

**DERBYSHIRE COUNTY COUNCIL**

**MEETING WITH CABINET MEMBER, HEALTH AND COMMUNITIES**

**7 July 2015**

**Report of the Strategic Director, Health and Communities**

**FOOD AND FEED PRODUCTS ENFORCEMENT ACTIVITY 2014-15**

**1. Purpose of Report:**

To advise the Cabinet Member, Health and Communities of activity undertaken by the Trading Standards Division to ensure compliance with food and feed product labelling requirements.

**2. Information and Analysis:**

- 2.1 As the Cabinet Member will be aware, the Trading Standards Division has a responsibility to enforce food compositional and labelling requirements to ensure that food is safe and it meets legal requirements. Similar requirements apply to fertiliser and feeding stuffs and the county council has additional responsibilities to ensure that animal feed is produced, supplied and stored in compliance with hygiene requirements to ensure that the risk of the introduction and spread of disease is minimised. To seek compliance, Trading Standards Officers carry out a range of activities including visiting local businesses; taking samples for laboratory analysis; responding to complaints from members of the public and traders; acting on intelligence from other agencies and responding to referrals; and responding to requests for advice from local businesses. The majority of non-compliance is dealt with by way of advice and information, but if the breach is deemed serious – for example there is a risk to public health or safety – then more formal enforcement action can be initiated.
- 2.2 There has been a slight fall in the number of complaints about food products compared to previous years, but this has been off-set by an increase in the number of requests for advice from local businesses. The increase in requests for advice follow new Food Regulations bringing into force a European-wide requirement to provide more information about allergens that is now required by caterers, restaurants etc. The number of scheduled 'high-risk' inspections is determined by a number of factors including the volume of turnover, the type of food/feed produced or sold, the trading history of the business concerned and the confidence that officers have in any quality control and management systems in place. The number of inspections and the number of 'non-compliant' businesses were in line with previous years. The appendices to this report provide details of samples taken for analysis during the past

quarter and the range of activities under-taken during the last financial year to ensure compliance with both food and feed requirements. Also included are some case studies of how we have supported local businesses. The table below summarises inspection and complaint levels for both Food and Feed product activity for the past three years.

**Table 1 - Activities to check compliance with Food and Feed legal Requirements 2014-15**

<b>Food Inspections</b>	<b>2014/15</b>	<b>2013/14</b>	<b>2012/13</b>
Number of scheduled food inspections conducted	63	70	77
Number of outstanding visits	0		
Number of unsatisfactory visits	20	25	28
<b>Food Complaints and Advice</b>			
Number of complaints	200	201	230
Number of related requests for advice	155	93	125
<b>Feed Hygiene Inspections</b>			
Number of scheduled feed inspections conducted	202	138	27
Number of unsatisfactory visits	84	40	15
<b>Feed Complaints and Advice</b>			
Number of complaints:	24	33	25
Number of new feed business registrations:	225	293	30
Number of requests for advice:	23	9	26

2.3 Food product labelling can be complex and difficult to understand and apply. Local businesses may contact us direct seeking assistance or via business advice services such as the East Midlands Chamber of Commerce or the D2N2 Growth Hub. We may also receive a notification from another enforcement authority that has sampled the product and have identified a problem. In addition, an issue may be identified as a result of a planned visit to the business. Understanding the legislation and how it applies and then advising the business is often time consuming and requires knowledge and expertise that has been developed by officers over a number of years. Examples of how we have supported local businesses is provided in the attached appendix as is further details of the inspection programme and complaints and requests received and actioned.

