

Food Safety and Hygiene

NEWSLETTER EDITION 3 – JULY/AUGUST 2024

KINGSLEY NAPLEY
WHEN IT MATTERS MOST

Welcome to the third edition of our **KN Food Safety and Hygiene newsletter**, which has been prepared by [our team](#) of specialist lawyers.

In this edition, we feature some revealing findings around 'greenwashing' in food advertising. Elsewhere, the newsletter covers a number of food safety and contamination stories, including the well-publicised E.coli outbreak connected to lettuce, which widely affected supermarket sandwiches earlier this year. We also highlight some food-related prosecutions and convictions, with one relating to food fraud.

The contents of this newsletter are for information only, and must not be relied on as legal or professional advice. For further information or advice on any of issues we have written about here, please speak to your usual KN contact, or use [this form](#) to contact the specialist Food Safety and Hygiene team.

Thank you to Úna Campbell and Phil Taylor for their help in preparing this newsletter.



Nicola Finnerty

Partner, Criminal Litigation

Key Statistics

120+

people were hospitalised as a result of an E.coli outbreak linked to contaminated lettuce

45%

decrease in the number of UK food standards officers compared with 10 years ago

70%

reduction in central government support for the Dover Port Health Authority as new post-Brexit controls come into force

Key Acronyms

CPS – Crown Prosecution Service

Defra – Department for Environment, Food & Rural Affairs

FSA – Food Standards Agency

NFCU – National Food Crime Unit

Advertising

ASA releases findings on environmental claims in food advertising

In 2021, the Advertising Standards Agency (ASA)'s 'Climate Change and the Environment' project initiated proactive inquiries into sectors significantly impacting the UK's environmental targets. Among these sectors was the advertising of meat, dairy, and plant-based food products. The ASA has now outlined its work on environmental claims in this area, including findings from 2023 qualitative consumer research and a review of current advertising practices. Its research indicates some areas requiring further dialogue but no immediate need for widespread enforcement action. Key findings from the consumer research are:

1. **Broad claims:** General claims like 'good for the planet' were often accepted at face value but raised concerns about verifiability during in-depth discussions. Participants worried such claims might implicitly make stronger assertions without evidence.
2. **Terminology and imagery:** Specific terms and visuals could imply attributes not explicitly stated. For example, the term 'natural' could lead to assumptions of organic certification. Visuals of 'fresh' produce or the use of the colour green evoked environmental and health benefits without making explicit claims.
3. **Specific terms:** Terms like 'plant-based' or 'vegan' were viewed as clear and verifiable, with high stakes for accuracy due to immediate consequences for vegetarian and vegan consumers.
4. **Nutritional perception:** Nutritional benefits and healthy eating were primary drivers for dietary choices, with environmental impact being a secondary or post-rationalised factor.
5. **Comparative claims:** Claims comparing the environmental impact of plant-based versus animal products often cancelled each other out. Some ads were perceived as overly 'preachy', risking disengagement from consumers.

The ASA's review involved monitoring thousands of ads through an AI-driven system and human inspection. Key findings include:

1. **Focus of ads:** Most food ads focus on taste, nutrition, and price. There were instances of "sustainable" claims, occasionally unqualified and potentially misleading.
2. **Regenerative farming:** Emerging claims related to "regenerative farming" were noted.

