;
- Assessment of nutritional quality of food in general and more specifically e.g. school meals;
- Research (e.g. surveillance projects, collaborative trials of analytical methods and method development) for the Food Standards Agency (FSA) and other bodies;
- Providing scientific support to the police (e.g. drug and substances of abuse toxicology, fingerprint chemistry), and fire services (e.g. chemical spillages) in a forensically robust manner;
- Undertaking toxicological work to assist HM Coroners;
- Analysing drinking and bathing water including swimming pools, industrial effluents, industrial process waters and other waters;
- Investigating environmental products and processes including assessing land contamination, building materials and examining fuels;
- Advising on waste management;
- Investigating and monitoring air pollution and sick building syndrome;
- Providing analysis and advice on consumer safety; in particular consumer products such as toys and cosmetics;
- Monitoring asbestos and other hazards; and
- Contributing to science education both at school and mature student level.

A useful graphic of these activities is available on the Association of Public Analysts website[54].

2. Communications from Local Authorities with Public Sector Food Authenticity Laboratories

Email from Staffordshire County Council:
FAO Elliott Review Team,

Following our discussions with Michael Walker and Rebecca Kenner of the review team and the joint meeting in Preston of 3rd April, we can confirm that Staffordshire County Council is broadly supportive of any measures which will secure the long term future of the Public Analyst service in Staffordshire as part of the public sector.

As discussed we understand that amalgamation in one form or another either with other PA laboratories or similar public sector scientific establishments has potential advantages both for improving the technical abilities of the service and financial stability. We would therefore be supportive of any further work that can be undertaken to achieve these aims.

Any work in this regard should keep in mind the following objectives:

- Recognise that a significant proportion of the work done by PA labs is non-food based.
- Suitable governance structures would need to be developed.
- Any organisation would need to be able to trade increasingly with private sector clients.
- We would prefer a solution which did not result in the closure or significant downsizing of the Staffordshire labs.

As you are aware we are currently in the process of making key decisions in regard to the future of our laboratory service. We are prepared at this stage to ensure that our short term actions do not compromise any proposals for joint working that your review may put forward. However, we would encourage the review to make its recommendations for future structures as soon as possible so that we are able to work positively for the secure future for our own service.

Regards

[54] http://www.the-apa.co.uk/what_we_do/

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Tel.: 0113 253 0241
Fax: 0113 253 0311
www.wyjs.org.uk
Business Manager: Susan Betteridge

Reference: S3.9/Saved Documents

25 April 2014

BY EMAIL

Dear Professor Elliott

It was good to meet with you on 3rd April at the West Yorkshire Public Analyst laboratory.

We are writing as agreed to provide our views, as elected members, on your report into the future of public authority laboratories.

We are very passionate about the services the West Yorkshire laboratory provides and believe that its' work, alongside that of the other 5 public authority laboratories in England, is of national importance.

The last 12 months has shown us the importance of having a high quality facility available to deal with "emergency" situations such as the horsemeat scandal, but that does not deflect from the excellent quality and vital work that the laboratory does on a daily basis.

We believe that one of the benefits of the Laboratory is its' local provision. It is a key element in the delivery of food standards in the local area, which has some issues that are specific, though not exclusive, to West Yorkshire.

We understand your concerns that public laboratories are coming under financial pressure, and the West Yorkshire laboratory is no exception to that. We also agree that a mixed economy of public and private sector laboratories is essential.

You talked of a "single entity" being developed, and whilst there are different models that could be developed, we would not be in favour of a model that removed that local provision and the control of it from local members, in this case through West Yorkshire Joint Services. We have had experience in other areas where that locally controlled provision of consumer services has been removed and the service is the poorer for it.

You made it clear that there was no intention of closing any of the public laboratories and moving provision to a single location, but we would not support the removal of local control and direction either.

We are of the view that the way forward is to commit to greater collaboration between the public authority laboratories. Each laboratory has some degree of specialism and we can see merit in the laboratories working more closely together, in particular focussing on specific specialisms. This will reduce the capital cost of renewing equipment. Whilst the laboratories are technically "in competition" with each other, we believe that it should be possible for them to work more collaboratively to reduce their individual costs and therefore reduce the risk of closure.

We look forward to receiving your final report and would wish to remain involved in further discussions around future provision.

Yours sincerely

Cllr Val Slater Cllr Ros Lund

Lancashire County Council

Michael Walker
Elliott Review
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Westminster
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SW10 3JR

Phone: (01772) 533285
Email: mike.kirby@lancashire.gov.uk
Your ref:
Our ref: T&E/MK (DKC)
Date: 22 April 2014

Dear Michael

RE: ELLIOTT REVIEW

Thank you for meeting Councillor Hanson, Andrew Smith and myself on 15 April 2014 to discuss proposals potentially emerging from the Elliott Review.

I hope that the discussion highlighted that we do believe we have a sustainable business plan for Lancashire County Scientific Services and that we do value our position as one of the few local authority laboratories still remaining. We explained that we have sought to broaden our business model to secure additional income that will help deliver greater efficiency and secure financial savings to the authority whilst maintaining an appropriate level of service.

Although our concerns regarding the recommended merger of the six remaining laboratories remain, especially in relation to:

- Governance arrangements;
- Financial arrangements;
- Risks and liabilities associated to the model; and
- Distribution of functions.

I can confirm that we will be more than happy to engage in the process to investigate the merits of the proposed business model. We will do our best to ensure that we provide sufficient officer time, at the right level to properly contribute to the debate, understand and help shape the development of the proposal. I hope that you appreciate that this does not mean that we will necessarily agree to the suggestion that has currently been outlined, and in any event that would require a political decision.

We will need to see a very clear business case that explains how the partnership is intended to function. Crucially, we will need to fully understand the proposed funding arrangements and investment strategy. I must stress that the model will need to be

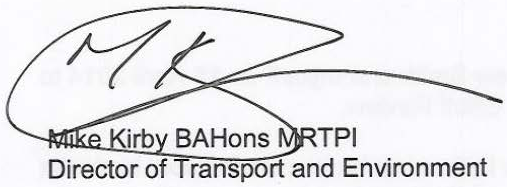
Steve Browne
Interim Executive Director for the Environment
Transport & Environment • Environment Directorate
Po Box 100 • County Hall • Preston • PR1 0LD

clear about anticipated sources of income to justify the proposed approach and the proposed income will need to be sufficiently secure. We do value the importance of testing facilities and testing regimes if we are to contribute to maintaining health benefits and avoiding food fraud, but I am concerned that in a climate of austerity it is very easy for authorities to reduce sampling programmes and concentrate on easier and cheaper tests.

There have been examples of national reviews that have resulted in new, more rigorous approaches that will contribute to public protection and also ensured that clear responsibilities have been established together with income streams that will secure the funding necessary for authorities to deliver their functions, one example is the outcome of the Pitt Review.

I hope that this has clarified our current position, and look forward to meeting with you as the proposition is developed further.

Yours sincerely



Mike Kirby BAHons MRTPI
Director of Transport and Environment

Letter from Hampshire County Council:
Dear Mr Walker

Elliott Review into the Integrity and Assurance of Food Supply Networks – Interim Report

Thank you for the opportunity to meet with you on the 7th of April and discuss how you feel Official Food and Feed Control Laboratories (OCLs) should work in the future to provide sustainability and resilience to the nation's food safety testing service and how to progress with recommendations in the interim report:

Recommendation 22 - Under the combined leadership of the FSA and DH, and facilitated by the LGA, PHE, APA and Defra should work with the Elliott Review to consider appropriate options to secure the merger and rationalisation of current public sector laboratory provision around food standards.

Recommendation 23 – (i) This work [to explore the possibility of a merger of Local Authority laboratories] should be overseen by an external organisation to act as a broker. I suggest a professional body such as the Institute for Science and Technology could fulfil this role (ii) This project should also be subject to appropriate public scrutiny; I believe the House of Lords Science and Technology Committee would be an appropriate body to undertake this scrutiny.

We support the idea of local authority OCLs working together to provide a comprehensive service and to give customers a choice of service provider. We further support specialisms being developed within the working arrangement. We recognise there are already partnerships in existence between local authorities, local authorities and the police, and local authorities and the private sector. These partnerships can be fruitful and successful and the experience of those involved should be sought.

As expressed at the meeting, we support the principle of the recommendations but we have a number of concerns regarding their implementation:

Corporate Governance – The suggested model would require ten local authorities, five of which are responsible for one laboratory, to work together. The number of possible interactions is huge. In amongst this there would need to be agreement on ownership, strategic leadership, value of assets being committed, who the employer will be, how the model is funded and how returns on investment will be distributed, rationalisation of property and staff. All to be agreed by ten local authorities that have plans already in-hand for their scientific services which reflect their very different outlooks.

Operational Governance - It is unclear as to how the organisation will be led, how the business will be managed and what its delivery objectives will be. Is it there to provide longevity and resilience for the future? In which case it will need to be funded as is HPE. Or, is it there as a business? In which case it is no different to the current private sector suppliers.

Building on Other Reorganisation Models – We do not see that the HPA (now HPE) reorganisation in the past or the proposed Scottish model as having much relevance due to the very different starting positions compared to the English OCL system. HPA were able to regionalise their food, water and environmental microbiology laboratory service because they owned and managed the laboratories in the first place and are centrally funded to provide the service. Neither of these two conditions exist with the English OCLs. In Scotland, all the enforcement analysis for the country is undertaken by the four local authority OCL's. They therefore have a guaranteed client base between them. In England and Wales the enforcement analysis is carried out by a mix of local authority and private sector OCL's competing so there is no guaranteed client base to share.

