

Department for Environment, Food and Rural Affairs

Food supply networks: integrity and assurance review

Note of meeting with Hazel Gowland

Location: Nobel House

Date: 27 November 2013

Attendees:

Hazel Gowland (HG) - Allergy Action and Food Adviser to the Anaphylaxis Campaign

Rebecca Kenner (RK) – Assistant Secretary - Review into the Integrity and Assurance of Food Supply Networks

Michael Walker (MW) – Subject Matter Expert - Review into the Integrity and Assurance of Food Supply Networks

1. Introduction

RK explained that she had given HG a short overview of the Review, including the process and timing of the interim and final reports. Professor Chris Elliott has asked Michael to consider the food testing regime and lab capacity in England.

HG gave some background about her role. She has been Food Adviser to the Anaphylaxis Campaign since 1994 and has been collecting reports of allergic reactions to food since the early 1990s. Her work has been particularly focused on fatal food reactions, working with Dr Richard Pumphrey, Consultant Immunologist Emeritus, also collecting data about allergic reactions and risk e.g. circumstances in which people are more likely to suffer severe symptoms requiring emergency treatment. HG aims to tackle both the consumer and supplier sides of this risk by building relationships with those who can influence that risk, filling gaps with accredited training courses, training materials and patient / consumer awareness activities.

See Pumphrey R S H and Gowland M H: Further fatal allergic reactions to food in the United Kingdom 1999 – 2006 [http://www.jacionline.org/article/S0091-6749\(07\)00227-8/fulltext](http://www.jacionline.org/article/S0091-6749(07)00227-8/fulltext)

2. What is the importance of food allergies?

MW asked about the importance of food allergy.

HG explained that although the number of people in the UK requiring emergency medical treatment for food allergies is increasing, the number of people who die from food allergies has not apparently increased over 20 years. The overall prevalence of people with food allergies in the general population is increasing, which is thought to be allied with the increase in related atopic conditions. HG pointed out that not all allergic people will be at high risk for food allergies, but there is an associated increase in atopic conditions such as

asthma, eczema, allergic rhinitis. There are recognised patterns of how these develop through childhood and into adulthood. HG pointed out that some asthma deaths may be food allergy related and not recognised as such.

MW asked about the effect that food allergies may have on the allergic person's quality of life.

Although deaths are not common, the anxiety of living with the possibility of a severe reaction and the load on those at risk and their families (particularly small children) is significant. Avoiding nuts and peanuts is less difficult in the UK compared with other countries, as they have been eliminated from many menus and food production environments, but if you are avoiding other food allergens e.g. milk, eggs, wheat, your quality of life is more likely to be severely limited. Allergies can make negotiating to get children into nurseries, schools, voluntary organisations (e.g. brownies, cubs etc.) and school trips more difficult. Children may be excluded from social events e.g. parties and organised activities.

The impact that allergies have upon the cost of living is increasingly recognised, for example having to pay more for particular foods or travel further to find them. Additional stress may also be caused by not being able to share food with other people, and having to negotiate suitable food in a wide range of everyday and special occasions. School and work time may be lost through allergic reactions to foods. Avoidance diets can also put nutrition at risk as key foods are eliminated and appropriate dietary advice is not always available to ensure nutrients are replaced.

We are very short of expert allergy clinics in the UK. In some cases this has left a vacuum that has been filled by non-evidence based diagnostic products and practices, to which people may resort. Some GPs are uninformed or untrained in food allergy. Many paediatricians, dieticians and other health care professionals, finding that a significant proportion of their workload involves patients with food allergies and related conditions undertake specialist training, for example Master's degrees in Allergy available from the University of Southampton and Imperial College.

Background information is available in the House of Lords Report on Allergy and Evidence to the House of Lords Science Committee 2007.

<http://www.publications.parliament.uk/pa/ld200607/ldselect/ldsctech/166/166i.pdf>

How do teenagers manage their food allergies?