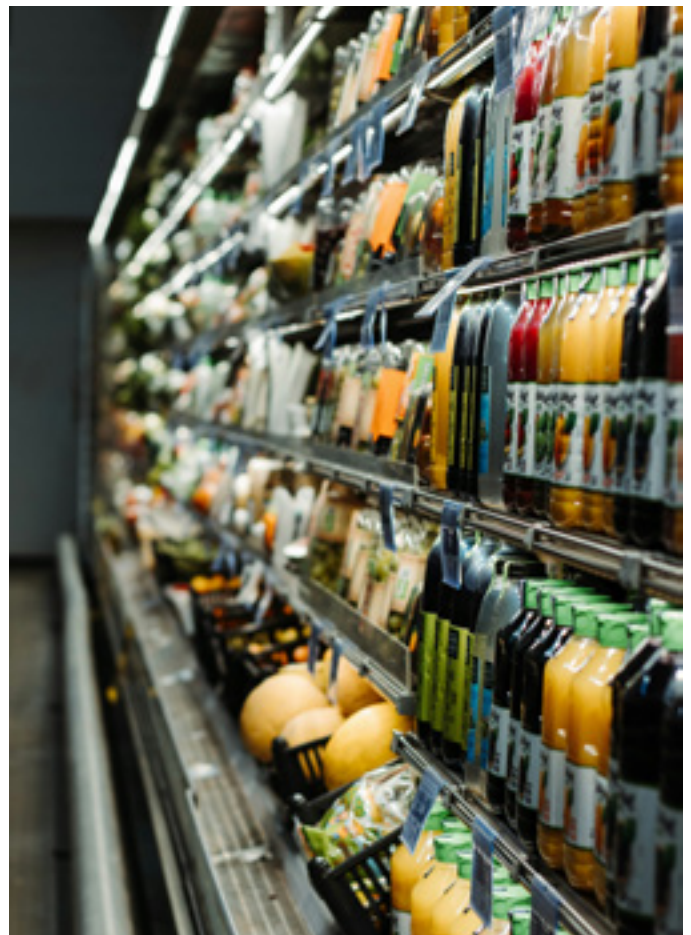
3. **Comparative claims:** Some breaches of ASA precedent involved unqualified comparative environmental impact claims.

4. **Imagery use:** No widespread misuse of 'green' or 'natural' imagery was found.

Based on these findings, the ASA recommends continued engagement with industry and government stakeholders, additional monitoring, and follow-up later in 2024 to address clear-cut breaches. The agency plans to publish further guidance on themes such as 'green' and 'natural' imagery, sustainability, and regenerative farming claims in due course. The ASA says it will also collaborate with Defra and the Institute of Grocery Distribution (IGD) on a food eco-labelling scheme to ensure businesses make compliant claims.

Although not currently a serious concern, it is clear that 'greenwashing' is an issue high on the ASA's list of priorities, and is something companies operating in this sector should be aware of.

April 2024 – [ASA website](#)



EU/UK Law and Regulation

Official Controls (Import of High-Risk Food and Feed of Non-Animal Origin) (Amendment of Commission Implementing Regulation (EU) 2019/1793) (England) Regulations 2024 (SI 2024/120)

On 7 March 2024, the Official Controls (Import of High-Risk Food and Feed of Non-Animal Origin) (Amendment of Commission Implementing Regulation (EU) 2019/1793) (England) Regulations 2024 (SI 2024/120) came into force. The new Regulations amend SI 2022/1193 as well as a piece of retained direct EU legislation and

- make provisions in relation to the sampling and analyses of food and feed of non-animal origin for the Listeria

- introduce a new Schedule with a list of food and feed of non-animal origin from certain third countries, which is subject to a temporary increase in official controls at border control posts in England, Scotland and Wales
- introduce another Schedule with lists of food and feed of non-animal origin from certain third countries subject to special conditions for entry into Great Britain due to contamination risks from the specified hazards; and
- make some other consequential amendments to the Official Controls (Imports of High Risk Food and Feed of Non-Animal Origin) (Amendment of Commission Implementing Regulation (EU) 2019/1793) (England) Regulations 2022, SI 2022/1193.

March 2024 - [Gov.uk legislation](#)

Food Contamination

Food safety concerns prompt recall of meat products

Meat and meat products from Block and Cleaver, a cutting plant in Kent, are being recalled due to food safety concerns in June 2024. The Food Standards Agency (FSA) has directed Environmental Health and Trading Standards officers to remove these products from circulation. Distributed across the southeast and London, the products are suspected to have incorrect use-by dates, traceability issues, and potential non-compliance with food safety management systems, making them unsafe for consumption.