The Mix – The recommendations concerned itself with food standards. But the remaining local authority OCL's are all part of scientific services that includes a wider range of operations including toxicology analysis for coroners, asbestos analysis and surveying, police forensics, metrology, waste and pollution monitoring etc. Scientific services undertake these services within a single management structure and generally one location which allow overheads to be shared. The suggestion was then made that all these services could be part of the mix. This is something much larger than was being recommended in the Elliott report and has enormously increased the complexity of the proposal.

Funding – It was made clear that there is no money to support the implementation of the proposals. In which case all the costs will fall on the local authorities that currently own the six OCLs. These local authorities are already making significant cuts in the funding that supports their laboratories so there will be no money for implementation.

Driving the Change – Responsibilities appear to be being put on the public analysts although they are in general not highly placed in the local authority structure. Although they can act as ambassadors for change, they are not in a position of authority to enable it. We further feel it is important not to lose sight of the needs of the customers, what they want from their OCL and how they may be affected by any change. Finally we would benefit from a position statement from the Food Standards Agency to state what they want in terms of OCLs for the future. Whether they intend a planned service capacity or simply allow for the market to decide.

Mike Overbeke
Group Head Regulatory Services
Coroners Service | *Countryside Management* | *Kent Scientific Services* | *Public Rights of Way & CLVG's Service* | *Trading Standards)*
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Letter from Worcestershire County Council:

John Hobbs
Director Business, Environment and Community
County Hall
Spetchley Road
Worcester

Rebecca Kenner
Defra
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Nobel House
17 Smith Square
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23 May 2014

Ask for: John Hobbs

Dear Rebecca,

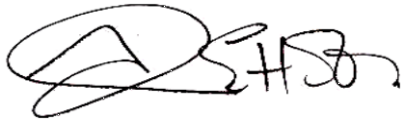
Thank you for your visit to Worcestershire County Council (WCC) and for giving us the opportunity to present our views on the aspects of the Elliott review relating to official control laboratories and the way forward.

As discussed at the meeting, WCC fully support the aims of the review, and see the proposed merger of the public sector laboratories as a potential way forward. To this extent WCC are prepared to assist in the next stage of the review, this would include provision of officer time for the project as well as providing the necessary information to support the process. Please advise in due course of the likely next stages of the review and how WCC may be able to support it.

Naturally the integration of the six laboratories into a new entity is a complex process, and as such WCC have a number of issues that would need to be addressed in order to effect the transition, these mainly relate to ownership of the new entity and transfer of assets away from WCC.

I look forward to hearing from you in the near future, however should you or any members of your team have any questions, please do not hesitate to contact either myself or Paul Hancock as appropriate.

Yours sincerely,



John Hobbs

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Annex J – Audit and Assurance

1. Good Industry Practice

The review has engaged widely with food businesses and stakeholders to better understand the audit and assurance systems in place to guarantee the integrity of supply networks. The following case studies are good examples of effective supply chain controls.

McDonald's Beef Patties

The supply chain for McDonald's beef patties is a fine example of a short, three-step supply chain that values long-term commercial relationships. Meat processor OSI Food Solutions (OSI) has been supplying McDonald's UK restaurants since 1978 and Linden Foods – an integrated slaughterhouse and boning plant – has in turn supplied OSI for the past 15 years.

Linden Foods slaughters approximately 2,000 cattle a week from which flank and forequarter cuts are used to make McDonald's beef patties. These cuts are sorted into trays at Linden Foods' boning plant with sub-batch information, which traces each batch of meat back to the farm where the animal was reared, contained on an electronic label.

The meat is transported in sealed vehicles to OSI's processing plant in Scunthorpe where beef and pork patties are made exclusively for McDonald's on nine production lines. Vehicles leaving OSI with the patties are sealed. If the seal is broken before the vehicle reaches the distribution centre the delivery is rejected. If an incoming consignment is shared with another business OSI insists that the vehicle comes to OSI first so that it can break the seal.

Once the product reaches the McDonald's restaurant their electronic point of sale (EPOS) system records information on all sales. This information can be compared against the stock coming into the restaurant meaning any discrepancies will be immediately flagged.

Morrisons Beef Supply Chain

Morrisons operates an integrated large-scale supply chain for beef which allows complete traceability and control. The company processes over 10% of UK farm livestock and buys cattle direct from British farmers through its own team of specialist livestock buyers. Morrisons owns its own abattoirs and meat processing operations through which 3,400 cattle pass every week. Nearly 2,000 farms across Britain produce beef for Morrisons, and bulls bred on farms are used as herd sires. Their progeny are bought by Morrisons livestock buyers, transported in its fleet of livestock wagons, processed through its own meat company, Woodheads, and sold in over 600 Morrisons stores across Britain.

Woodheads has been a part of Morrisons manufacturing business since 1991. Investment in its three processing sites has enabled Woodheads to feed back information on carcass quality, meat yield and welfare indicators to suppliers, meaning farmers have the right information to build more efficient and sustainable businesses.

The centralised retail meat packing site in Winsford processes over 400 tonnes of beef into over one million individual retail packs of portion controlled steaks, mince and beefburgers. This is delivered through an integrated logistics chain into Morrisons stores. Winsford also hosts Morrisons 'virtual butcher' – where meat is cut for customers using the online Morrisons.com home shopping platform. This enables Morrisons to balance carcass cuts to reduce waste and ensure consumer demand is met with optimum yield and traceability of every pack.

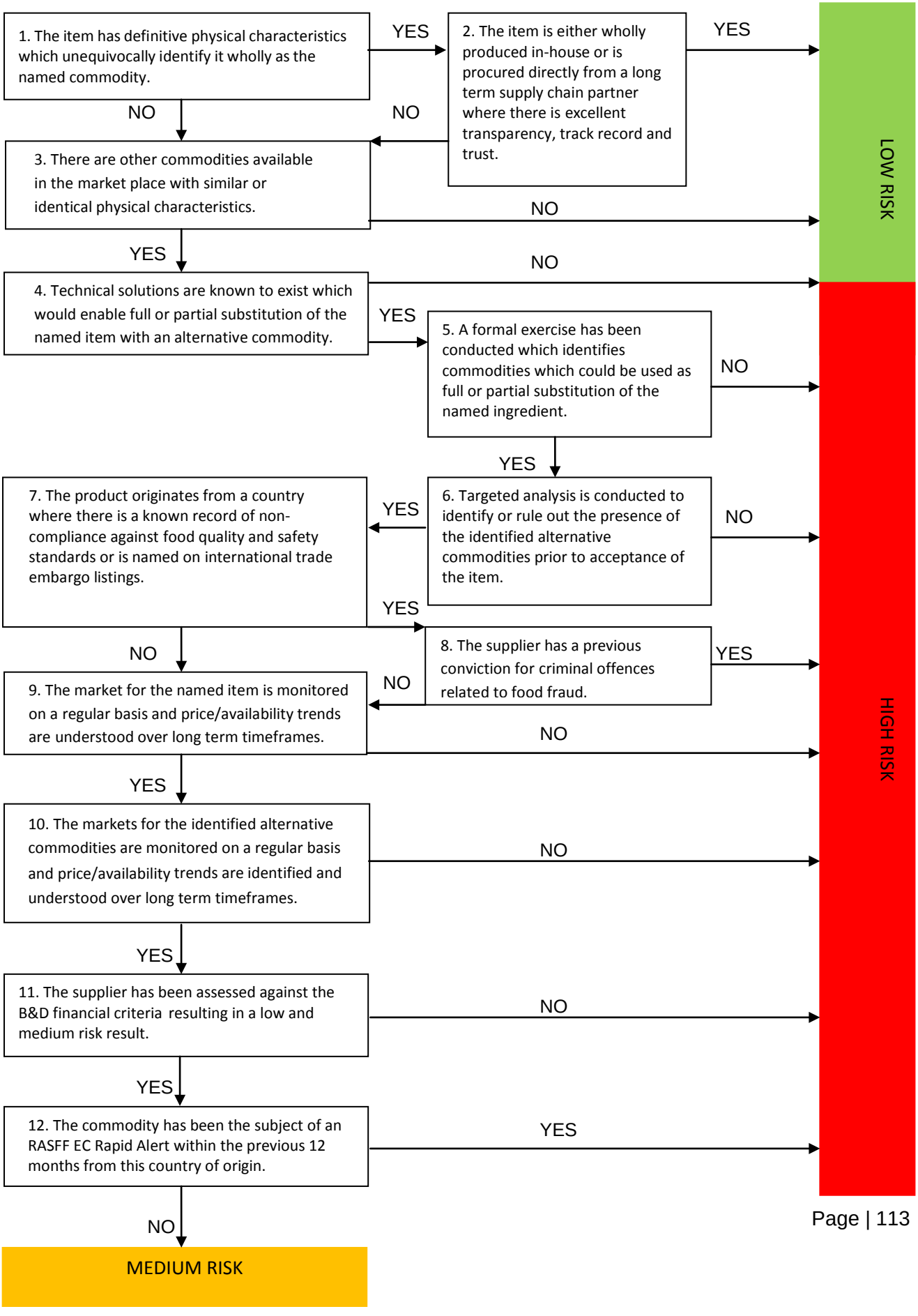
Use of DNA Technology

During review team visits to meat processors it became apparent that DNA technology was becoming routinely used by some companies to confirm traceability claims on a range of products. It appears that this technology is now well enough established to consider its wider use in some processing industries to replace conventional IT and paper-based systems.

A system is envisaged where tissue samples of animals (in many cases only swabs) are taken from all carcasses and held independently by a body appointed by a customer. Traceability checks from finished product can then be carried out at a customer's or food authority's instigation. The processor's only responsibilities are to take the samples, ensure correlation to animal identification, and supply all source data on dispatch of their products. The independent body would hold this information in confidence. The processor has no knowledge of when these checks may occur, nor can they control the analysis of any information after dispatch of product.