<http://www.ncbi.nlm.nih.gov/pubmed/20682004> Monks H, Gowland MH, Mackenzie H, Erlewyn-Lajeunesse M, King R, Lucas JS, Roberts G

How do peanut and nut-allergic consumers use information on the packaging to avoid allergens? <http://onlinelibrary.wiley.com/doi/10.1111/j.1398-9995.2011.02563.x/abstract>

Barnett J, Leftwich J, Muncer K, Grimshaw K, Shepherd R, Raats MM, Gowland MH, Lucas JS

Using 'may contain' labelling to inform food choice: a qualitative study of nut allergic consumers

<http://www.biomedcentral.com/1471-2458/11/734> Barnett J, Muncer K, Leftwich J, Shepherd R, Raats M M, Gowland MH, Grimshaw K, Lucas JS

3. What impact do food allergies have on the food industry?

HG explained that the food industry has taken food allergies on board, not least because the economic cost of withdrawing certain products for retailers is significant. Not only are suppliers penalised if a product contains an unlabelled / mislabelled allergen or risk of allergen contamination, but there is also the reputational risk and potential loss of future sales. Additionally, food allergic and intolerant consumers tend to become creatures of habit out of necessity, so once a product, or range of products is found to be suitable, they will be loyal customers. This trust is key to their food choices.

Fatal or 'near miss' allergic reactions are rarely associated with pre-packed supermarket food; and if they are, it is usually because the allergic person was unaware that they were allergic to that particular food and wasn't actively avoiding it. Severe reactions are more likely to be associated with an unidentified ingredient in a catered dish or 'foods sold loose'.

Good manufacturing practice for allergens involves the elimination of all unnecessary food allergens from the supply chain, and the careful control of those which are used. The UK has led the way in this area, particularly through the FSA's stakeholder working groups developing industry voluntary Best Practice Guidance from 2006. This Guidance was created by a working group including the BRC, the FDF, the LAs, patient groups, hospitality representatives and the FSA, and has formed the backbone of best allergen management practice, not just for major manufacturers, retailers and caterers but also for SMEs and enforcement officers. It was delivered in association with FSA funded workshops for LA food officers around the UK, and has become a pragmatic and practical tool.

Voluntary food industry guidance – Guidance on Allergen Management and Consumer Information <http://www.food.gov.uk/multimedia/pdfs/maycontaininguide.pdf>

Also Voluntary food industry guidance The Provision of Allergen Information for Non Pre-packed Foods <http://www.food.gov.uk/multimedia/pdfs/loosefoodsguidance.pdf>

MW asked about the risks that were apparent in the catering sector.

HG felt that there are two extremes in catering which may meet the needs of the food allergic person: The food may have been subject to 'HACCP' principles through a factory, highly controlled and labelled in the same way as a retail product. At the other extreme, an allergic consumer could have direct dialogue with a competent chef, who has the space, time and resources to make something bespoke for that customer. The reality is that most catering is somewhere between the two. Many catering sector businesses may handle food from an environment in which allergens are not well controlled, and have to compensate for the absence of food competence, space and time. They need to be able to work out suitable management strategies in order to serve food which will not represent a risk to food allergic or intolerant people.

Chapter 7: Allergen Management and Control in the Food Service Industry from Allergen Management in the Food Industry <http://www.wiley-vch.de/publish/en/books/ISBN978-0-470-22735-0> Gowland MH :Ed Boye

The challenges for nut-allergic consumers of eating out <http://onlinelibrary.wiley.com/doi/10.1111/j.1365-2222.2010.03649.x/abstract> Leftwich J, Barnett J, Muncer K, Shepherd R, Raats MM, Gowland MH, Lucas JS

HG felt that the two key issues in catering are a) finding out which allergens have been used as ingredients, and b) whether any allergens may be present through cross-contamination. As far as we know from the fatal cases, most people die from ingredient levels of allergen rather than trace levels, so whilst thresholds are an issue in some cases, if people could find out what the ingredients were then the risks would be significantly reduced. To date, law such as Section 14 of the Food Safety Act 1990 has been used and has been sufficient to prosecute, provided a sample was retained and tested, and there was evidence of the contract between the supplier and the customer (committing to eliminating any particular ingredient e.g. witnessed dialogue, email dialogue, a note made on the order form).