The FSA urged restaurants, cafes, and hotels to withdraw any meat products from Block and Cleaver and advised retail businesses to recall the products and notify their local authorities. The FSA's statement emphasised that these items should not be consumed.

June 2024 - [BBC News](#)



One fatality and 120 hospitalisations due to E. coli

An outbreak of E. coli linked to lettuce has resulted in one fatality and hospitalisation of over 120 individuals, including children as young as six. The UK Health Security Agency (UKHSA) reported that two deaths occurred in England in May, with one directly linked to the infection caused by shiga toxin-producing E. coli (Stec). Both deceased individuals had underlying medical conditions.

As of 25 June 2024, there were 275 confirmed cases of Stec infection across the UK, with 182 cases in England, 58 in Scotland, 31 in Wales, and 4 in Northern Ireland. The outbreak is suspected to be associated with lettuce used in various sandwiches, wraps, and salads sold by major supermarkets and retail chains. Numerous food manufacturers have recalled these products as a precaution.

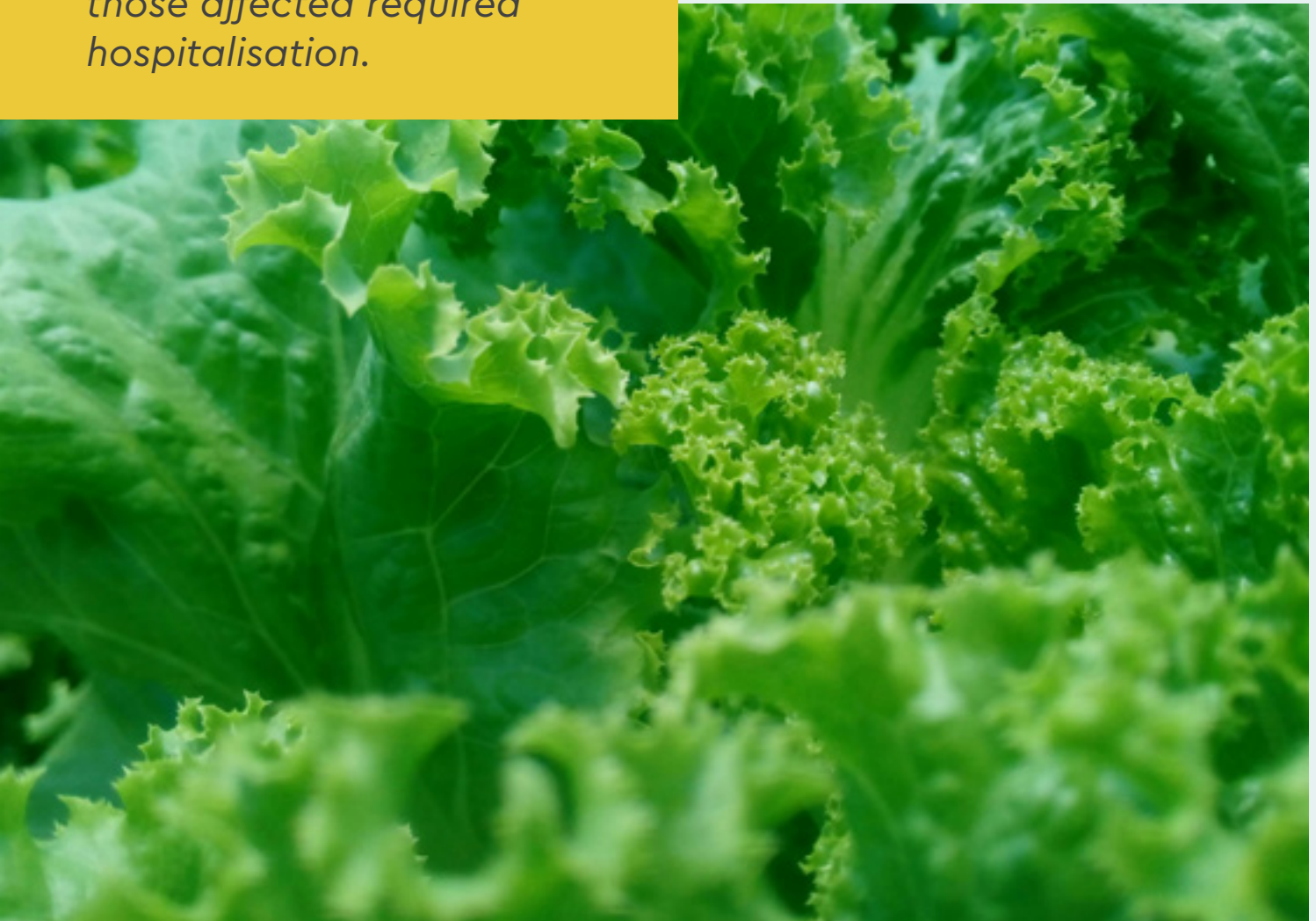
Approximately 49% of those affected required hospitalisation, amounting to at least 122 admissions since the outbreak began. Among the hospitalised were children and adults spanning from 6 to 85 years old. One notable case involved an 11-year-old girl from the north-west of England who suffered severe illness and required dialysis due to haemolytic uraemic syndrome (HUS), a serious complication of Stec infection that can lead to kidney failure.