2.4 The theme of the most recent food sampling projects are as follows:

- Ground almond powders from catering establishments – to check for adulteration with peanuts
- Cheese and ham pizzas from takeaways – to check salt levels and whether the cheese or ham had been substituted with inferior ingredients
- Frozen chicken portions – for excess water

2.5 In total 58 food or feed products have been submitted for analysis and of those 32 (55%) were reported as being unsatisfactory in some regards. The Division has a range of sanctions available to seek compliance with legal requirements; the main activity engaged is to provide advice and information to the relevant business. Where the business has a head office that is not in Derbyshire and the results of analysis are of a relatively minor or technical matter, details are referred to the relevant Home or Primary Authority. An advisory approach is generally adopted where there has been a recent change in legislation and only when there is evidence of deliberate or negligent criminal behaviour would a more formal enforcement approach be adopted.

2.6 A summary of each of the food projects together with the results of analysis – where received – together with the action taken is provided in the Appendix to this report.

### **3 Other considerations:**

In preparing this report the relevance of the following factors has been considered; human resources, legal, financial, prevention of crime and disorder, equality of opportunity; environmental, health, human resources, property and transport considerations.

### **4 Background Papers:**

CabCo Report: Annual Food and Feed Service Plan 2014-15 dated 9<sup>th</sup> September 2014

### **5 Key Decision:**

No

### **6 Call-in:**

Is it required that call-in be waived for any decision on this report? No

### **7 Officer's recommendation:**

That the Cabinet Member, Health and Communities notes the outcome of recent food sampling activity.

**David Lowe**  
**Strategic Director**  
**Health and Communities**

## Food Sampling Results Qtr 4 2014-15

Table 1 - Numbers of samples taken and proportion found to be incorrect

No.	Survey	Proposed number of samples	Actual samples taken	Number of unsatisfactory samples	Percentage Unsatisfactory
1	Ground Almonds	8	8	3	38%
2	Cheese and Ham Pizzas	15	15	10	67%
3	Frozen Chickens	10	11	6	55%
4	FSA National co-ordinated food sampling		7	3	43%
5	Agriculture samples	0	3	1	33%
6	Complaint/initiative/ follow up and non-retail FSI samples	10	11	9	82%
	<b>Total Survey Samples</b>	<b>33</b>	<b>34</b>	<b>19</b>	<b>56%</b>
	<b>Total All Samples</b>	<b>43</b>	<b>58</b>	<b>32</b>	<b>55%</b>

### Details of samples taken, rationale for sampling, results of analysis and action taken

#### 1. Ground almond powders from catering establishments

##### Rational for sampling activity

To check for substitution with peanuts; there is always the potential for fraud when one product can be substituted for a more expensive one. Peanuts are known to cause an allergic reaction to some people who have a sensitivity to this product

##### Report and Outcome

Three products found to contain low levels of peanut protein (between 20 and 100 mg/kg) - indicative of cross contamination rather than deliberate substitution. The traders have been advised and further enquiries being undertaken to ascertain source of peanut.

#### 2. Cheese and ham pizzas from takeaways

##### Rational for sampling activity

To check for substitution with cheese analogue/ other meat species and level of salt

## **Report**

A total of eight products were found to be using cheese analogue rather than cheese; 'turkey ham' was being used instead of genuine ham in five products (both the 'cheese' and 'ham' were incorrectly described in three products). One product contained salt in excess of the Department of Health 'Responsibility Deal' target for 2012.

## **Outcome**

Advice and visits to non-compliant traders to ensure that they are aware of their legal obligations. An advisory mailshot will be sent out to all pizza retailers operating in the county.

### **3. Frozen chicken portions**

#### **Rational for sampling activity**

To check for level/presence of added water

#### **Report**

Two products were found to be deficient in meat compared with the declaration in the ingredient list. Three products contained added water which was not declared in the name of the food. Two products also had inaccurate nutritional information.

#### **Outcome**

The results were sent to the relevant Home or Primary Authorities. Follow-up samples will be taken.

### **4. Agriculture samples**

#### **Rational for sampling activity**

Samples taken for a variety of reasons during routine visits. For example, grass was sampled from a local farm found to contain excessive levels of lead.

#### **Report and Outcome**

Enquiries indicate contaminated grass is in the vicinity of old lead mine workings. Business advised to cordon off the area and ensure that any forage supplied is safe.