There are undoubtedly costs associated with this, but the scale would have a huge dilution impact on cost. If implemented this could also lead to substantial savings in audit costs. Food production companies must embrace new technology not only to increase production and reduce costs but also to increase the integrity of their supply chains.

Young's Seafood Limited - Upstream Supply Chain Food Fraud Risk Analysis Process



2. Red Flags of Food Fraud

The following is an initial outline by Professor Lisa Jack, University of Portsmouth.

None of the following red flags constitute proof of fraud but all should raise questions for investigation. Some may seem very obvious but research in other fields suggests that people do not always act on the obvious signs.

RED FLAG	COMMENT	EXAMPLES
General to all frauds – professional scepticism		
Unduly lavish lifestyle of an individual	Food is a low margin, high volume industry	Vendor has other sources of income, possibly from organised crime Employee is receiving kickbacks
Too good to be true	Surprisingly, still the most obvious red flag and the most ignored	
Goods – observation		
Unusual features in packaging and labelling	Most packaging and labelling is distinctive, so deviations from expected designs or materials should be investigated	Goods have been repackaged to imitate a known brand Goods past sell-by date have been re-labelled and re-packaged
Lack of labelling/minimal information	Self-explanatory	Meat unfit for human consumption being sold in vacuum packed units to imitate legitimate meat for processed foods
Excessive inventory	Sell-by dates might be tampered with by purchasers when a business sells off its surplus inventory	Distributors re-labelling soft drinks bought below market price in order to sell at full price with later sell by date
Steady supply of volatile or seasonal items	The supplier is able to use substitutes to create supply	
Sudden increased demand easily met	A scarce item is supplemented with substitutes	The celebrity chef effect

General management of a business – management control and information systems needed		
Weak internal controls	Over paperwork; checks; sample tests; little separation of duties etc	Employee is able to authorise purchases and verify receipt of goods into warehouse and onto production line, thereby accepting substitute goods as part of collusion
Routine or infrequent diagnostic testing	Potential to accept fraudulent or unsafe items	Supplier feels safe to supply substitute or adulterated goods
Items for which no reliable tests exist, or tests are costly	Creates opportunities for fraud	As above
Availability of items in times of shortage due to, for example, disease, weather, civil unrest	This needs co-ordinated intelligence to highlight areas of risk	
Surplus of cheap commodities on markets	Indicates that a use will be found for the cheap commodity as a substitute for more expensive ingredients	Horsemeat scandal
Increased complaints	May be caused by a drop in quality or more serious illness incidents	
Equipment seen not associated with the company's business	Indications of processing, packing or labelling not usually associated with business	A distributor has equipment and chemicals enabling re-labelling of goods past their sell-by date
Accounting flags – forensic audit tests required		
High premium or fashionable foods	Research shows that items such as saffron, manuka honey, extra virgin olive oil, pomegranate juice are most likely to contain substitutions, be mis-labelled or to be adulterated	Any recent honey, oil, dietary supplement frauds

Prices below commodity price or cost of production	A difficult area, because the figures are not easily available or are contradictory	Ground peanuts substituted for ground almonds: sold at a lower cost than expected
Missing paperwork	Another difficult area as the agri-food industry is characterised by lack of contracts and widely varying forms of invoicing	
Decreasing prices paid for commodities when agricultural inputs are increasing in price	Fuel increases especially should indicate that agricultural products are unlikely to be falling in price	
False addresses or other information on traceability documentation	Indicates that supply chain has been disrupted	
Purchases that bypass normal procedures	Self-explanatory	
Several similar purchases below an authorisation level	Sign that a large purchase that would be checked more carefully is being disguised as smaller less obvious purchases	
Invoices showing slightly higher prices than those negotiated	This can indicate that ‘kickbacks’ are being given by suppliers	
High volumes of purchases from new vendors	There should be a clear audit trail and due diligence for such purchases	
Payments to vendors not on approved list/lack of an approved list	Perhaps because the non-approved vendors can supply newly fashionable items quickly but are in fact providing substitutes	
Unexplained payments to/from suppliers	Another indication of kickbacks	
Excessive cash receipts/payments	Attempt to disguise audit trail	

3. Approaches to Harmonisation of Audit Standards

SALSA

SALSA provides food safety assurance certification services to small and micro businesses in the UK. It promotes improvements in food safety standards through mentoring, and support services, leading to business development, sustainability and growth. The scheme is widely respected, operated by well-qualified, knowledgeable and experienced professionals, at affordable low cost (not-for-profit) and provides:

- A food safety standard pitched between BRC Global Standards (Industry Best Practice) and SFBB (legal requirements), and includes traceability and segregation which contribute to food integrity;
- Guidance and information on how to meet the standard;
- Mentoring from approved industry professionals (e.g. about sampling, testing, and use of laboratories);
- On-site audit to assess compliance;
- Certification following verification of an action plan submitted after the audit;

SALSA intervention (mentoring or auditing) is effective and results in direct improvement in compliance.

The scheme ensures the quality and reliability of audits and auditors with strict selection criteria; training of new auditors and mentors; annual retraining of all auditors; and performance monitoring and using statistical analysis of non-conformances, findings data and supplier/producer feedback.

SALSA has a central reporting network for over 1000 producer members, and over 600 food buyers, and could provide a ‘safe haven’ for gathering, sanitising and confidential reporting of intelligence and information relating to food integrity and potential deliberate fraud by members or whistleblowers. SALSA members would need to be persuaded of the benefits of this new approach, and would welcome Government support (such as through establishing stronger links with local authority enforcement officers, and FSA development of the principles of earned recognition). Set up and administration costs would also need to be considered.

Extending traceability checks beyond one up and one down and helping members to understand the principles of mass balance is already in place by linking one up and one down by ingredients in to products out. This ensures a genuine traceability of raw materials to finished products. Extending this would be difficult to introduce and in general, the supply chain is short with most supplying direct to retailer, caterer or even the consumer. However, the picture varies, and some producers purchase materials (e.g. condiments and vegetable oil) from retailers or wholesalers, where it would be impossible to extend traceability further up the supply chain.

SALSA has recently introduced a requirement for meat, fish and products to be traceable to the farm when supplying the Public Sector (e.g. NHS). So it may be

possible to introduce more detailed requirements for the meat and fish sectors if it becomes industry-wide practice or law. However, we would not recommend implementing this level of detail in traceability for other food sectors other than through voluntary authenticity schemes.

Moving towards unannounced audits for a percentage of premises could be difficult to introduce. SALSA audits are based around the pattern of production. It may be more practical to introduce short-notice audits through incentives, but funding these could be a hurdle. Unlike some of the evidence identified for audits of very large scale producers, the principal of planning and preparing for an audit, which is a positive attribute of planned audits, frequently leads to permanent improvements in these small scale operations. Experienced auditors focus on records and evidence completed in advance of the audit, and it is very difficult to cover up any fundamental problems, but it does help a business to focus on what needs to be done.

4. GLOBALG.A.P.

GLOBALG.A.P. was created to reduce duplication between audits with the aim of a single auditor going on-farm. Its scope is limited to on-farm audits dealing with agricultural products and feed processing. It deals with around 130 audit bodies.

UK retailers wanted good levels of assurance about standards on farms. The National Farmers Union was in a good position to negotiate with the retailers around a harmonised approach. GLOBALG.A.P. was brought on board to look at ways to implement the same approach and replace the various retailer requirements, including for imports to the UK, as there was a problem that standards set in the UK could not be used outside the UK. GLOBALG.A.P. provides an international standard and uses benchmarking to help harmonise various standards and reduce duplication. It uses its own standard checklist to do a line-by-line translation to link to other standards. GLOBALG.A.P. has recently benchmarked the Red Tractor Scheme. Their approach has flexibility to allow for add-on modules for individual retailers.

5. Accreditation Scheme for Businesses that Trade in Animal By-Products (ABP)

An accredited assurance scheme is currently being considered by the Foodchain & Biomass Renewables Association (FABRA), one of the two main trade associations for the rendering sector (the United Kingdom Renderers' Association being the other). The key elements include:

- Visual and physical checks would be undertaken by an independent accreditation body to verify that Category 3 ABP is not mixed with or contaminated by Category 1 ABP;

- Category 3 ABP would only be sourced from food businesses which are either approved or registered depending on their activities. ABP would only be sourced from other premises which are registered, for example from retail premises subject to local authority inspection;
- Category 3 ABP would only be transported in vehicles operated by hauliers registered by AHVLA under the EU ABP regulation;
- Site visits, inspections and documentation checks would be undertaken by the independent accreditation body to ensure Category 3 ABP is fully traceable through consolidation at transfer and exchange locations;
- Category 3 ABP would be rejected where documentary and other checks cannot be reconciled on arrival at a Category 3 ABP rendering plant. There would be auditable controls to verify that the consignment is treated as Category 1 ABP and has been disposed of appropriately under the ABP regulation;
- Category 3 ABP would be rendered using an appropriate, validated process which has been approved under the EU ABP regulation into derived products[55] ;
- Physical checks would be made to ensure the Category 3 derived product is not mixed or contaminated with Category 1 derived product after processing
- Checks would ensure that the Category 3 derived product is hygienic, species specific and fit for the intended purpose;
- Category 3 derived product would only be transported with appropriate identity and documentation in vehicles operated by hauliers registered by AHVLA under the EU ABP regulation;
- Category 3 derived product would be rejected by animal feed producers if documentary and identity checks cannot be reconciled or it is not fully traceable through the exchange locations. There would be auditable controls to verify that the consignment is treated as Category 1 ABP and has been disposed of appropriately under the ABP regulation.

These key elements are summarised below.