E. coli bacteria are typically harmless but certain strains, such as Stec, produce toxins that cause severe illness. Children are at particular risk of developing HUS, which can have long-term kidney implications.

The investigation into the outbreak remains ongoing, with the FSA collaborating closely with businesses and local authorities to identify the precise source. The FSA has advised robust food safety measures across the supply chain to prevent future outbreaks, underscoring the critical role of industry practices and consumer awareness in safeguarding public health.

June 2024 - [The Guardian](#)

Approximately 49% of those affected required hospitalisation.



Food Crime Prosecutions

FSA secures custodial sentence in major food crime case

In February 2023, three men were sentenced following successful prosecutions by the CPS after a North Wales Police investigation into a £300,000 chicken theft and fraud in North Wales. Rana Dhaia from Wolverhampton was found guilty, while Darren Williams and Elliott Smith, both from Anglesey, pleaded guilty to theft. The sentences were delivered on 2 February 2024 at Caernarfon Crown Court: Rana Dhaia received 4 years and 3 months of imprisonment, Darren Williams received a 2-year suspended sentence with 300 hours of unpaid work, and Elliott Smith received a 2-year suspended sentence with 250 hours of unpaid work.

The Food Standards Agency's National Food Crime Unit (NFCU), along with partners, conducted an unannounced visit that secured evidence aiding the police. The investigation uncovered forged handwritten dispatch notes indicating the theft, raising potential traceability issues critical for food safety. The men were arrested following a search warrant execution, and the North Wales business, 2 Sisters Food Group, fully cooperated and provided evidence for the prosecution.

Andrew Quinn, Head of the NFCU, emphasised the sentences' strong deterrent message against food crimes and highlighted the importance of partnerships in combating food fraud to protect consumers. Emmalyne Downing, Crown Advocate, noted the complexity of fraud cases and the collaboration between CPS, the Economic Crime Unit at North Wales Police, and the FSA in building a strong case leading to the convictions.

February 2024 – [FSA press release](#)

The FSA's National Food Crime Unit, along with partners, conducted an unannounced visit that secured evidence.

FSA convicts production manager for obstructing NFCU officer

Emma Nakova, a production manager at Northamptonshire Food Services Ltd, was fined and sentenced after admitting to obstructing an NFCU officer during an unannounced visit. The FSA prosecuted Nakova for intentionally delaying entry to the premises during an inspection on 15 December 2021. She pleaded guilty at Northampton Magistrates Court on 17 January 2024.