### **5. FSA National co-ordinated feed sampling**

#### **Rational for sampling activity**

Economies of scale can be achieved by nationally and regionally co-ordinated programmes targeting animal feeding stuffs.

#### **Report and Outcome - The Verification of Systems to Minimise Carryover of Coccidiostats into Non-Target Feed**

We were involved in an exercise led by the Food Standards Agency (FSA) to assess the steps taken by feed compounders to minimise the carry-over of coccidiostats into feed not intended to contain these additives ie non-target feed. Coccidiosis is one of the most destructive diseases affecting the poultry industry. The total cost to the UK

poultry industry is estimated at £40m per annum. To prevent coccidiosis developing in birds, a specified feed additive known as a coccidiostat is added to feed.

The effects of coccidiostats on non-target species are, for example, accumulation of residues in eggs and meat, health risks for non-target species and adverse effects on the hatchability and quality of eggs.

There are maximum permitted levels (MPL) for carryover of coccidiostats set under legislation on undesirable substances. Official control samples of non-target feed were taken from two large Derbyshire feed mills by our officers. In addition to this, the systems put in place to prevent excessive carryover by the mills were assessed.

The samples were analysed by the Agriculture Analyst and in both instances the samples of finished feed product were found to contain coccidiostats in excess of the relevant MPLs. The businesses, the FSA and the local Veterinary Medicines Directorate were informed of the results of analysis. A risk assessment has been made on both samples. In one instance it was determined that the level of coccidiostat in the non-target feed was not significant enough to be a risk to consumers. We are awaiting the results of the risk assessment on the other sample.

## **6. Complaint and non-programmed samples**

### **Rational for sampling activity**

During their routine work, officers will take food samples for a variety of reasons. For example to confirm the accuracy of a process or other concerns they may have about compliance with labelling or compositional requirements.

### **Report and Outcomes**

- Three beers with labelling issues; two with allergen information not in the format prescribed by the Food Information Regulations - one with date marking issues. Appropriate advice has been given to the businesses concerned
- Cooked turkey deficient in meat and with some minor labelling infringements. The business was advised of the results and will be monitored in the future.
- Sweets containing a potentially non-permitted colouring material. Trader advised.
- Honey with non-permitted medicinal and implied health claims. Further enquiries are being under-taken
- Two food supplements with labelling issues - non permitted medicinal claims and non-approved health claims. Further enquiries are being under-taken
- Spicy beef calzone found to contain meat species other than beef. A follow-up Formal Sample will be taken.

**Food Activities: April 2014 to March 2014**

<b>Inspection</b>	<b>2014/15</b>	<b>2013/14</b>	<b>2012/13</b>
Number of scheduled food inspections conducted:	<b>63</b>	<b>70</b>	<b>77</b>
Number of outstanding visits:	<b>0</b>		
Number of unsatisfactory visits:	<b>20</b>	<b>25</b>	<b>28</b>

The businesses subject to an inspection are food manufacturers that supply nationally, regionally or locally; businesses that import food from outside the EU; and businesses who pack food. The numbers of scheduled inspections are arrived at following a detailed risk assessment which scores the potential hazards relating to the products manufactured imported or packed as well as an officer assessment of how likely the business is to comply. The reduction in the number of businesses who are due an inspection may be down to a more intelligent analysis of the risks involved, in particular at very small food manufacturers/ home bakers.

The majority of non-compliances were in respect of general food labelling and specifically allergen, colours and additives labelling. In addition to food issues, there were three instances of businesses supplying co-products for animal feed, which were not registered under the Feed (Hygiene and Enforcement) (England) Regulations 2005; as a consequence of which the businesses have been registered for feed hygiene purposes.