[55] Derived Products are ABP after rendering. Derived products include: processed animal protein [PAP] (from C3 ABP), meat and bone meal [MBM] from Category 1 ABP) and rendered fats (assigned Category according to ABP processed)

Independent Accredited Assurance
For Collection, Processing and Utilization of Category 3 Animal By-Product (C3 ABP)

Requirements for accreditation at each stage of the C3 ABP chain

C3 ABP is demonstrably not mixed with nor contaminated with Category 1 ABP before processing.

- C3 ABP is sourced from approved or registered food businesses.
- C3 ABP is transported by registered haulier.
- C3 ABP is fully traceable through consolidation at transfer/exchange locations.
- Loads are rejected by C3 ABP rendering plants if transport documents do not tally.
- Loads are rejected by C3 ABP rendering plants if material is stained as C1 ABP or is otherwise unfit for purpose.

C3 ABP is rendered in appropriate, validated & approved process (into derived products).

C3 derived product is demonstrably not mixed with nor contaminated with Category 1 derived product after processing.

- Derived products are hygienic, species specific and fit for purpose.
- C3 derived products are moved with appropriate documentation by a registered haulier.
- C3 derived products are rejected by animal feed producers if transport documents do not tally or it is not fully traceable through exchange locations.

6. An Illustration of Control Points for Authenticity Testing in the Meat Supply Chain

Cold Stores

Background:
Cold stores are temperature controlled warehouses that store meat and meat products at specific temperatures (for meat for human consumption this is normally minus 18ºC). The type and species of meat stored is at the owners' discretion, so a cold store at any given time may be holding meat of different species for a number of different suppliers, or a single species or product for a single supplier.

Risks:
Cold stores are expensive operations to run. A well run cold store will normally be full to capacity to maximise its efficiency. There is an incentive to make full use of capacity which may motivate cold store operators to source products from suppliers with less robust assurance mechanisms.

Some cold stores may be situated on the same site as an abattoir or meat cutting plant, in which case there will be a vet and Food Standards Agency (FSA) inspector present on site during business hours. However, there is no requirement for standalone cold stores to be inspected by the FSA, and they are generally deemed to be low-risk by other enforcement bodies. A cold store situated on an industrial estate may be subject to infrequent inspections. Inspections by regulators are generally announced, infrequent and not usually fraud-aware. Private sector audits are generally more concerned with food hygiene and safety than with fraud. In both cases evidence of fraudulent practices would be extremely difficult to detect. A lot of stored material is not easy to access and there is ample opportunity to hide suspect material. At minus 18ºC the environment for inspection is also extremely inhospitable. As a result, any operation engaging in fraudulent activities could undertake thawing, re-freezing, re-packaging, re-labelling and re-strapping out of hours and at weekends without fear of being discovered.

Mitigating measures:
- Manufacturers, processers and retailers must acknowledge the extent of risk posed by cold stores;
- Cold stores must be audited and inspected effectively, including through unannounced audits outside of regular business hours;
- Industry should only use reputable cold stores; and
- When using a shared cold store, pallets should incorporate technology that will make it evident if they have been tampered with.

The Meat Commodity Market and Traders and Brokers

Background:
Traders and brokers arrange the purchase and sale of meat. Many traders and brokers will not have physical possession or ownership of the meat they trade; the meat may be situated in a UK or EU cold store or indeed anywhere in the world. Similarly, the trader or broker can be on a phone in an office in the UK or anywhere throughout the world. Whilst many meat traders and brokers are registered as food businesses they are subject to little regulatory oversight. Many are not registered, or they may be based outside the EU and therefore beyond the scope of any regulatory controls.

For the most part, traders' and brokers' main concerns are likely to be quality and price. The provenance of the meat, other than is reflected in that price, will be a lesser concern. A person who trades in inauthentic meat might seek to argue that they were unaware of any mislabelling or other fraud, even though this may have been indicated by the price.

It is likely that most traders and brokers operate ethically, although at the fringes many appear, to a greater or lesser extent, to be unwilling or ill equipped to take the necessary steps to assure the integrity of the products they are sourcing. Indifference or carelessness can allow illegally sourced meat to enter the legitimate market. A significant but unknown number of traders and brokers operate both on a criminal basis and in parallel with the legitimate trade. For that reason the sector represents a risk to food integrity.

The risks of food substitution are far less in businesses which operate appropriate controls to ensure that they and their customers are not defrauded. Increasing the regulatory burden would achieve little. Legitimate traders and brokers would bear the cost of compliance with no corresponding reduction in risk. Those traders and brokers currently not complying with regulation would continue to do so.

Inauthentic meat supplies may be sourced domestically, from the EU, or internationally. The controls on the majority of internationally imported (third country trade) meat allow little room for fraud. There is a risk that inauthentic meat may enter the EU from anywhere in the world and once present within EU borders can move and be traded within the single market virtually unchecked.

Risks:
The information gathered from a number of sources suggests the following:

- An unknown amount of legitimately and illegitimately produced meat is available for purchase through traders and brokers. If meat is for sale, traders and brokers will invariably find a buyer. An unscrupulous cold store operator

can repackage and sell illegal meat with counterfeit paperwork through a trader or broker. Similar channels to these are likely to have been used to introduce horse meat into the beef supply chain.

- Increased pressure on suppliers and processors to reduce costs or periods of surging demand or other contingencies increase the risk of 'cheap' meat of uncertain provenance being bought through traders. This meat may include:
    - lower grade legal meat (e.g. red offal);
    - illegally slaughtered meat from unlicensed abattoirs;
    - meat from other species; and
    - meat unfit for human consumption, typically Category 3 Animal By-Product eligible for pet food. (This is the cheapest source of high percentage visible lean (VL) meat and may be indistinguishable from legal meat.)
- There have been attempts elsewhere to impose tighter regulation on traders and brokers and their agents. However, outside of the major companies, the complexity and global nature of trading networks and the informality of much of the business conducted through them has made enforcement challenging.

Mitigating measures:

- All parts of the supply chain must acknowledge the extent of risk from purchasing meat from traders and brokers;
- Businesses and their suppliers should use only those traders and brokers that are registered as food businesses and are reputable;
- Traders and brokers should be rigorously audited to agreed standards to detect involvement in fraud and for vulnerability to fraud;
- Reliable evidence of the provenance of all products sourced from traders and brokers should be demanded; and
- Products with long or complex supply chains should be avoided or at the very least scrutinised closely.

Transport

Background:

Meat in transit is outside direct owner oversight and control and therefore vulnerable to fraudulent substitution. Substitution of a consignment may occur between vehicles or in premises, including cold stores and other meat production premises. Dismantling and reassembling of group haulage (groupage) loads during transit is essential and legitimate but it also provides opportunity and cover for illegal substitution.

Risks:

Risks particularly associated with meat in transit include:

- Lack of oversight and opportunity to undertake spot-checks on individual loads;
- Time and freedom to move to and from premises where fraudulent activity could occur;
- Scant use of measures to prevent fraud; and
- Unrestricted freedom of movement within the EU*.

*Lorries travelling within the EU/Schengen area are required to be accompanied only by a CMR document (International Consignment Note). They are not subject to border controls or veterinary health checks *en route*. CMRs are not designed to prevent food crime. They may be written anywhere at any time (e.g. at reassembly of groupage loads) and hold only consignment and journey details, a minimal description of the load, the identity of the haulier and a tax reference code.

Mitigating measures:

- Acknowledge the fraud risk associated with transport, particularly groupage loads;
- Use own hauliers or reputable and effectively audited contract hauliers; and
- Take adequate precautions to protect meat in transit from substitution:
    - seal single loads and reject if seal is broken; and
    - use tamper-evident packaging on consignments in groupage loads and reject if tampered with.

Frozen Blocks of Meat Trim

Background:
Meat trim is the raw material for mince, burgers, sausages, ready-meals etc. It is highly vulnerable to fraudulent substitution because it is fragmented and individual components are not always easy to identify and because it is stored and transported in frozen 40kg blocks which make chances of detection remote. The chances are even more remote after further processing. It is valued in proportion to its percentage of VL.

Risks:
Risks of fraud include substitution with legally or illegally produced meat.

- Legal low percentage VL trim can be ‘fortified’ by the addition of (legal) red offals (heart, lung etc.) to be more visibly lean and of higher value; and
- Trim of any quality may be substituted with meat from illegal slaughter operations, meat of different species or with Animal By-Product meat fit only for pet food.

The risks associated with freezing all make fraudulent substitution less easily detectable. This is because:

- Only the surface of the block is visible;
- The constituents are impossible to identify visually;
- Outside of the cold store the block becomes heavily frosted;
- It may be shrink wrapped with many layers of film;
- Frozen blocks are not homogenous and core samples may miss contaminants entirely; and
- Many processing plants handle frozen blocks mechanically on arrival, giving little opportunity for effective inspection and sampling.

Mitigating measures:

- Acknowledge extent of risk posed by frozen blocks of meat and the difficulty of effective inspection;
- Conduct fraud-effective audits of suppliers and their suppliers;
- Consider adapting mechanical handling processes to allow proper inspection;
- Factory staff should be appropriately trained to look out for signs of fraud when handling the tempered or thawed meat trim; and
- Protect outgoing products from adulteration in cold stores or transit by use of tamper-evident packaging.

Labels and Packaging

Background:

Official and commercial labels and packaging give purchasers, inspectors and auditors confidence in the provenance and authenticity of the product they are buying. This confidence is wholly unjustified.

Risks:

The significant risk with branded packaging and veterinary health marks is their inevitable re-use or reproduction by fraudsters to authenticate substituted meat and meat product. Genuine packaging can be salvaged for re-use:

- All labels (including veterinary labels), branded boxes, strapping pallets and wrapping materials can be readily copied or forged. Minor differences, usually present in the counterfeit copies, are difficult to detect and never looked for.

