

**DERBYSHIRE COUNTY COUNCIL**

**MEETING OF CABINET MEMBER – HEALTH AND COMMUNITIES**

**25<sup>th</sup> January 2018**

**Report of the Strategic Director – Commissioning, Communities and Policy**

**FOOD AND FEED PRODUCTS ENFORCEMENT ACTIVITY April to September  
2017**

**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 composition labelling and safety requirements.

**2. Information and Analysis:**

The Trading Standards Division has a statutory duty to enforce food composition and labelling requirements to ensure that food in Derbyshire is safe and complies with the law. Similar legislation applies to animal feed and the County Council has additional responsibilities to ensure that animal feed is produced, supplied and stored in compliance with hygiene requirements thus helping to ensure the safe production of food and the welfare of livestock. To monitor 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, responding to referrals from other agencies; 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 a breach is deemed serious – for example there is a risk to public health or safety – then more formal enforcement action can be initiated.

The theme of recent food sampling projects are as follows:

- Products labelled as containing ground almonds to check for substitution with peanut
- Dried fruit to check for levels of or the undeclared presence of sulphur dioxide
- Oats and oat based products described as 'gluten free' to check for the presence of gluten
- Meals from takeaways for allergens (specifically egg protein) and species determination

- 'Energy drinks' containing caffeine to check levels of artificial sweeteners, preservatives and caffeine; and legality of any health claims.
- Marinated barbecue meat products from local butchers to check for 'freshness' of meat and presence/ levels of artificial colours
- Nutritional content of products sold from milkshake bars
- Non-dairy ice cream for compositional analysis (follow up to survey carried out 2016-17)
- Feed samples

In total 131 food or feed products have been submitted for analysis during the period April to September 2017 and of those 53 (40%) 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.

A summary of each of the food projects and the results of analysis together with the action taken is provided in the Appendix 1 to this report. Two areas of concern have been identified. The first relates to the presence of egg protein in takeaway meals when a specific request was made at the time of purchase for an 'egg-free' meal. Ten of the meals sampled were considered to be unsatisfactory by the Public Analyst as they were found to contain between 3 mg and 14 mg of egg protein whereas the maximum, suggested by the Allergen Bureau of New Zealand and Australia, is no more than 0.03 mg. In the absence of a UK or European allergy standard the New Zealand and Australian reference dosage is used as research suggests that for those people with a known egg allergy, only 1 in 100 will react when they consume 0.03mg of egg protein. At 1 mg of egg protein, probability models suggest that approximately 8% of egg allergy sufferers would experience an allergic reaction after consuming this amount of egg protein. At 10 mg the model predicts that 27% would react. In the opinion of the Public Analyst consumption of 10 mg of egg protein by a sensitive individual could result in the systemic reactions affecting the skin, respiratory and circulatory systems that result in anaphylaxis.

Warning letters have been sent to the businesses concerned and follow-up samples will be taken in the future.

The other area of concern was the high fat, sugar and energy content found in so called 'freak-shakes'. Freak-shakes are an extension of milkshakes and are a cross between a milkshake and a dessert. Perhaps not surprisingly for this type of product, they all have high fat and sugar and therefore a high calorie – or energy content. However, there was also some significant portion sizes ranging from 393 grams for an 'Oreo Milkshake' to 831 grams for a 'Mars Delight

Freakshake'. The contents of the latter representing a colossal 7,238 kJ of energy in a single serving.

The former 'Guideline Daily Amounts' (GDA) has been replaced by 'Percentage Reference Intake'. The GDA suggested for women was 2,000 calories which equates to 8,400 kJ; although of course this figure will vary dependent on a variety of factors. All of the samples had a high sugar content with five having the equivalent of at least 100% of the Reference Intake. The average energy value for the ten samples was c4,000 kJ (c950 calories) which represents 48% of the RI. By comparison, internet research suggests that a typical 60g portion of Christmas cake would have 219 calories (920kJ) comprising 5.3g of fat and 40g of sugar whereas a 110g portion of fudge cake would be 405 calories (c1,701kJ) with 16g of fat and 52g sugar. Catering establishments such as cafés, restaurants and coffee shops are not obliged to provide nutritional information about their food for their customers, although many do. Members of the public wishing to have a healthier diet are well advised to seek out those establishments that offer smaller portion sizes and provide nutritional information so that they can make an informed choice. Further details of the results of analysis of the freak-shakes sampled are provided in Appendix two to this report.

