

**Derbyshire County Council**

**Meeting with Cabinet Member, Health and Communities**

**15 April 2014**

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

**FOOD SAMPLING 2013-14**

**1 Purpose of the report:**

To inform the Cabinet Member, Health and Communities of food sampling activity undertaken by the Trading Standards Division during 2013-14 and to highlight some of the unsatisfactory food sample results.

**2 Information and analysis:**

- 2.1 The local authority has a duty to enforce the provisions of the Food Safety Act 1990 and associated legislation. As well as providing advice and information to local businesses through a programme of planned visits and to responding to requests for advice, the Division also carried out a range of food sampling. Food products on sale in Derbyshire are purchased and submitted to the Public Analyst for laboratory examination and checks made against declared ingredients lists and composition and labelling requirements. The annual Food and Feed Plan was agreed by Members in August last year (see link below).
- 2.2 According to data provided by the Food Standards Agency, total expenditure on food safety regulation for the UK – including environmental health, trading standards and the FSA amounts to some 0.08% of the Food Sector Turnover<sup>1</sup>. The amount spent by the authority on food sampling was approximately £50,000 which compares to a budget of £90,000 in 2009/10 and £120,000 in 2007-08. Further savings to the food sampling budget have been identified for future years reflecting a reduction in the total trading standards budget and also a reduction in staff capacity to take samples and any necessary investigation as a result of unsatisfactory samples being reported.
- 2.3 Some 367 samples were taken during the year of which about a fifth were unsatisfactory in some regard, although the results of 69 samples (19%) are still awaited. As well as responding to complaints from members of the public and referrals from other authorities, the division took samples of a range of food products and food sectors including:
- Bread
  - Apple products

---

<sup>1</sup> FSA annual accounts 2012-13

- Food with 'Omega 3 claims'
- Flavoured oils
- Body building supplements
- Scampi
- Takeaway sausages and burgers

The division also took samples on behalf of the School Meals Service and as part of national market surveillance exercises on behalf of the FSA. Full details of the food sample results are provided in the appendix to this report.

- 2.4 Some of the unsatisfactory food samples merit further consideration and investigation and examples of these are highlighted below.

#### **Baby food containing excess aflatoxin**

- 2.4.1 A sample of baby food was found to contain excess aflatoxin. The Public Analyst report reads *"The Contaminants in Food (England) Regulations 2013 set maximum levels for aflatoxin B1 and for the sum of aflatoxins B1, B2, G1 and G2 of 2.0 and 4.0 µg/kg, respectively in all cereals and all products derived from cereals, including processed cereal products. The sample was found to contain aflatoxins in excess of the maximum level permitted. The excess amounted to 75% and 107% respectively"*.
- 2.4.2 The results of this sample were referred to the FSA's Incident Branch which commented as follows: *The exposure calculated in toddlers for total aflatoxins is approximately 32-fold higher than the upper bound background level estimated by EFSA for the UK. The MOE calculated is very low which would indicate a high risk if the product was consumed over a prolonged period of time. As aflatoxins are genotoxic and carcinogenic their presence at elevated levels is always undesirable and regular consumption of this product with this level of aflatoxins would additionally increase the risk over that from the rest of the diet.*
- 2.4.3 Because of the concerns about this product, the FSA instigated the withdrawal of the product from sale in the UK. Further enquiries are being made by the Home Authority trading standards service.

#### **Chicken Tikka Massala**

- 2.4.4 A sample of Chicken Tikka Masala was taken as a result of a complaint from a Take Away in Buxton. The sample was found to contain traces of peanuts (20 mg per kg) despite the officer requesting a peanut free meal. The Public Analyst reported; *'The sample contains enough peanut protein to cause a severe allergic reaction in a sensitive individual. If a nut-free Chicken Tikka Masala was ordered, then, in my opinion the presence of peanut protein in this sample renders it unsafe within the meaning of Paragraph 2 (a) of Article 14 of Regulation (EC) No 178/2002 by virtue of it being injurious to the health of a consumer with an allergy to peanuts. In forming this opinion I have taken regard of Paragraph 4(c) of the same Article.* Further enquiries are being made into the circumstances of the contamination.

### **Donner Kebab**

- 2.4.5 A sample of Donner Kebab was taken from a Take-away in Chesterfield. The sample was taken from an unopened pack as supplied to the take-away and was labelled as containing 10% Beef, 10% Poultry and 70% Lamb. When examining meat products for the quantity of meat, the Public Analyst carries out a DNA analysis which determines a range of meat content or species of meat. This is categorised as: 'major part' (60 – 100%); 'medium part' (30 – 60%); 'minor part' (5 – 30%); 'diminutive part' (1 – 5%); and 'very diminutive part' (<1%). It is generally accepted that, without any clarification, the description 'donner kebab' implies that the meat in question should be solely lamb meat. In this instance there was a statement that the product also contained 10% beef and 10% poultry. However, upon examination, the Analyst determined that chicken formed the 'major part' of the meat content (ie 60-100%) and that there was between 1 and 30% beef with less than 1% lamb meat – likely to be the most expensive. An investigation in to the circumstances is being conducted.