Mitigating measures:

- Acknowledge the extent of the risk;
- Do not rely on any packaging as a guarantee of authenticity;
- Try to prevent re-use of labels and packaging; and
- Try to make own packaging and labelling difficult to copy. Consider using serial numbers, cryptic markers etc.

Animal By-Products

Background:
Category 3 (low risk) Animal By-Product (Cat 3 ABP) is legitimately used for pet food but is also a most attractive and extremely profitable source of cheap meat to those involved in food fraud. It looks identical to legitimate meat. However, it is unfit for human consumption. It is difficult to detect, but cases where Cat 3 ABP have been identified where this material is being redirected into the food chain.

Risks:
The risks of fraud to the meat supply chain are greatest with Cat 3 ABP by virtue of its profitability and difficulty of detection. The fraudulent substitution is generally perpetrated in cold stores. Those engaged in food fraud can easily sidestep official regulatory controls, in either licensed food cold stores or Cat 3 ABP pet food stores, which are neither designed nor resourced to prevent food fraud. If fraud is detected it is often by chance rather than design. Likewise, industry audits are generally unaware of the risks, nature and signs of Cat 3 ABP meat substitution.

Mitigation measures:
- Awareness of the risks of substitution and difficulties of detection; and
- Adopt measures proposed for cold stores (as described above).

Annex K - Earned Recognition

Data provided by local authorities to the Food Standards Agency (FSA) shows that approximately 18,000 food manufacturers and packers are registered or approved with local authorities in the UK. About 14% (2,500) are currently certificated to the British Retail Consortium (BRC) Global Standard for Food Safety, which generally represents the larger establishments that supply the greater volume of food. Smaller manufacturers can use the certified SALSA (Safe and Local Supplier Approved) scheme, which is tailored towards small and medium sized enterprises (SMEs). Whilst the SALSA scheme includes independent audits against the standard, it also provides a greater element of advice to help these smaller businesses meet the standard which in turn can open up marketing opportunities. The SALSA scheme provides a means of supporting and protecting SMEs and SALSA may wish to consider broadening its scope to cover issues pertaining to food fraud.

The FSA has implemented 'earned recognition' in a number of feed and food sectors, enabling local authorities to better target inspections and other interventions. This approach is based upon a business demonstrating good compliance through either membership of an approved industry assurance scheme, which is subject to rigorous independent audits, or businesses with a history of good compliance identified through local authority regulatory checks. Earned recognition, based on a robust evaluation of risk, enables local authorities to reduce the frequency of inspections of compliant and lower risk businesses and to focus resources on less compliant and higher risk businesses and intelligence gathering.

The FSA has recently implemented earned recognition in the feed sector, where the new Feed Law Code of Practice[56] allows certified members of an approved and United Kingdom Accreditation Service (or equivalent standard) feed accredited assurance scheme to be subject to less frequent local authority inspections. Relevant assurance schemes have been assessed to ensure legal feed safety requirements are part of their standards and checked through the scheme's independent audit arrangements. To date the FSA has found industry assurance scheme standards tend to include legislative requirements as a prerequisite. Where feed earned recognition arrangements are adopted, relevant scheme providers and the FSA agree a memorandum of understanding setting out governance and monitoring arrangements. Part of the arrangement includes schemes providing agreed information to local authorities to enable them to determine their inspection frequencies. This information includes immediate notification of any business where serious risks from poor standards have been

[56] http://www.food.gov.uk/enforcement/enforcework/feedlawcop/

found by auditors or where businesses have been suspended or have left schemes. As part of earned recognition approaches, local authorities still inspect a proportion of assured businesses as part of their verification of the scheme. This process also provides feedback, which enables the FSA to routinely evaluate the scheme and monitor risks.

The feed sector has a high proportion of businesses in assurance schemes. Approximately 56% of the 160,000 registered feed businesses in England and Wales are currently members of assurance schemes, of which 98% would be categorised as SMEs. The potential impact of earned recognition could be a reduction of approximately 51% or 17,000 local authority annual inspections. This approach allows trading standards officers, who carry out the majority of feed inspection work, greater opportunity to target high risk activities, businesses with poor compliance levels and intelligence gathering.

In addition to feed, the FSA has recently implemented earned recognition in the dairy and primary food production sectors. Earned recognition in dairy hygiene controls in primary production, through membership of the Red Tractor scheme, has enabled FSA annual inspections in dairy holdings in England to be reduced by 70% from 11,000 to 3,000. Earned recognition has not been applied to any dairy holding categorised as high risk, such as those involved in the sale of raw milk.

In the wider food sector, the statutory Food Law Code of Practice[57], which specifies minimum local authority inspection frequencies (Annex 5), has recently been revised. This has allowed local authorities to give greater recognition to businesses with a good track record of compliance, through a reduced inspection frequency. The revised Code came into force in May 2014 and it is anticipated that the changes will result in 12,000 fewer inspections (5%) annually. In addition, approximately 800 multi-site food businesses are in Primary Authority partnerships with local authorities which provide robust and reliable advice for all local authorities to take into account in their inspection and enforcement approach. In this way, recognition by the Primary Authority of a business's approach to food law compliance leads to consistent, proportionate and risk based enforcement of such a business by all relevant local authorities.

[57] http://www.food.gov.uk/enforcement/enforcework/food-law/

Annex L – Examples of Specialist Crime Units

1. The Environment Agency National Environmental Crime Team (NECT)

During the course of gathering evidence for this report the work being done by the Environment Agency (EA) has been reviewed. The review has been assisted in this by Andrew Higham, the Manager of the NECT. In 2007 the EA identified that criminality in the waste industry was on the increase and crossed boundaries with other main stream criminality. It took the decision to establish the National Enforcement Service (NES). The EA looked at the principals of the National Intelligence Model (NIM) and saw the benefit of adopting those principals. The formation of NES was supported by the then Association of Chief Police Officers (ACPO) lead on environmental crime, Chief Constable Richard Brunstrom. In 2008, Andrew Higham was seconded from Greater Manchester Police where at the time he was an experienced career detective dealing with serious and organised crime. His remit was to establish the National Crime Team, raise the general standard of investigative capability and enhance the profile of the EA as a credible law enforcement partner.

Currently, the front end enforcement community within the EA has an establishment of around 215. Those members of staff are a combination of experienced Environmental Officers with sound knowledge of environmental crime, former police detectives experienced in dealing with serious criminality, Accredited Financial Investigators, Crime Analysis, and Intelligence Officers. They are distributed across 16 Environmental Crime Teams (ECT's) and within NES. The aim in setting up the unit was to create a means of tackling cross-region, national and international organised crime.

The 2013/14 budget to support this activity was around £25m. Budget constraints have dictated that all work streams within the EA are currently under review but it is anticipated that with efficiencies delivery on enforcement will continue on an upward trend.

Andrew Higham was asked to comment on the Elliott Review interim report recommendation that a food crime unit should be established to tackle organized crime within the food industry. In particular the 'roadmap' set out at paragraph 2.7.23 on page 51 of the interim report. He has commented that it describes almost exactly the journey that the EA has taken over the last six years, and lists exactly the capabilities that now exist.

He states that one of the critical success factors is the recruitment of the right people to the right roles. He asserts there needs to be a good mixture of experienced FSA officers with an in depth knowledge of regulation and the industry, coupled with staff from police investigative backgrounds. The combination of these skills will be the key to success. Without it the enterprise will face considerable challenge and is likely to fail. It is not enough to develop an intelligence capability in the hope that individual cases can be passed on to the police. Such are the complexities of the offending that a technical ability concerning the subject matter needs to be entwined with an investigative capability. A referral to the police based on an intelligence package alone will be insufficient for effective investigation and intervention. Further, in the experience of the EA, where attempts have been made to hand over in entirety investigations to the police or other enforcement partners these have been met with resistance. The development of credibility amongst law enforcement partners will see increasing willingness to be involved but in all but rare cases the police will expect the investigative lead to remain with the originating agency. It is reasonable to expect that there will be a multi-agency effort against organized criminals once an intelligence case has been subject of proper investigative development, but it is not realistic to imagine that the burden of investigation and prosecution can be avoided. Law enforcement agencies all now operate against a matrix of threat, harm and risk - the threshold for police action is high and the threshold for unilateral police action is extremely high.

Andrew Higham has made the assumption that the FSA is similar to the EA, in that the traditional mode of operation has been regulation mostly through advice and guidance and so a law enforcement culture will be quite new to them at the level that may be required. It will be necessary, therefore, for the health of both the host agency and the new Food Crime Unit, for the unit to operate within some kind of ring-fence. He states that he is much taken with the concept of a multi-agency Governance Board. In doing so he makes no criticism of the EA Board of Directors, whose support has been invaluable. But he states that it can only be fair to observe that many of their operations understandably take them well outside their comfort zone and the process of governance can sometimes involve significant challenge. Tackling organized criminals takes considerable nerve and courage and can be daunting even for those who have spent their careers in the field of law enforcement. The assessment of risk around such operations is technically quite different from the assessment of organisational and financial risk. Therefore he feels that it is essential for the correct level and understanding of governance in these matters to be established as a foundation.

2. Department of Agriculture & Rural Development (DARD) - The Central Enforcement Team (CET)

Background

Investigating crime, particularly serious crime, is the role of the police and in the UK their structures and organisation have been refined over many years to tackle a broad range of criminality from traffic offences to murder. However, there is a significant enforcement role delivered by many other public service and Government organisations, which also investigate and prosecute criminals. Much of this enforcement covers regulation of industrial standards, licences and other obligations imposed to protect, for example, public safety, animal welfare or the environment. This includes enforcement through routine checks and inspections to assess compliance. The enforcement is often highly technical and delivered by specialist inspectors with scientific or professional qualifications. Although breaches and criminal actions can have serious consequences, regulation of these areas does not usually lie with the police. Instead, the regulatory authority investigates and prosecutes without recourse to the police.