Nakova was fined £500 and ordered to pay a victim surcharge of £200, along with full prosecution costs totalling £12,118.18. The judge emphasised the seriousness of obstructing inspections, highlighting that as a production manager, Nakova was fully aware of her obligations under Hygiene Regulations to facilitate such visits promptly.

According to Andrew Quinn, Head of the NFCU, the FSA is ready and willing to receive confidential reports of food fraud, and has an important role to play in safeguarding public health and maintaining compliance with food safety standards.

February 2024 – [FSA press release](#)

FSA obtains conviction against abattoir for severe food safety violations

In March 2024, Higginshaw Abattoir Ltd, located in Oldham, was fined £12,000 following a conviction for multiple violations related to dispatching over-temperature meat. According to regulations, meat must be promptly chilled and kept below 7°C (or 3°C for offal) before leaving a slaughterhouse. Between December 2018 and June 2019, sheep carcasses and offal were discovered on transport vehicles at the abattoir exceeding these temperature limits, indicating a failure to ensure proper chilling and maintenance of meat.

Despite receiving a Remedial Action Notice to rectify these breaches, subsequent inspections revealed continued non-compliance on four occasions. The abattoir faced 15 charges, of which 11 were upheld in court, including violations of the Notice. In addition to the fines, the judge imposed an additional £20,000 for legal costs to the FSA and a statutory victim surcharge of £170.

March 2024 – [FSA press release](#)

Poultry farmer penalised after falsifying salmonella certificates

Farmer Stuart Perkins, of SG Perkins Ltd, has been ordered to pay a total of £50,830 after pleading guilty to a number of offences under The Food Safety and Hygiene (England) Regulations 2013 and the Animal Health Act 1981. This followed an investigation by the FSA, supported by the Animal and Plant Health Agency, Avon and Somerset police, Environmental Health and Trading Standards, which included a search of a poultry farm and abattoir in November 2023.

During the search, the FSA discovered evidence that Perkins had falsified Salmonella testing certificates. Samples were collected and traceability concerns were mitigated by ensuring relevant products were removed from the market. Perkins and the company were fined £5000 for each FSA offence and £3500 for each local authority offence, and ordered to pay costs and a victim surcharge.

July 2024 – [FSA press release](#)



Safeguarding food integrity

In an era where consumers increasingly seek transparency and authenticity in their food choices, the spectre of food fraud looms large. As the demand for free-range, organic and locally-sourced products, and those claiming specific health benefits, grows, so too does the temptation for unscrupulous actors to deceive consumers for financial gain.

An episode of [The Food Programme](#) aired in March 2024 on BBC Radio 4 focused on the authenticity of herbs and spices, and raised some interesting and important points around the detection and policing of food fraud in the UK.

The evolution of food fraud

The practice of food adulteration is incredibly well-established, with historical accounts dating back centuries. However, in today's interconnected global food system, the methods of deception have become more sophisticated than ever before. The allure of manufacturing provenance dishonestly in a market where authenticity commands a premium poses significant challenges for regulators and consumers alike.

Those attempting to keep the supply chain clean and trustworthy will themselves need to make use of cutting-edge technology to stay ahead of fraudsters. It is also important that the legal and regulatory frameworks which govern factors such as food labelling are up-to-date, flexible and fit-for-purpose.

Policing the supply chain

At the forefront of the battle against food fraud are trading standards officers, tasked with enforcing regulations and prosecuting offenders. In the past, investigations by these officers into the mislabelling of meat as locally sourced have highlighted the crucial role of traceability and accurate labelling in maintaining the integrity of the food supply chain.

Two key pieces of legislation – the Trade Descriptions Act 1968 and Food Safety Act 1990 – play an important role in enforcing food labelling and in the overall food fraud enforcement landscape. In the second edition of this Food Safety and Hygiene Newsletter (which can be downloaded from [this page](#)), we set out these and other key pieces of legislation and regulation, which also include the Food Safety Act 1990 and Food Information Regulations 2014.