**3 Social Value Considerations** Accurate food labelling enables consumers to make informed choices about the food they eat. It also ensures that businesses compete on a fair and equitable basis and that no trader can gain a competitive advantage by taking short-cuts or replacing expensive ingredients with cheaper substitutes. Similarly, it is important to the health and well-being of farmed animals and the agricultural sector that feed is produced in accordance with the hygiene rules and products comply with labelling requirements. The Trading Standards Service works with other agencies – including Public Health and Food Standards colleagues – to ensure that resources are targeted at areas where there may be health issues or the potential for fraudulent practices.

#### **4 Other Considerations:**

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

#### **5 Background Papers:**

Held on file within the Economy, Transport and Communities Department. Officer contact details – Robert Taylour, extension 39830.

#### **6 Key Decision:**

No

**7 Call-in:**

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

**8 Strategic Director Recommendation:**

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

**Emma Alexander**  
**Strategic Director – Commissioning, Communities and Policy**

## Appendix – Food Sampling Results 2017

**Table - 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	Products labelled as containing ground almonds to check for substitution with peanut	10	10	3	30%
2	Dried fruit to check for level/ undeclared presence of sulphur dioxide	15	15	8	53%
3	Gluten free oats and oat based products to check for the presence of gluten	12	12	5	42%
4	Meals from Chinese takeaways for allergens (specifically egg protein) and species determination	12	12	11	92%
5	'Energy drinks' containing caffeine to check levels of artificial sweeteners, preservatives and caffeine; and legality of any health claims.	12	12	7	58%
6	Marinated barbecue meat products from local butchers to check for 'freshness' of meat and presence/ levels of artificial colours	12	12	1	8%
7	Products sold from milk shake bars, for nutritional content	10	10	0	0%
8	Non-dairy ice cream for compositional analysis (Follow up to survey carried out in Q1 of 2016-17)	10	8	0	0%
9	Initiative/ Complaint/ Follow-up and non-retail samples	26	27	13	48%
10	Feed samples	9	7	0	0%
11	Other samples	6	6	5	83%
	<b>Total Survey Samples</b>	<b>93</b>	<b>91</b>	<b>35</b>	<b>38%</b>
	<b>Total All Samples</b>	<b>134</b>	<b>131</b>	<b>53</b>	<b>40%</b>

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

#### 1. Products labelled as containing ground almonds to check for substitution with peanut

##### Rationale for sampling activity

Ground peanut is a cheaper alternative to ground almonds, but its undeclared use in products may be potentially harmful to consumers who are allergic to peanuts. As a

specified allergen, where peanut has been intentionally added to a food its presence must be made known to the purchaser.

### **Report and Outcome**

The presence of peanut was not detected in any of the products sampled, but three products had labelling issues under either the Food Information Regulations or the Nutrition & Health Claims Regulations. The unsatisfactory samples were referred to the relevant Home or Primary Authority in which the manufacturer of the food item was located

## **2. Dried fruit to check for level/ undeclared presence of sulphur dioxide**

### **Rationale for sampling activity**

Sulphur dioxide is a preservative whose use in dried fruits is controlled under Additives legislation. Maximum permitted levels are prescribed for different types of dried fruit. Sulphur dioxide is also a specified allergen at concentrations of more than 10mg/kg and its presence is required to be made known in non-prepacked foods or emphasised in the ingredient list of prepacked foods.

### **Report and Outcome**

None of the products tested contained undeclared sulphur dioxide, or levels of sulphur dioxide above the permitted maximum. However eight products had labelling issues under either the Food Information Regulations or the Nutrition & Health Claims Regulations. These matters were referred to the relevant Home or Primary Authority.

## **3. Gluten free oats and oat based products to check for the presence of gluten**

### **Rationale for sampling activity**

Products described as 'gluten free' must contain no more than 20mg/kg of gluten. Non-contaminated, pure oats are naturally free from gluten but can be easily contaminated, for example during harvesting or processing with gluten from other cereals such as wheat or barley. Oats produced under controlled conditions to be gluten free are likely to be more expensive than 'standard' oats and are potentially open to substitution/adulteration.

### **Report and Outcome**

All products tested contained less than 20mg/kg gluten and were therefore correctly described. However, five of the products had minor labelling issues under the Food Information Regulations. These matters were referred to the relevant Home or Primary Authority.