One such regulatory body is the DARD in Northern Ireland. DARD enforcement[58] can be described in general terms as the prevention or reduction of harm, caused by non-compliance with statutory requirements. DARD endeavours to achieve compliance through assistance (guidance and education), assessments (inspections and audits) and enforcement (through a range of warnings, actions and penalties). For DARD regulations, compliance is largely achieved through regulatory inspections and low level enforcement by staff from regional offices for non-compliance.

In 2003, DARD created a Veterinary Service Central Enforcement Team (CET) to deal full-time with the more complex cases of criminality associated with breaches of animal health and welfare, and veterinary public health regulations. More serious criminality may be referred to the police and DARD officers provide assistance and expertise (for example veterinary technical input).

Conduct of investigations

The CET was initially developed to deal with complex investigations that the local veterinary offices were not resourced to handle, for example animal identification fraud, smuggling of livestock across the border and illegal anabolic steroid hormone abuse. More recently, the role and contribution of the CET has advanced further, particularly in the area of large multi-agency investigations sharing resources and expertise with other regulatory bodies, tackling different aspects of criminality.

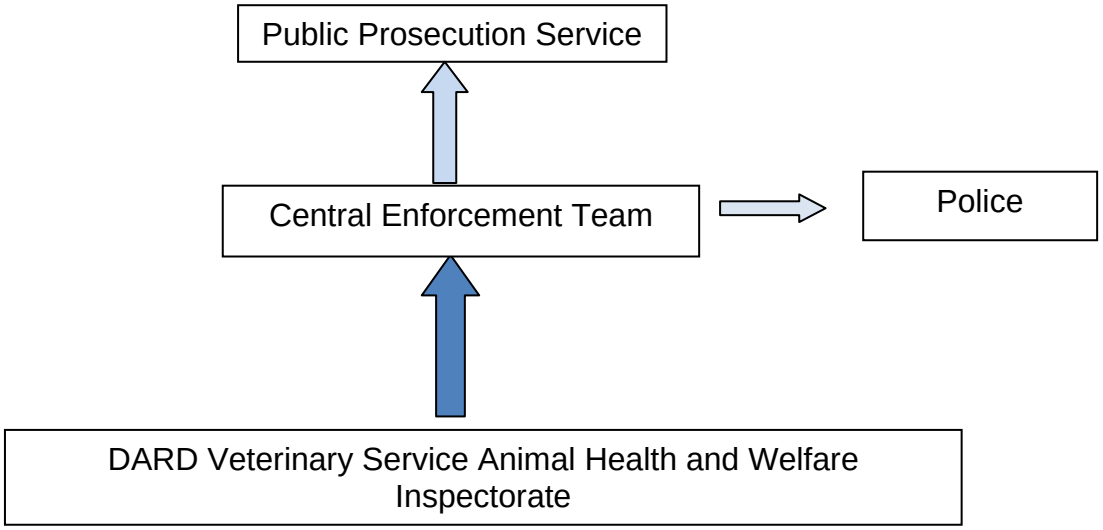
The CET is a specialist investigation team of 15 officers, centrally located, recruited from a range of backgrounds including agriculture, meat inspection, administration and finance. Their expertise combines both veterinary technical knowledge and

[58] DARD Enforcement Policy http://www.dardni.gov.uk/index/about-dard/better-regulation/dard-enforcement-policy.htm

experience, and criminal investigative and prosecution capability. The whole team receives comprehensive criminal investigation training (Open College Network Level 4 Course), with individual members acquiring additional investigative and legal qualifications including LLB (Bachelor of Laws). Geographically mobile and flexible working arrangements allow officers to be deployed anywhere, anytime. Resources and capability are targeted at criminality causing most harm to the agri-food industry and animal welfare. Investigations are intelligence-led, with unannounced inspections, exercising powers of entry under warrant as necessary, utilising modern investigation tools (e.g. veterinary laboratory science, forensic science, and DNA technology) and managing cases with a customised database

The CET works closely with the Police Service of Northern Ireland (PSNI) tackling rural crime, sharing intelligence (National Intelligence Model), exchanging training and conducting joint operations and investigations. The CET participates in multi-agency investigations with other regulators, including the FSA and HMRC, and their counterparts in the Republic of Ireland. The CET participates in the European Medicines Agency Working Group of Enforcement Officers and uses the contacts to share intelligence and obtain evidence from other Member States and internationally.

Annually, the CET prepares approximately 40 prosecution files for consideration by the Public Prosecution Service. Over 80% of submitted files are directed for prosecution and over 90% of CET prosecutions result in convictions. Penalties for those investigated by the CET can include imprisonment and fines, as well as potential Single Farm Payment administrative penalties.



Conclusion

It is clear that that there are areas being regulated by Government agencies where the level of criminality (in terms of the organisation and scale of the crime, the sophistication of methods used to conceal the criminality and the individuals and groups involved) requires the organisation, tools and skills which the police routinely

use. The CET is an example of an enforcement and investigative unit that can bridge the gap between routine Government regulators and police investigators.

3. Danish Food Crime Unit

Background

The Danish Food Crime Unit was established in 2006 as a police force sitting within the Danish Veterinary and Food Administration. It was established after a journalist uncovered a national food scandal involving the sale of 'old' meat past its use by date. The unit started off with six employees in 2006, since when it has increased in size to 18 full-time employees who are divided between three locations – Copenhagen, Vejle and Aarhus. It also includes a food supplements group whose job is to investigate fraud relating to, amongst other things, vitamin and dietary supplements. This is staffed by seven people. There was broad political agreement to set up the unit and to expand it after its first six months in operation when it became apparent that the number of violations was significant.

Set up costs and funding

The cost of setting up the unit in 2006 was around DKK5.6m (£620,000). The unit is funded by Government and by a levy on companies that produce food (suppliers and wholesalers but not retailers). It can also fine businesses for non-compliance and charge businesses in breach of regulations for its time (calculated by the hour). Fines and charges go towards funding the unit. The total annual budget for the unit is currently around DKK16m (£1.77m). DKK10m (£1.11m) are direct costs associated with running the flying squad and DKK6m (£666,000) are for overheads (office, vehicles etc). The unit has worked out that each employee costs DKK 900,000 (£100,000) per year to employ, including wages and overheads. Each food supplier (approx. 5-6,000) has to pay a levy of DKK500/600 (£55-65) each year. Charges generate just over DKK1m (£111,000) each year and fines DKK1.2m (£133,000). The remaining funding comes from the Government. Inspections carried out by the unit are three to four times more expensive than normal inspections carried out as part of official controls. These are reflected in charges made back to companies in breach of regulations. To date the unit has generated fines in excess of DKK13.8m (£1.53m) and confiscated 1,200 tonnes of food. It has the capacity to carry out around 16 major investigations every year. In its early days many investigations related to meat labelling fraud with cold stores identified as an area of particular weakness. Problems with meat have since reduced but are still central to the unit's work.

Conduct of Investigations

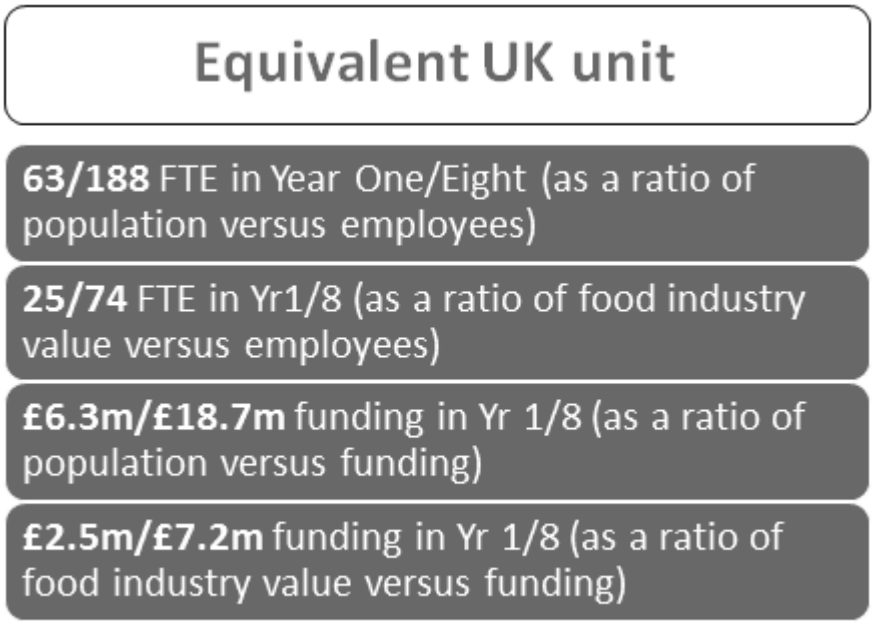
The biggest investigations can last around five years. The review was shown an example of a case in which a company was selling pure blueberry juice which was in fact a mixture of other, cheaper juices. The case took five years to get to court and resulted in a fine of DKK5m (£555,000) and a four months suspended sentence for those involved. Other high profile cases have involved unapproved meat on which no tax has been paid. The company involved was fined DKK1.8m (£200,000) and the meat was confiscated and destroyed. In 2012, the unit uncovered a scam involving herbs being shipped from Thailand. Companies importing from third countries are required to give the authorities prior notice of their intention to do so as part of Danish controls. Unregistered herbs were being smuggled in to the country in crates hidden by boxes of legitimate products. The company was fined around DKK200,000 (£222,000) which equated to the cost of not notifying the authorities of its intention to import.