The new Food Information for Consumers Regulation 1169/2011 EC (which is enforceable from December 13th 2014) places a new responsibility on all food businesses to supply information about the 14 allergens on Annex 2 of the regulation when used as ingredients in any food product on site. In practice, this means that a consumer or an enforcement officer can request information about the use of these allergens as ingredients and should expect to receive the correct information. Caterers, manufacturers, retailers etc. have to have a system to produce this information if requested. Each member state has to decide how this information will be made available in their country, and the UK authorities (DEFRA and FSA) are currently finalising this.

HG showed the DEFRA draft guidance for the new regulation, which sets out front-line criminal offences.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/82663/consultation-guidance-20121116.pdf

As the food allergen information provision required by this law represents a key food safety control, and failure to comply may result in injury or death, DEFRA and the Food Standards Agency have worked with the Ministry of Justice so that these aspects are enforceable through criminal rather than civil law.

MW asked HG's view on the catering sector's ability to cope with the demands of the new legislation

HG felt that much of the catering sector, and particularly major national chains have been undertaking the measures required in the new legislation for a long time and have reliable methods in place to provide the necessary information to consumers. M&B, who own Harvester, Toby and a range of other brands have maintained and been able to supply allergen ingredient information for 10-15 years, as have Whitbread. Best practice led by these companies has also established standards for others e.g Debenham's, Nando's, Wagamama, Pizza Hut, Compass as well as leading catering suppliers such as Brake's and 3663. These and similar organisations, including those involved in institutional catering – schools, prisons, universities, have well-established information management systems which are accessible, recognised and understood.

However, that approach is by no means universal. In 2013 the FSA commissioned a telephone study in which researchers contacted catering outlets to find out how ready they were to implement the new law. 3/5 businesses already have a policy to tell customers what is in food. Of these, they are most likely to be able to provide information about nuts and gluten.

MW asked about the work that Local Authorities do to undertake sampling (LAs).

HG gave a few examples of the results of LA sampling:

In the East of England in 2003, 1 meal out of 31 that were supposed to be peanut-free actually contained peanut

In Lancashire in 2004, of 20 meals sold as peanut free, 8 had peanut in them. Lancashire Trading Standards Officers then revisited those businesses which had provided peanut-positive samples and give them support. Further samples were tested and 3 of the 8 still had peanut in meals that were supposed to be peanut-free.

<http://news.bbc.co.uk/1/hi/england/lancashire/3540268.stm>

In Thames Valley in 2004, 9 out of 141 meals sampled contained peanut protein which was not supposed to be there. http://www.buckscc.gov.uk/media/137532/tvtsa_project.pdf

In Torfaen in 2005: Officers bought 36 takeaways that were meant to be peanut-free and 8% had peanut in them. (News item sent separately for reference.)

The following paper *Food allergy: gambling your life on a take-away meal*. Leitch IS, Walker MJ, Davey R. Int J Environ Health Res. 2005 Apr;15(2):79-87 reports on a similar project in Northern Ireland <http://www.ncbi.nlm.nih.gov/pubmed/16026019>.

MW asked how much testing has been going on in the last 3-4 years.

HG explained that in 2011, Local Authorities conducted a food standards survey looking at takeaway meals in England, Wales and NI. Trading Standards Officers across the country bought chicken tikka masala with pilau rice and a sweet and sour chicken with fried rice and asked for them to be peanut-free. They were looking at portion sizes, fat content, nutrition, colourings etc. and took 90 samples overall. Of these, one in five contained peanut protein.

http://www.local.gov.uk/c/document_library/get_file?uuid=c21e636b-b14c-4e6d-a7d2-51c933562db4&groupId=10180

MW added that you could draw the conclusion from that that even when asking for food to be peanut free, there is still a 20% risk that it won't be.