## **4. Meals from Chinese takeaways for allergens (specifically egg protein) and species determination**

### **Rationale for sampling activity**

Fried rice is a popular accompaniment in Chinese takeaway meals and often includes egg as an ingredient. Issues have been identified in other authorities of fried rice supplied in response to a request for an 'egg-free' meal, containing undeclared egg

protein which could render the food unsafe for anyone with an allergy to egg. Meals containing shredded or diced meat may also be open to substitution with cheaper varieties.

12 meals were purchased for this survey, comprising either a meat based dish with fried rice, or a fried rice dish containing meat. In each case it was specified at the time of ordering that the purchaser had an egg allergy and the meal needed to be free from egg. The Food Information Regulations require that catering establishments must be able to make available accurate allergen information in respect of food supplied from the premises.

### **Report and Outcome**

Ten meals contained levels of egg protein of between 3 and 14mg. The Allergen Bureau of New Zealand and Australia has set a reference dose for egg protein of 0.03mg: this means that 1% of individuals with an allergy to egg would react on consuming 0.03mg. The levels found in these samples were up to 470 times this reference dose and the Public Analyst is of the opinion that an egg allergy sufferer could potentially experience a severe reaction from consuming them. One sample of Char Sui Pork Curry contained beef instead of pork.

Letters of warning have been sent to the businesses which supplied meals containing egg protein. This will be followed up by further formal samples at a later date. A further sample is scheduled to be taken of the Char Sui Pork Curry which was found to contain beef instead of pork.

## **5. 'Energy drinks' containing caffeine to check levels of artificial sweeteners, preservatives and caffeine; and legality of any health claims.**

### **Rationale for sampling activity**

Drinks containing caffeine are often marketed as 'energy' drinks - although the effect they provide is generally that of a stimulant, rather than being a physical source of calories. Scientific evidence suggests that children and pregnant or breast-feeding women should consume caffeine in moderation and drinks containing more than 150mg/litre of caffeine are required to carry a prescribed warning statement to that effect. This survey was carried out to check the accuracy of declared caffeine contents and that levels of artificial sweeteners and preservatives did not exceed the limits laid down in additives legislation. Any health claims were also examined to check that they had been correctly authorised in accordance with Nutrition and Health Claims legislation and were not likely to mislead the consumer by suggesting a 'benefit' that was not capable of being substantiated.

### **Report and Outcome**

All caffeine declarations were found to be accurate and none of the drinks tested contained undeclared sweeteners/preservatives or levels of those additives above the maximum values permitted. However, seven products were found to have labelling issues under Food Information Regulations and/or Nutrition & Health Claims Regulations. These matters were referred to the relevant Home or Primary Authority.

## **6. Marinated barbecue meat products from local butchers to check for 'freshness' of meat and presence/ levels of artificial colours**

### **Rationale for sampling activity**

The freshness of meat can be characterised by the level of Total Volatile Nitrogen (TVN). Issues have been identified in other local authorities where marinated meat products have been found to have excessively high TVN levels, suggesting that businesses may be trying to disguise the use of potentially out of date meat with highly flavoured marinades. Maximum limits are also laid down for the level of artificial colours in sauces used to coat meat.

### **Report and Outcome**

TVN levels did not indicate a problem with the freshness of any products sampled: nor were artificial colours detected at levels above the maximum permitted. One product which was pre-packed for direct sale had labelling issues under the Food Information Regulations and the trader concerned was given appropriate advice.

## **7. Products sold from milkshake bars, for nutritional content**

### **Rationale for sampling activity**

There has been a rise in the number of outlets selling products, often referred to as 'freak shakes', which are effectively milkshakes combined with various cake and confectionery items. The purpose of this survey was to assess the nutritional value of these products, particularly the fat, sugar and calorie content, given that they are often targeted at children.

### **Report and Outcome**

All products were reported as satisfactory, but had energy values ranging from 24% to 86% of an adult's recommended daily calorie intake and excessive levels of saturates and sugars.

## **8. Non-dairy ice cream for compositional analysis (Follow up to survey carried out in Q1 of 2016-17)**

### **Rationale for sampling activity**

The fat and milk protein content of non-dairy ice cream was previously controlled under the Food Labelling Regulations, but these standards were revoked by the Food Information Regulations. The purpose of this follow-up survey was to check the composition of products currently on the market to see if standards had declined since the initial survey carried out 18 months ago.

### **Report and Outcome**

Only eight of the products originally sampled were still available to purchase. There had been no change in the levels of fat, protein and sugars declared on these products by the manufacturers. The levels found by analysis for some products did show a little variation from the original survey, although further sampling would be necessary to determine whether or not this difference is statistically significant.