An ongoing problem concerns illegal product coming into Denmark from other member states due to a lack of controls at borders. The unit also receives between 75 – 100 reports of illegal slaughtering cases each year. Information can come from a number of different sources; from industry whistleblowers and members of the public as well as the unit's own intelligence. Around 80% of tip offs come from members of the public. The unit also relies heavily on co-operation of the tax authorities for information on possible financial fraud. The unit has a website where people can submit information anonymously. It receives around three to four thousand reports every year. All reports are looked into but are only escalated to cases where there is suspicion of criminal activity. The unit's officers do not have the right to formally register informants although they do receive information on an informal basis often from the same sources.

Powers

Danish food law gives the unit's members the ability to enter private or public buildings. The unit has the power to inspect premises where there is suspicion of wrongdoing and can administer fines where there is solid evidence of illegal practice, however it has no power to arrest and if it wants to reclaim profits from illegal activity this has to be done through the police. The unit gathers evidence which is then submitted to the police to take forward a prosecution. The unit said that this could sometimes be problematic as the police often lacked the will to take forward investigations and that it would like its own powers of arrest and prosecution. The majority of inspections are unannounced. If the unit anticipates confrontation or violence the police will accompany its officers. When on site they take photos and copies of documents to gather evidence. They also carry out surveillance of premises where there is a suspicion of illegal activity taking place. The way the unit operates to an extent reflects the increasingly regional approach to trading standards delivery and enforcement taken in the UK.

Equivalent UK model
As an example, setting up an equivalent unit in the UK over the same period would be as follows:



FTE- Full Time Equivalent Staff

The Danish model has a number of strengths but there are weaknesses when considered in the UK context. For example, some of the work of the unit would overlap with work already being undertaken by the UK's own local authority trading standards and environmental health officers. It also does not have the ability to make arrests and undertake prosecutions which means it is not an appropriate model for the FSA to base its own food crime unit on.

4. Dutch Food Crime Unit

Background
The Dutch Food Crime Unit is a criminal investigation division that sits within the Netherlands Food and Consumer Product Safety Authority, which itself is an inspectorate jointly sponsored by the Ministry of Economic Affairs and the Ministry of Public Health, Welfare and Sports. The criminal investigation division is one of six divisions that sit within the Authority. The others are: Office for Risk Assessment & Research; Customer Services; Veterinary & Imports; Agriculture & Nature; Consumer & Safety. The Authority operates a five step hierarchy for enforcement relating to food law:

- Enforcement communication

- Compliance assistance
- Horizontal supervision
- Repressive supervision
- Criminal investigation

The Food Crime Unit is responsible for the criminal investigation aspect of enforcement.

Set up costs and funding
The decision was made in 1998 to create the unit following a series of frauds relating to antibiotics, pesticides and fisheries and it was established in 2002 with 85 full time staff, some of whom were reallocated from other divisions of the Authority and others who were recruited externally. It began with a focus on the primary sector (agricultural inputs, trade in antibiotics, pesticides etc) and from 2012 the focus extended to include all types of food crime when units merged. The unit was not able to confirm start-up costs in 2002 but the cost of the merger was €1m (£817,000).

The unit is currently staffed by 110 full-time employees, 90 of which are special investigators of which between a third and a half are ex-police. It also employs three forensic accountants who are experts in electronic data processing and whose job it is to mine computers for information. Currently, it estimates the annual running costs are approximately €12.5m (£10.2m), partly caused by the broadening of its remit in 2012.

The unit is funded directly by the Treasury via the Ministry for Economic Affairs. It does not benefit directly from money recovered as a result of investigations. Fines and seized profits are paid to the Authority which collects for the prosecutor's office, which in turn collects for the Treasury. The annual value of costs, fines and levies is estimated at around €4m (£3m). The value of criminal asset seizures has risen from €3.8m (£3.1m) in 2010 to €6.5m (£5.3m) in 2012.

Conduct of investigations
The unit's focus is on serious and organized crime that is internationally oriented and involves organised fraud. It is also responsible for the seizure of illegally gained profit and is becoming increasingly successful in this regard. Core activities for the investigators include investigating business records and the suspicious movements of foods and funds. They are supported by specialists such as IT investigators, internet investigators, financial investigators, electronic data processing auditors, criminologists and forensic accountants.

The unit undertakes economic analysis looking at price movements to establish where opportunities for fraud exist. It also employs specialist analysts whose job it is

to identify companies that are considered as high risk and study their supply chains to assess where areas of potential vulnerability exist.

The unit can also call upon expertise from colleagues working in other divisions of the Food and Consumer Product Safety Authority, including those from monitoring divisions/supervisory authorities of the Netherlands who are responsible for official controls. Sometimes the unit will pass on cases to the police, particularly where there is crossover into other aspects of crime, for example, drugs. In these instances, the unit maintains close contact with the police who value their expertise and knowledge of the food chain. Smaller cases can be passed on to colleagues responsible for official inspections who have the power to hand out warnings or administrative fines.

The unit prosecutes using criminal law. The unit also receives special support from other organizations: arrest teams, observation teams, biological and chemical experts, and has access to forensic laboratories. The majority of laboratories are Government run and it prefers to use these over private laboratories as the quality is invariably higher. The unit also co-operates with other national and international investigative services and the police with which it has strong links. The unit takes a risk-based approach to enforcement. Its mantra is 'soft where possible, tough where necessary'. If a fraud is considered as potentially serious it is put into a report and the report goes to the unit's head of investigation. It is the job of the investigative team to build the evidence needed to begin a formal investigation. Information often comes from inspection teams on the ground or from the general public. There are two phone lines that the public can call should they wish to supply information, one of which is for people who wish to remain anonymous.

In 2012, the unit received 120,000 calls which led to 112 food crime signals. A further 134 signals came from investigative leads and covert activity for a total of 246. These were developed into 50 crime packages, capable of full investigation. Of these 24 were investigated and the rest were either placed with other investigative agencies or earmarked for multi-agency disruption activities. From these investigations, 77 suspects were indicted and €6.5m (£5.3m) of illegally gained assets were seized.

The unit carries out a large variety of investigations ranging from illegal imports of antibiotics and pesticides from China, illegal transportation of manure, financial fraud involving subsidies, fish speciation fraud and the recent horse meat investigations where it ran three investigations, all at the organised crime level.

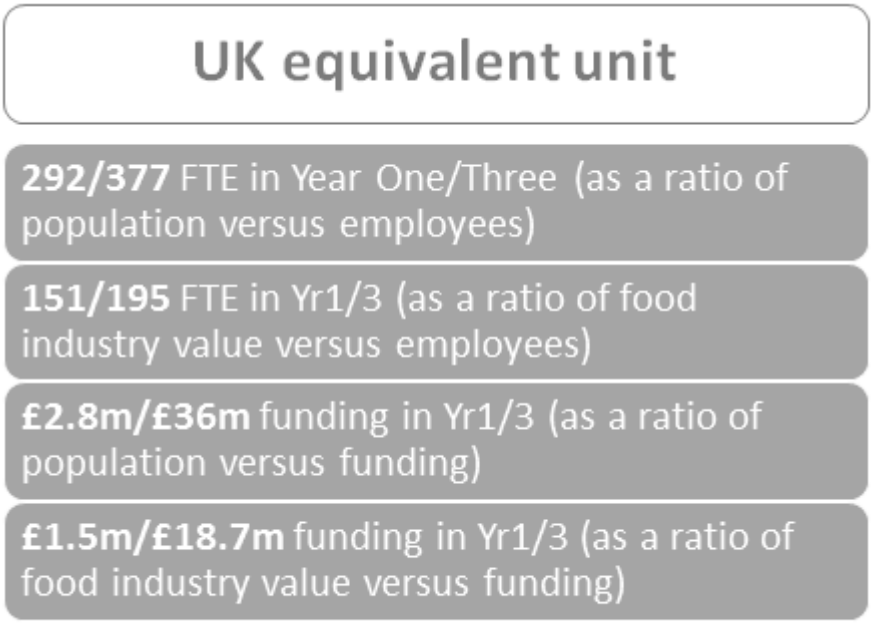
Powers

Investigators within the unit have general investigative powers comparable to those of the police for intelligence and investigation as set out in the Special Powers of

Investigation Act 2000. On the basis of these powers, they may search residential and business premises and apply advanced investigative technology (e.g. use of tracking devices and cameras, audio monitoring equipment and wiretaps). The unit actively recruits (and in some cases pays for) informants from the food industry. These are usually factory workers rather than management. It also has the power to place undercover officers into food businesses. The unit has to get the permission of the public prosecutor's office to undertake covert activities.

Equivalent UK model

As an example, setting up an equivalent unit in the UK over a three year period would be as follows:



The Dutch unit has a number of strengths and could be a suitable model for a UK Food Crime Unit although it would **not** be realistic to attempt to move directly to set up a unit here scaled up to reflect the larger population or larger size of the food industry in the UK.