HG explained that as far as she knows, there hasn't been a survey like it since, but that such work is essential to understand where there are allergy risks, to inform food businesses and enforcement practice, and particularly to alert those food allergic consumers and influence their food choices.

It was as part of that survey that two meals collected by Cumbrian Trading Standards and sold as 'peanut free' were tested and found to be positive for peanut. Officers then investigated the takeaways and found that the business owners thought they were using almonds; their 'almonds' were tested and it was found that the supplier had supplied peanut instead. The supplier was Euro Foods, who were prosecuted and convicted in 2013. <http://www.tradingstandards.gov.uk/extra/news-item.cfm/newsid/1067>

Fatal reactions:

Meals were collected for this sampling project in January 2011. At about that time, the Anaphylaxis Campaign was alerted to a number of fatal and 'near fatal' allergic reactions which probably or actually involved peanut in takeaway meals.

HG has a database of 155 fatal reactions to food in the UK since 1992. 18 of these were most likely to have been caused by peanut or nut in curry meals, usually from takeaways. She has also recorded 9 'near miss' reactions requiring emergency treatment. They all involved curry meals where the allergic person had taken active steps to ensure that the meal did not contain nuts / peanuts.

The labelling of peanut and almond ingredients in an Indian takeaway was investigated by HM Coroner in Manchester during the inquest of Emma Egerton 18, who died on November 8th, 2010. Samples were tested from the cash and carry supplier and from the takeaway. Levels of peanut protein were found to be high in the takeaway sample.

(HG's inquest notes – "The on-site nut mix in takeaway was 90% peanut. The Curryzone nut product sold at the Cash and Carry was 55% peanut. Ground almonds at the Cash and Carry were 0% peanut i.e. free of peanut.")

Emma Egerton wasn't allergic to almonds and could eat Toblerone, but was allergic to peanut.

Another fatal case in Greater Manchester, Molly Dyer 13, d 29th August, 2010 involved ingredients sourced from the same Cash and Carry.

Other fatal reactions which involved meals sold from long-trusted family takeaways include:

Angus Myers 32 d November 20th, 2008 Durham who ate a curry from his regular takeaway – the same meal he had eaten from there many times before.

<http://www.dailymail.co.uk/news/article-1087812/Single-mouthful-curry-kills-father-watches-X-Factor-family.html>

Danny MacPherson 21 died February 18th, 2009 Burton near Leicester who ate a curry from his regular takeaway – his usual meal from the usual business where his allergy was known.

<http://www.thisisleicestershire.co.uk/Cheap-ingredient-killer-curries/story-12070072-detail/story.html#axzz2WZi00e68>

After this reaction, HG was contacted by Leicester A&E consultant, Dr Simon Mardel (now at Wythenshawe Hospital, Manchester) who had also recorded some 'near miss' reactions to curries involving emergency treatment and stabilisation. These people were also allergic to nuts / peanuts and seemed to have been caught out unexpectedly. A major awareness campaign followed, including a BBC TV report.

Ethan Thomas died in Loughborough June 17th, 2012. He was 12 and had eaten his usual curry from his usual takeaway – Curry Royale in Loughborough. His family's regular order was pinned up on the wall of the takeaway and his allergies were well known. He had eaten the same meal from there for years.

'Near misses':

HG has also recorded some 'near miss' severe allergic reactions during the same period where the restaurant or takeaway was trusted by the family and the allergic person had eaten there before without incident.

Male aged 17 – Hornchurch – severe reaction to curry from the family’s regular business where his allergy was known - December 2009.

Female aged 20 - December 2010 – Gloucestershire. Curry sold as nut / peanut free found to contain peanut. Severe reaction.

It is possible that more people in the UK are allergic to peanut than almonds, and also that reactions to peanut may be more severe.