## **9. 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 to address concerns about compliance with labelling or compositional requirements.

### **Issues Found**

The following unsatisfactory reports were received:

- Dairy ice creams from three local manufacturers were found to have labelling issues under the Food Information Regulations
- Basmati rice with incorrect nutritional information
- Pork sausage with potential undeclared excess connective tissue
- Lean steak mince with excess fat
- Pre-packed wholemeal bread and a flavoured white chocolate product with labelling issues under the Food Information Regulations.
- A complaint sample of a children's wafer product with alleged chemical taint.
- A sample of a steak pie from a local manufacturer with apparent meat content less than declared.

### **Actions Taken**

- Labelling issues - local manufacturers advised or referred to HA/PA.
- Local manufacturers advised
- Wafer complaint was subject to testing and investigation by the UK distributor. Product was removed from sale in the local store from where it was purchased as a precautionary measure. FSA were advised of the issue, as were the home authority of the distributor and the Primary Authority of the retailer. Conclusion was that the product did not pose a food safety risk - no other complaints received.
- Manufacturer of steak pie advised

## **10. Feed Samples**

### **Rationale for sampling activity**

To check level of potential contaminants such as dioxins, aflatoxins and heavy metals; and undeclared presence of genetically modified ingredients etc.

### **Report and Outcome**

Seven feed samples were submitted for analysis during the first six months of the year. All of these samples were found to be compliant.

**Appendix 2 Table showing fat, sugar and energy content of 'freak-shakes'**

Product	Price (£)	Weight	Total Fat per serving	% of Reference Intake (70g)	Saturates per serving	% of Reference Intake (20g)	Total Sugar per serving	% of Reference Intake (90g)	Energy kJ per serving	% of Reference Intake (8,400kJ)
Oreo Milkshake	3.50	393g	16g	23%	9g	45%	70g	78%	1,985	24%
Banoffee Cake Shake	4.50	479g	35g	50%	20g	100%	95g	106%	3,598	43%
Rocky Road Supershake	6.00	575g	65g	93%	37g	185%	90g	100%	5,261	63%
Movie Magic Freakshake	5.95	346g	30g	43%	18g	90%	78g	87%	2,612	31%
Cloud 9 Freakshake	4.99	398g	27g	39%	16g	80%	60g	67%	2,472	29%
Ferrero Rocher Dreamshake	4.85	583g	27g	39%	12g	60%	56g	62%	2,309	27%
Gluten free Chocoholics Dream Freakshake	6.50	629g	43g	61%	20g	100%	98g	109%	4,365	52%
Toffee Choc Delight Freakshake	4.95	774g	53g	76%	34g	170%	179g	199%	6,084	72%
Mars Delight Freakshake	6.45	831g	84g	120%	47g	235%	158g	176%	7,238	86%
Popscotch Freakshake	5.95	473g	39g	56%	19g	95%	92g	102%	4,129	49%

**Reference Intakes (previously Guideline Daily Amounts)**

(Taken from the Food and Drink Federation website<sup>1</sup>: <http://www.foodlabel.org.uk/label/reference-intakes.aspx> )

The term 'Reference Intake' (RI) has replaced 'Guideline Daily Amount' (GDA), however the principles behind how these values are determined remains the same. RIs (and previously GDAs) are used alongside information companies provide on the nutritional contents of their products.

<sup>1</sup> Copyright 2009 Food and Drink Federation – [www.fdf.org.uk](http://www.fdf.org.uk).

They can help show what contribution a particular product or portion size can make to daily intakes. In this way RIs can help to encourage healthier eating. The new Reference Intakes (RIs) are values which have been set out in European law. An RI is given for all of the mandatory nutrients (see table below). For simplicity there is only one set of RIs (this is different to GDAs which had several values).

Below are the Reference Intakes which you will see on food labels:

**Reference Intakes for energy and selected nutrients (adults)**

Energy or nutrient	Reference Intake
Energy	8400kJ / 2000kcal
Total fat	70g
Saturates	20g
Carbohydrates	260g
Sugars	90g
Protein	50g
Salt	6g

N.B. The RIs for an adult are based on the requirements for an average female with no special dietary requirements and an assumed energy intake of 2000 kcal.

Further information about Reference Intakes is available from the NHS website:

<https://www.nhs.uk/Livewell/Goodfood/Pages/reference-intakes-RI-guideline-daily-amounts-GDA.aspx>