Annex M – Framework for a New Food Crime Unit

It will be a major undertaking to develop the necessary capabilities in intelligence, investigation and prosecution. It will be even more of a challenge to build the credibility necessary to ensure that the Food Crime Unit has the appropriate skills to input to the Government Agency Intelligence Network. The foundation should be a strong central team with a range of functions to include:

- Establishment of standards for criminal investigation of food crime;
- Establishment of effective links with relevant technical experts and the forensic food science network;
- Guidance to regulators in the criminal offences they might encounter;
- Development of awareness training packages to help regulators to spot serious and organized crime, and to take appropriate initial action;
- Development of partner networks and, in time, the establishment of single points of contact (SPOCs) in all UK police forces;
- Establishment and maintenance of a central investigative capability that can quickly grip a major crisis such as the horse meat incident and control it while seeking appropriate and necessary police support;
- Oversight of and support for regulators' investigations in those cases where police involvement cannot be secured;
- Development of a criminal intelligence capability incorporating necessary systems and fully compliant with Regulation of Investigatory Powers Act;
- Development of an investigative capability, including financial investigation, cyber crime and communications data capabilities, supplemented as necessary, according to demand by a contingency reserve of associates or through third party private sector suppliers;
- Development of a prosecuting capability such that the Crown Prosecution Service (CPS) can be confident in accepting cases both initiated and overseen by this unit; and
- Development, over time, and according to revealed demand, of regional units aligned with the nine policing regions.

In the first phase perhaps the most important role of the new Food Crime Unit will be the creation of a link between regulation and criminal investigation. Consultation during the review suggests that there are many reasons why food crime is not identified by regulators, including: lack of awareness of what to look for; lack of guidance as to how to proceed above the level of regulatory offences; lack of confidence in proceeding above that level (both because there is no expectation that police expertise might be available if the case gets too big and too complex, and, quite simply, because of fear of criminals); and, crucially, lack of any wider sense of responsibility beyond the specific regulatory remit of each of the players. Each local authority will have its own enforcement policy which it must follow. The local

authority may decide that it is a wider problem and refer it to the Food Standards Agency (FSA) for investigation as it does not have the skills and resources to deal with it. There are at least four key players: local authority environmental health and trading standards teams, FSA and Animal Health and Veterinary Laboratories Agency (AHVLA). Each has their own role and responsibilities arising from legislation. The FSA currently provides support through its existing food fraud team and its 'fighting fund', but except for a few pockets of excellence, there appears to be insufficient resources or investment in capacity, capability, co-ordination and communication. The FSA should consider how this new Food Crime Unit should be constituted so that it can have all the necessary powers to undertake investigations and take action, with appropriate police support. The FSA is considering shortfalls in necessary powers and identifying interim measures that might to some degree at least overcome them. The Food Crime Unit should be compliant with the College of Policing Professional Investigators Programme (PIP) standards or, if necessary (and as in the case of other policing agencies such as the National Crime Agency (NCA)), a customised equivalent standard. This will enable the creation of a tiered approach to 'Pursue' activity, as described in the following table.

Category	Title	Current position	Position in a food crime unit
PIP 4	Senior Investigating Officer (SIO)/ Officer in Overall Command (OIOC).	Critical, complex, protracted and/or linked series or cross border homicide – Category A +	e.g. NCA/SFO level complex food crime causing chronic national or international impact, perpetrated by highly organised and dangerous Organised Crime Group (OCG).
PIP 3	Senior Investigating Officer (SIO).	Lead investigator in major investigations e.g. homicide, series rape, kidnap etc. (Category C, B, A.)	e.g. ROCU-level serious food crime causing acute regional or national impact, perpetrated by structured and violent OCG.
PIP 2	Dedicated or Specialist Investigator e.g. CID officer or child protection officer.	Substantive investigations into more serious and complex matters e.g. serious assaults, higher value property crime etc. Specialist complex crimes.	e.g. Police force level significant food crime causing acute local or regional impact, perpetrated by structured and potentially violent OCG.
PIP 1	Patrol Constable/Community Support Officer/Supervisor.	Volume and Priority Investigations – front-line policing.	e.g. Police Basic Command Unit level significant food crime, causing acute local impact, perpetrated by structured OCG.

Establishment of a food crime unit would require the creation of dedicated staff resource with specialist skills including:

- Knowledge of key food sectors (products of animal origin, e.g. meat and shellfish and non-animal origin) and processing industry (food production and manufacture) imports and exports;
- Regulatory enforcement including investigation, collection of evidence, taking statements, prosecution, giving evidence, working with other enforcement bodies, intelligence gathering analysis and sharing;
- Managing the FSA strategic response in relation to food crime with operational staff in the FSA and in local authorities, and at strategic level with the FSA Board and Ministers;
- Maximising strategic effectiveness within available resource, and notifying emerging risks and action where additional resources are anticipated or urgently required;
- Managing FSA liaison and building and maintaining relationships with other enforcement bodies including police;
- Co-ordination of the collection, collation, and analysis of intelligence;
- Undertaking complex regulatory and food crime related investigations;
- Where appropriate referring serious fraud to police and providing technical support and assistance; and
- Establishing and promulgating a food crime prevention strategy.

The proposed model captures the integral elements of the Dutch food crime unit and is also supported by the manager of the Environment Agency National Environmental Crime Team.

Annex N - Elliott Review Birmingham Event

Elliott Review Birmingham

In April 2014, The New Optimists[59] facilitated a workshop to discuss how the City of Birmingham might develop a joined-up, local approach to protecting consumers from food crime. The workshop was interactive and generated a lively exchange of ideas and opinions. Attendees represented a diverse range of local interest groups from independent restaurant owners and national food suppliers to environmental health officers and charity workers. They were divided into groups and asked to consider a series of questions relating to current awareness of food crime in Birmingham and possible future scenarios.

The event identified a commonality of views among a diverse range of stakeholders concerning areas of weakness in current food supply systems. Issues on which there was strong consensus included:

- The principal driver in food supply networks is price and pressure to consistently discount goods encourages cost cutting and potentially criminal behaviour;
- Food systems have grown highly complex and there is a heavy reliance on industry to self-regulate;
- Prosecutions for food-related offences are rare and penalties are light;
- Audits and testing capture a moment in time and do not by themselves guarantee the security of food systems; and
- Where systems of checks are in place local authorities increasingly lack the resources necessary to enforce compliance.

Outcomes

Following the event a number of outcomes were identified:

Food intelligence unit
Mark Rogers, Chief Executive of Birmingham City Council, and Jacqui Kennedy, Director of Regulation and Enforcement at the City Council, offered Birmingham City Council services to host a Food Crime Intelligence Unit. They put forward a hub and spoke model, with Birmingham as the national hub comprising a small highly competent multi-disciplinary team working closely with key stakeholders in other

[59] http://newoptimists.com/

locations where criminality exists, a model already in operation for the England Illegal Money Lending Team based in Birmingham.

Data and data mining expertise
Aston University offered its expertise in system analytics, data mining, statistics, supply chains and logistics and forensic linguistics to the intelligence work required in tackling food crime, locally and nationally. Examples of services Aston University could provide include advising on statistically valid sampling plans, designing and prototyping useful software and topic and sentiment analysis of social media. Professor Ian Nabney is Head of Computer Science and Head of Mathematics in the School of Engineering and Applied Science at Aston University. Dr Tim Grant leads the Aston Centre for Forensic Linguistics, the foremost centre of its type internationally.

The education and training of environmental health officers (EHOs)
The University of Birmingham Food Safety Group offered its services to the FSA, the Chartered Institute of Environmental Health (CIEH) and other relevant bodies to help develop and pilot new training and education courses for EHOs. As the Elliott Review interim report has pointed out, the existing education of EHOs does not provide adequate training in the identification and investigation of food fraud or other criminal elements which may be encountered, and this gap in training needs to be addressed by altering the basic training to include appropriate techniques and to develop specialist courses for existing EHOs. The Food Safety Group at the University of Birmingham currently provides basic, specialist and Continuing Professional Development (CPD) training in all aspects of food safety for EHOs and other control officials. Its existing courses are at undergraduate and postgraduate level. Increasingly, the Group has been developing and delivering advanced and bespoke CPD courses at the request of other institutions and overseas authorities, including Local Authorities and overseas control authorities. Madeleine Smith leads the University of Birmingham Food Safety Group.

Birmingham Food Council
The Birmingham Food Council was incorporated as a Community Interest Company (CIC) in March 2014. It has been set up with three years' funding from Birmingham Public Health. The Birmingham Food Council CIC Board said it will seek to maximise its influence on tackling food crime in the city in collaboration with the Director of Regulation and Enforcement and with representatives from the diverse communities in the city.

Food & Birmingham: a best case scenario for 2017

A 'best case scenario for 2017' was also developed based on stakeholders' discussions at the event:

Food

- Food has been brought back into focus, socially and culturally;
- Food has a perceived value to society and communities within it. This is reflected in eating and shopping behaviours;
- Food has a growing place in our education systems, from pre-school or postgraduate studies; and
- Food is at the heart of the city's strategic planning. Birmingham has its own 'food plan'.

Citizens

- There is a high level of public awareness of food crime. Food crime is no longer socially acceptable;
- Consumers are aware of where and when to report an incidence of food crime, or suspicion of it;
- Citizens accept their role as a check and balance on the wider food industry; and
- More sensitive consumers are more effective deterrents against crime; reputational damage turns meaningfully into monetary damage.

The business community

- Trust has been fostered between business and regulators and enforcers; the latter do not occupy a solely punitive function, but are used and respected by industry as a resource;
- Businesses are more proactive in sharing best practice; there is greater awareness that lack of best practice creates vulnerabilities;
- Business communities establish early warning systems which flag up food crimes before they are able to take root in other regions and organisations; and
- A new sub-sector is developing out of the need for better regulation and policing of the industry. Birmingham is becoming the hub for niche auditing and testing in the UK food supply network.

Governance

- There exists a clear delineation of roles between the various regulatory bodies. A strong central body exists to co-ordinate work and prevent duplication;
- There exists a strong local component in regulatory authorities, bodies with local knowledge and strong local ties; and
- Regulatory bodies function as knowledge depositories; independent authorities overseeing information sharing allows companies to benefit from a wider pool of intelligence, without jeopardising competitive advantage.

A full report on the Elliott Review Birmingham event and list of attendees can be found on the New Optimists' website.