MW asked if it was thought that that peanut would be substituted because it was cheaper?

HG agreed. The equivalent sized pack of ground peanut flour is reported to cost about a third of the same sized pack of ground almonds.

It is also recognised that a synonym for peanut is ‘groundnut’ because they grow on the ground, whilst the process of grinding nuts into a flour may mean that they are labelled ‘ground nut’. This has been reported as a possible source of confusion, particularly in cash and carry stores used by small food businesses whose staff may be second language speakers of English and / or not read English well. The new legislation 1169/2011 EC requires a clear distinction between peanut and other nuts, called ‘tree nuts’ which are clearly defined.

ANNEX II

SUBSTANCES OR PRODUCTS CAUSING ALLERGIES OR INTOLERANCES

5. Peanuts and products thereof;

8. Nuts, namely: almonds (*Amygdalus communis* L.), hazelnuts (*Corylus avellana*), walnuts (*Juglans regia*), cashews (*Anacardium occidentale*), pecan nuts (*Carya illinoensis* (Wangenh.) K. Koch), Brazil nuts (*Bertholletia excelsa*), pistachio nuts (*Pistacia vera*), macadamia or Queensland nuts (*Macadamia ternifolia*), and products thereof, except for nuts used for making alcoholic distillates including ethyl alcohol of agricultural origin;

MW added that he had heard that Public Analysts aren’t getting as many consumer complaints as they used to; how has this impacted on consumers trying to get cases investigated?

HG has encouraged those who have allergic reactions to report them to their local authorities. In one case, HG tried to make direct contact with a known TSO following a reaction reported in his authority area. When trying to find a phone number on the local authority website, she was diverted to Citizen’s Advice rather than directly to the enforcement team. The website also encouraged consumers wishing to make a food complaint to take civil action instead of contacting the local authority team.

Citizen’s Advice staff are inexperienced in investigating food complaints and would be unlikely to know what advice to give a consumer, for example on how to collect and protect the integrity of a food sample, obtain witness statements etc.

HG raised this at the FSA Board Meeting Q and A earlier in 2013. The FSA then amended their website to help people to contact their local authority directly. It is hoped that people

will report reactions to their local council.

<http://www.food.gov.uk/enforcement/yourarea/#.UswGdbTPq5V>

The role of the TSI and associated professional bodies e.g. CIEH and REHIS is also important here. Previous local authority food policy oversight provided by LACORS which ensured a consistency of approach and coordinated food sampling studies is no longer available.

One young consumer was deterred from reporting her severe reaction to the statutory authority by Citizen's Advice who encouraged her to take a civil personal injury claim. This consumer had kept the food which caused the reaction and maintained its integrity. Instead of having the sample collected and tested by the local authority, it was divided into three parts, one part was sent to the supplier, one part was kept by her, and the third part was sent to a different laboratory. One result came back with a qualitative response, saying that peanut protein was present using one analytical method, and the other came back with a quantitative result using a different method. This difference in analytical reporting caused the lawyers involved to lose confidence in the evidence. As a result the case was abandoned, leaving the young consumer at risk of personal bankruptcy.

HG feels that the civil route via a personal injury claim does not allow allergic people to get justice, and more importantly they don't always find out what was in the food. When pursuing a legal case, food allergic and intolerant people usually have three priorities:

To find out what was in the food so they understand their reaction and can discuss this with their health care professional in case further diagnosis or treatment are needed

To find out what happened so they can avoid the food allergen in the future

To make the risk known e.g. via patient support organisations and health care professionals to prevent similar reactions happening to other people.

Compensation, financial or otherwise, is generally a low priority in these cases. Most food allergic people are embarrassed about discussing their reaction or compensation. They would far prefer the individual businesses to receive expert advice to resolve the issue and reduce future risks. This is less likely if civil action is involved or if a dispute is settled out of court, and money changes hands. In addition, pursuing a civil claim is likely to require the disclosure of personal medical information and may require a doctor's report. Teenagers and young adults in particular (who are most likely to suffer such reactions) may not want to subject themselves to this kind of public scrutiny.