Much of this legislation is now at least a decade old (many decades in some cases). Although it has proved relatively broad and flexible, its age means that it can be harder to deal with more sophisticated and modern forms of malpractice, which increasingly makes use of technology including AI.

Scientific innovations in authentication

Innovative scientific methods for detecting food fraud, including DNA testing and isotopic analysis, provide valuable tools for identifying adulterated products and verifying the authenticity of food items and play a crucial role in staying one step ahead of fraudsters in an increasingly complex market.

In the March 2024 episode of The Food Programme, scientists were enlisted to verify the authenticity of 61 herbs and spices purchased from supermarkets and smaller suppliers. Journalist Nick Hughes, who has reported on food fraud for many years, explained that herbs and spices are easy to bulk up with other products and are a relatively valuable commodity, making them a target for fraudsters.

Brand-new technology, in the shape of a portable spectroscopy test supplied by a food authenticity company, was used to 'gateway test' the spices. Twenty of the substances tested, including oregano, paprika and turmeric, were found to be suspect and sent to the company's lab for further testing. Seven of those were ultimately found to be "inauthentic", containing a mixture of genuine substances and adulterants.

During the programme, Radio 4 also visited the offices of the Government Chemist (part of the Department for Science, Innovation and Technology), which acts as independent referee in food fraud cases, with access to the most sophisticated testing equipment, and has previously been involved in the testing of spices.

Those attempting to keep the supply chain clean and trustworthy will themselves need to make use of cutting-edge technology to stay ahead of fraudsters.

Development of frameworks

Sometimes the discovery of bad practices in the food sector can lead to improvements in both industry practice and the system of regulation. Two decades ago, widespread adulteration of basmati rice revealed by an FSA survey in 2002 resulted in the introduction of stricter industry regulations. This in turn led to companies such as Tilda implementing rigorous testing protocols to ensure the purity of their products. As highlighted on The Food Programme, over the past few years supermarket chains have invested heavily in food authenticity testing following the financial and reputational damage they suffered as a result of the horsemeat scandal in 2012/13.

In the organic food sector there is now well-established, if complex, system of regulation. Key here are EU Regulations 834/2007, 889/2008 and 1235/2008 which were retained in the UK after 31 December 2021 for implementation in Great Britain, as set out in The Organic Production and Control (Amendment) (EU Exit) Regulations 2019 (SI 2019/693). Operators based in Northern Ireland must currently use EU standards.

The Organic Products Regulations 2009 (SI 2009/842) provide that it is a criminal offence to fail to comply with the retained EU regulations, and also grant enforcement powers to designated competent authorities.

It is mandatory for a company to be certified by an approved UK organic control body if it wishes to produce, prepare, store, import, export or sell organic food in the UK. That body will also certify the product's labels and suppliers, as well as the product itself. There are also rules as to what must be included on any organic food labelling; and as of 1 January 2024, rules on labelling of organic pre-packed food produced in Great Britain changed to reflect the country's exit from the EU.

However, the organic food sector also faces challenges in certification and verification, with instances of mislabelling and fraud undermining consumer trust. Efforts by organisations including the Soil Association, and scientific research into isotopic analysis, offer promising avenues for combating fraud in the organic industry.

Future directions and challenges

As the fight against food fraud continues, stakeholders must navigate a complex landscape of legal, technological, and regulatory challenges. While scientific innovations hold promise for detecting fraud, ensuring compliance and enforcement remains a daunting task. Regional sourcing, shorter supply chains, greater transparency and better accountability can also play an important part in reducing the risk of fraud.

Proper investment is also imperative. While the FSA is doing important and effective work around authenticity, they are limited by resourcing challenges. The Food Programme included a discussion with the FSA's chief scientific adviser Robin May who explained that the agency will sometimes focus resources on specific food products where it receives intelligence that there may be a risk or concern. In general, however, the FSA relies heavily on the work of port authorities, environmental health and trading standards officers as a front-line resource. However, as highlighted in this Newsletter previously, the number of officers continues to decline and investment is clearly needed here. This will be another important budget area for the recently installed Labour government to weigh up.