<b>Food Complaints and Advice</b>	<b>2014/15</b>	<b>2013/14</b>	<b>2012/13</b>
Number of complaints:	<b>200</b>	<b>201</b>	<b>230</b>
Number of related requests for advice:	<b>155</b>	<b>93</b>	<b>125</b>

**Business Advice****1. Food Information for Consumers including Allergens**

Ninety nine of the requests for advice received during 2014-15 related to the new EU Food Information for Consumers Regulation. We have also given advice on the Regulation at most of our food inspection visits. The majority of the provisions of the new Regulation came into force in December 2014. The main changes from the old regulations are:-

- For pre-packed foods, allergen information must be emphasised in the ingredients list. For non-prepacked foods (including catering), allergen information must now be made available to consumers.
- Nutrition labelling required for most pre-packed foods (this is not compulsory until December 2016 for food not currently labelled with nutrition information)
- A minimum font size for the mandatory information on food labels i.e. name of the food, ingredients lists, date marks etc.

- Country of origin information required for fresh, chilled and frozen meat of sheep, pigs, goats and poultry (this information was already compulsory for beef)
- Date of freezing (or first freezing where products have been frozen more than once) required for frozen meat, frozen meat preparations and frozen unprocessed fishery products.
- Compositional standards for fat and collagen levels in minced meat.
- Mandatory food information to be available before a purchase is concluded when buying food at a distance. Ingredients lists and allergen information, for example, must now be made available on websites.

## **Allergens**

A significant proportion of the requests for advice have been in relation to the new requirement to provide allergen information at catering premises i.e. cafés, restaurants and takeaways, etc. The regulation lists 14 allergens that need to be identified if they are used as ingredients in a dish. Food allergens can be life threatening and the only way people can manage a food allergy is to avoid the foods that make them ill; consequently it is important that they are provided with accurate information on the food that they eat.

## **2. Health Claims**

We have provided advice to seven businesses on the legality of their health claims. When making a health claim associated with food, the requirements of the Nutrition and Health Claims Regulations must be complied with. Before a health claim can be made it has to be authorised by the European Food Safety Authority and must be listed on a register of approved claims. The regulations define a health claim as ‘any claim that states, suggests or implies that a relationship exists between a food category, a food, or one of its constituents and health’.

The majority of the health claims which were commented on by us did not comply with the regulations eg ‘fat burning’ claims on sports supplements, detox claims on juice cleanses.

One of the businesses we advised brought to our attention similar illegal health claims made by three competitors. We have raised these with the relevant Home Authorities for those businesses.

Without these controls consumers could be easily duped into buying expensive products on the back of false or misleading health claims.

## **Case Studies**

### **1. An importer and manufacturer of seaweed and seaweed based products**

Following a scheduled food standards visit to a Derbyshire distributor of seaweed based food seasoning products, a number of issues were raised in relation to the labelling of the products and the business’s website. The main problems related to incorrect use of the organic symbol, non-permitted health claims, incorrect nutritional information and offences under the Cancer Act. Although advice to the business is



ongoing, the department has worked with Defra and the Soil Association to prevent products being wrongly described as organic being distributed. Organic standards for food are laid down in European legislation and any food labelled 'organic' must meet these standards as a minimum. There a number of different certification bodies in the UK which carry out the inspections to ensure that the standards are being met and a fee is charged for this.

## **2. An Amber Valley based company that imports a range of different meats**

A scheduled food standards inspection was conducted at this premise in October 2014. This was the first visit by Trading Standards. The business operates from a small unit on an industrial estate in Ripley.

Their meat is sourced from the UK and around the world and includes meat from alpaca, bison, camel, crocodile, elk, game, goat, kangaroo, springbok, water buffalo, wildebeest and zebra as well as more conventional species. The business also makes sausages and burgers from the meat it sources.

The visit highlighted a number of contraventions of labelling regulations and deficiencies in some of the practices on site, as a result of which the business was given specific advice. This included guidance on the measures they needed to put in place to strengthen their due diligence e.g. written recipes, training records, work instructions, full traceability information and product testing for species and meat content.