### **Chocolate Coated Ginger**

- 2.4.6 Samples of Chocolate Coated Ginger were taken as a result of a complaint. The complainant alleged that he had found that some of the chocolate coated ginger was in fact chocolate coated hazelnut which would be of obvious concerns to nut allergy sufferers. The Public Analyst confirmed the presence of hazelnuts and the results were reported to the FSA Incident Branch. As a consequence, the Home Authority for the Importer instigated a product withdrawal and Points of Sale Notices to be issued to alert consumers. Remaining stocks were destroyed.

### **King Fry Meat Products Ltd**

- 2.4.7 This was a sample of 'beef burgers' taken locally as part of a national food sampling campaign following the horsemeat incidents. A formal sample of 'Premium Gold Beef Burgers' was taken from a café on an industrial estate in Alfreton. The list of ingredients stated that the burger contained 90% beef. However, when tested by the Public Analyst it was found to consist predominantly of chicken and turkey and had only between 5% and 30% beef. A trading standards investigation identified that the burger had been produced by King Fry Meat Products of Small Heath, Birmingham.
- 2.4.8 Enquiries with the Home Authority, Birmingham City trading standards, revealed that South Tyneside trading standards had also received an unsatisfactory analysis of three further meat products supplied by King Fry and it was agreed that Derbyshire would investigate all four incorrect samples. The managing director of King Fry was interviewed but he could not explain the presence of chicken or turkey in his beef burgers. The trading standards investigation revealed poor quality control procedures and an examination of the recipes provided by the company suggested that they could never achieve the meat content declared on their product labelling.
- 2.4.9 As a consequence, the decision was taken to prosecute both the company and the managing director and the case was heard at Derby Magistrates Court on Thursday 20<sup>th</sup> March. Andrew Sergio, the managing director pleaded guilty to all

charges – both those that related to him as a director of the company and also on behalf of the company. In mitigation, his Counsel explained that the company's net profit for 2012 was £123,000 – about two thirds down on the previous year. King Fry's competitors had been producing products cheaper and so Mr Sergio started experimenting by adding chicken. This was not unlawful but, it was accepted that the labelling must be accurate. There was no health risk or danger to the public. It was claimed that Mr Sergio's own scientific analysis had given a much higher percentage meat content than the tests Derbyshire and South Tyneside had commissioned. Nevertheless, the court imposed a fine of £5,000 for each of the four offences for both the company and Mr Sergio, making a total of £40,000. He was also ordered to pay prosecution costs of £1,260.

- 2.5 Further details about unsatisfactory sampling reports will be provided when all the results have been processed.

**3 Other considerations:**

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

**4 Background papers:**

CabCo Report dated 20 August 2013: Annual Food and Feed Service Plan 2013-4

[http://www.derbyshire.gov.uk/images/2013-08-20%20Annual%20Food%20and%20Feed%20Plan\\_tcm44-229980.pdf](http://www.derbyshire.gov.uk/images/2013-08-20%20Annual%20Food%20and%20Feed%20Plan_tcm44-229980.pdf)

**5 Key Decision:**

No

**6 Call-in:**

Is it required that call-in be waived for any decision on this report?

No

**7 Strategic Director's recommendation:**

That the Cabinet Member, Health and Communities notes the results of food sampling activity conducted by the trading standards division in 2013-14.

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

## Appendix – Food Sampling Results 2013-14

Sample Type	Satisfactory	Unsatisfactory	Percentage Incorrect	Awaiting Result	Grand Total
PRH Initiative, Complaint & Follow-up	29	23	34%	16	68
PC2 Wholemeal Bread	19	1	5%		20
PRA Non retail FSI visits	9	3	17%	6	18
PH5 Imported Foods as part of FSA Survey	10	5	29%	2	17
PR9 Apple Products (juice/sauce/canned apple etc)	17				17
PD7 Foods with Omega 3 claims	7	8	53%		15
PT6 Locally produced vegetables and soft fruit	15				15
PV6 Wine	14	1	7%		15
PV7 Flavoured Olive Oil e.g. with chilli, herbs etc	13	2	13%		15
P32 Minced Beef				13	13
P38 Soft Drinks	1	1	8%	11	13
PV8 Fat Burner - Body Building Supplements	5	8	62%		13
PW5 Corn Snacks	10	2	17%		12
PW6 Oily fish & fish products	12				12
PX3 Seasonal Confectionery Products-cakes, snack products, sweets	10	2	17%		12
P22 Baby foods	10	1	9%		11
P86 Bacon				11	11
PAS Samples from School Meals Service	4	6	60%		10
PV5 Breaded Scampi	4	6	60%		10
PX2 Plastic Bags/Film	10				10
PP1 Sausages/ burgers from takeaways/ 'burger' vans	7	2	22%		9
PW7 Unusual brand vodkas and other white spirits				8	8
P58 Dried Vine Fruits	7				7
PS3 Salt reduction in bread	4			2	6
PB4 Non prepacked bakery products	2	1	33%		3
PX1 Ground Nut Powders	3				3
PF8 Milk	2				2
PN7 Takeaway meals for species	1	1	50%		2
<b>Grand Total</b>	<b>225</b>	<b>73</b>	<b>20%</b>	<b>69</b>	<b>367</b>