As we confront the complexities of a globalised food system, the pursuit of authenticity and transparency remains paramount in safeguarding the health and well-being of consumers worldwide.

Food fraud represents a pervasive threat to consumer trust and confidence in the integrity of the food supply. Through a combination of legal frameworks, scientific innovations, and industry partnerships, regulatory agencies and stakeholders strive to protect consumers from deceptive practices.

However, significant further investment is needed in order to ensure enforcement can keep up with evolving challenges; and attention must be paid to ensuring that law and regulation is fit for the modern fraud landscape.

Úna Campbell | Phil Taylor



Food Hygiene

Survey reveals discrepancy between hygiene knowledge and practices

A survey conducted by Ipsos in March 2024 among 2,231 adults in the UK revealed concerning habits and beliefs regarding food hygiene. Despite 85% of respondents cooking or preparing food at home several times a week, the survey highlighted potentially harmful practices. Nearly four in 10 adults admitted to frequently using the same tea towel for multiple purposes, including drying hands and kitchen items. Additionally, more than a third of respondents often checked their phones while preparing food, risking contamination.

Another significant finding was that almost one in three people frequently or always washed raw chicken before cooking, despite this practice being discouraged due to the risk of spreading bacteria. Ipsos also tested respondents' knowledge of food hygiene with various facts and myths. Six in 10 believed incorrectly that gradually cooling food to room temperature before refrigerating was safer than promptly chilling it. Similarly, a quarter thought freezing food killed all harmful bacteria, and nearly one in five believed in the "5 second rule" regarding food dropped on the floor.

Federica Curcurú, associate director at Ipsos, commented on the findings, noting a discrepancy between knowledge and actual practices in food hygiene. The survey's insights underscored the importance of debunking common myths and improving understanding around safe food handling practices.

Separately, the FSA's Consumer Insights Tracker highlighted broader concerns among 2,066 consumers in February 2024, including food prices, food poverty, and the quality of ultra-processed foods. The survey also indicated economic pressures forcing some individuals to consume food past its use-by date or reduce meal sizes. Despite these challenges, confidence in the FSA's role in safeguarding public health remained high among those familiar with the agency, with a majority trusting its ability to manage food-related risks effectively.

April 2024 - [Food Safety News](#)

Nearly four in 10 adults admitted to frequently using the same tea towel for multiple purposes.





The disjointed approach to food regulation and monitoring has significantly weakened the UK's food safety oversight.

Food Security

'Absolute chaos' in food security poses high risk to consumers

The UK urgently needs a comprehensive food security policy to protect consumers and support legitimate businesses, Chris Elliott, a leading food expert and Professor of Food Safety and Microbiology at Queen's University Belfast. Elliott, has told an industry conference. Elliott authored the report on the 2013 horse meat scandal. Speaking at the Chartered Trading Standards Institute (CTSI) Conference on 19 June 2024, he highlighted multiple threats converging to create "absolute chaos" in the UK's food security, and called for the government to appoint a dedicated Food Minister and implement a robust food security policy.

Elliott criticised significant cuts to Trading Standards resources, which he termed "scandalous," as a major threat to food safety. Post-Brexit regulatory divergence, global supply chain disruptions from the war in Ukraine, the climate crisis, and the rise of online food retail have collectively created a challenging environment for businesses and heightened risks for consumers. He warned that increased costs and paperwork post-Brexit have driven legitimate importers out of the UK market, opening opportunities for rogue traders to introduce unsafe foods.

The disjointed approach to food regulation and monitoring, exacerbated by the elimination of the LACoRS system in 2010 and substantial cuts to Trading Standards services, has significantly weakened the UK's food safety oversight, Elliott said. He emphasised the need for a cohesive policy to address these issues, noting that the current lack of coordinated food monitoring and governance is dangerously inadequate.