It was also acknowledged that the company's website needed updating to ensure the information posted on it accurately reflected what they were doing, particularly with regard to the country of origin of the meat and a number of claims e.g. genuinely wild, low fat, hormone and steroid free.

Following the visit the pages on the website were updated and the company's labels were amended. Most of the claims were removed from the website. The business contacted its suppliers and obtained accurate origin information for its meat. Changes were also made to the electronic data for traceability and full staff training was introduced.

It is imperative that food businesses put measures in place to ensure traceability and authenticity of the meat they supply, particularly in light of the horse meat 'scandal'. There is arguably a greater responsibility for this business because its meat is sourced globally.

This case study highlights the importance of our food inspection activities and the distinction between when a food business needs to take action to comply with the law (e.g. labelling, traceability) and when it is advised on good practice (e.g. training records, product testing).

### Feed Hygiene Activities – April 2014 to March 2015

<b>Feed Hygiene Inspections</b>	<b>2014/15</b>	<b>2013/14</b>	<b>2012/13</b>
Number of scheduled feed inspections conducted:	<b>202</b>	<b>138</b>	<b>27</b>
Number of unsatisfactory visits:	<b>84</b>	<b>40</b>	<b>15</b>

The non-compliances were across a range of activities. The top four non-compliant activities relate to record keeping, pest control, registration and storage.

23 premises that were visited were not registered or were registered under the wrong activity code for the purposes of the Feed (Hygiene and Enforcement) (England) Regulations 2005. These premises were subsequently registered correctly. Most feed businesses that make, market or use animal feed are required to be registered by the local authority under the regulations. The information on feed registration enables us to effectively target and plan inspection activities at these premises.

There were 14 instances of incorrect storage of feed. Of particular concern was that five farms were found to have rodent bait and other chemicals in their feeding areas/feed stores. It is important that feed is correctly stored in order to prevent contamination and spoilage.

The following is a case study, which highlights the type of problem we can come across with feed storage.

#### **A manufacturer of animal feed from surplus food**

A scheduled feed hygiene inspection was carried out at a well-established animal feed manufacturer, which processes large volumes of waste human food including biscuits, sweets, bakery waste and yogurts. The business indicated that it had doubled production in the past 12 months and was now processing 30,000 tonnes a year. On inspection of the production facility, it became clear that the site in its current format was not able to process this large volume of feed material in a way which would comply with the Feed (Hygiene and Enforcement) (England) Regulations 2005. This was due to lack of space, overstocking and poor product segregation.

After some advice from Trading Standards and remedial action by the business the matter was resolved by reducing stock levels and better organisation of movement of materials around the production facility.

One of the key aims of the regulations is to prevent cross-contamination so as to ensure animal feed safety and consequently the safety of the human food chain.

<b>Feed Complaints and Advice</b>	<b>2014/15</b>	<b>2013/14</b>	<b>2012/13</b>
Number of complaints:	<b>24</b>	<b>33</b>	<b>25</b>
Number of new feed business registrations:	<b>225*</b>	<b>293*</b>	<b>30*</b>
Number of requests for advice:	<b>23</b>	<b>9</b>	<b>26</b>

\*Feed businesses are required to inform our service of the type of activity they are involved in by way of a 'registration' to the division

## **Complaint Case Study**

### **Fish and Chip shop supplying food waste for poultry feed**

We were alerted to this business by our Environmental Health colleagues as business was supplying catering food waste, some of animal origin, to a smallholder for feeding his poultry. We visited the fish and chip shop and advised the owner. Following the visit all food waste now goes into the normal bin for waste collection and the smallholder no longer collects it for his chickens.

Catering waste is waste food from restaurants, catering facilities and kitchens. Catering waste which contains animal by-products can go directly to landfill for disposal. It can also be sent to an approved composting or biogas facility, but must not be fed to animals. Improper use of animal by-products in feed has resulted in outbreaks of serious diseases such as foot and mouth disease, classical swine fever and avian influenza.