CTSI's Jessica Merryfield and Louise Hosking from the Chartered Institute for Environmental Health echoed Elliott's concerns, urging the government to bolster Trading Standards services and implement the National Food Strategy to ensure a safe and sustainable food system. They stressed that adequate resources and legislative backing are crucial to maintaining high food safety standards and protecting public health.

June 2024 – [CTSI press release](#)

Industry Safety

Food safety worker shortage 'exposing consumers and businesses to risk'

The FSA has highlighted significant shortages in critical roles responsible for food safety, leaving UK consumers and businesses vulnerable. According to an annual report by the FSA and Food Standards Scotland, the number of UK food standards officers has dropped by 45% compared to a decade ago. Additionally, the veterinary profession in the UK has seen a 27% decline in new recruits between 2019 and 2022, leading to challenges in securing enough official veterinarians (OVs) for future needs.

Furthermore, there has been a 14% decrease in food hygiene positions across local authorities in England, Wales, and Northern Ireland over the past ten years, with more than 13% of these positions currently vacant. In Scotland, the number of food law officers handling both food hygiene and standards work has fallen by over a quarter (25.5%) since 2016/17.

The FSA warns that these shortages pose risks to animal health, welfare, and the overall food supply chain. They emphasise that workforce pressures in local authority teams could hinder critical food safety checks in food businesses, exacerbating vulnerabilities.

Despite these challenges, the FSA's report indicates that overall food standards remained stable in 2022, amidst rising costs of living, inflation, and labour shortages affecting grocery bills and food businesses. FSA Chairwoman Professor Susan Jebb expressed concerns about maintaining high food safety standards without sufficient recruitment and training of professionals in key roles. She called for specific actions to boost recruitment of official veterinarians and local authority inspectors to safeguard food safety standards effectively.

Heather Kelman, Chairwoman of the Food Standards Scotland (FSS), echoed these concerns, highlighting the need for a collaborative effort among governments, food production stakeholders, and regulatory bodies to modernise food safety assurance systems.

November 2023 - [The Independent](#)

Dover Port budget reductions said to jeopardise UK food safety

Health inspectors at Dover Port, the UK's busiest port, have raised the alarm over cuts in government funding, which they say poses significant risks to British food safety and animal health.

In December 2023, Defra told the Dover Port Health Authority (DPHA), part of Dover District Council, that it was cutting its budget from £3.2m to £1.2m in 2024/25, taking effect from April 2024, and then to zero in 2025/26. The DPHA stated that it requires £4m to carry out its work.

The DPHA, responsible for inspections since the UK's departure from the EU in 2020, has been crucial in screening for African Swine Fever (ASF) in imported pork. The authority highlighted that the cuts could magnify the threats to food safety in the UK, particularly amid new post-Brexit border controls which are due to commence after several delays.

Under the UK's Border Target Operating Model, health checks on food entering Dover and the Channel Tunnel will consolidate at a single border control post in Sevington, located 22 miles inland. However, the DPHA has raised concerns over the practicalities of this transition, questioning how goods would be reliably routed to Sevington after departing Dover, potentially compromising disease control measures.

Despite the funding cuts, the government expects the DPHA to maintain ASF checks at Dover and initiate them at the Channel Tunnel. Lucy Manzano, head of DPHA, criticised the lack of clarity from the government on how disease risks would be managed with significantly reduced resources. The DPHA say its efforts have been instrumental, having intercepted over 57 tonnes of illegal meat since implementing ASF checks in September 2022. ASF has the potential to devastate the UK's farming sector and lead to extensive culling and export bans.

In May 2024, the DPHA seized 3.4 tonnes of illegal meat, taking the total seized since new ASF control measures came into force in 2022 to 85 tonnes. The latest seizures took place after the DPHA completed a number of vehicles at Dover Port.

January - May 2024 - [Financial Times](#) | [The Grocer](#) | [The Scottish Farmer](#)

The veterinary profession in the UK has seen a 27% decline in new recruits between 2019 and 2022.

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