In HG's view, food safety and composition laws are there to protect these people whose lives may have been put at risk, who have undergone a frightening experience and who want to do their public duty to prevent further reactions in the future. Their quality of life will be better for the reasons set out above and they will see that the law works and local authority officers are engaged in protecting public health.

HG has considerable experience working with food business operators of all sizes since 1995 and has an in-depth understanding of how to make food allergen management practical and engage with catering staff. In most cases, with appropriate training, they can be highly motivated and competent. They usually know people with food allergies and intolerances and understand the risks. It is also understood that at present the FSA is not allowed to issue leaflets to help businesses implement the new Food Information Regulation (FIR) because of the 'red-tape challenge'. However businesses are very keen

to get hold of this sort of printed information, as are enforcement officers who want to help them to protect food allergic and intolerant consumers.

There have been two academic studies, by Sam Bailey <http://www.ncbi.nlm.nih.gov/pubmed/21488998> and Lucy Common http://www.omicsonline.org/2155-6121/2155-6121-abstract.php?abstract_id=15269 , asking restaurants how they manage food allergies via a telephone survey.

Both studies reported that restaurant staff are not as competent as they think they are. In many businesses there is a false sense of security. More probing questions indicate significant misunderstanding about how to control food allergen risks or what to do if somebody suffers a reaction. For example, 60% think giving a glass of water can help someone having an allergic reaction.

HG believes that the best way to tackle this is to have a workplace 'no blame' culture with practical everyday guidance and supervision, and expert training. A food allergy risk management system should ensure that all staff understand their own role, can obtain the correct information about what is in the food, can control cross-contamination and can respond appropriately in an allergy emergency.

4. What highline recommendations/messages do you think should be in the Review?

HG feels that there is a key role for Local Authority officers to undertake both proactive and reactive work to address the sorts of misunderstandings outlined above. Like Lancashire, Torfaen and Cumbrian Trading Standards teams, they need to undertake sampling and testing activities to uncover food fraud, to raise awareness of food allergy risks and to inform those consumers at risk of the presence of undeclared allergens. This will also support the enforcement of the new regulation 1169/2011 EC.

Activities such as the national survey of takeaway meals undertaken in 2011 indicate a key risk to people allergic to peanut. Further prosecutions (see Powerpoint presentation submitted) indicate similar risks from undeclared milk, wheat / gluten and nuts in food sold to people requesting dishes without those foods.

Such studies should:

Be undertaken on a regular basis;

Involve proven analytical methods and scientific competence;

Be undertaken in liaison with Public Analysts who can ensure that results reported are clearly understood by all stakeholders;

Be co-ordinated regionally and nationally, so that results are shared and findings fully exploited;

Be reported in ways which will ensure that a wider picture of real risk is obtained; and

Be followed up by appropriate enforcement action where food is incorrectly described or allergens poorly managed.

Some Trading Standards teams involved in food enforcement have worked with HG for many years, and most are very keen to take action to protect people with food allergies and intolerances. In some cases HG has helped them by providing expert evidence, as well as making recommendations for sampling activities and supporting media reporting and the communication of project results.

It is significant that the FSA's current 'Food Hygiene Rating Scheme' does not specifically include the control or identification of allergens or the risk of allergen contamination. A business may have a high FHRS score but may not be competent in allergen management. This may lead some food allergic consumers and their friends and family to experience a false sense of security. It would be helpful if this could be changed so that allergen controls are included in the assessment criteria.

Further recommendations:

Consumers visiting local authority websites or phoning their local council should easily find instructions to report a food complaint and be able to contact a food enforcement officer directly without being diverted elsewhere.

If they have suffered an allergic reaction, their report should be investigated immediately and evidence collected by an experienced food enforcement officer so that the allergic consumer can be told the results of any tests. (If the allergic person is not told what is or is not in the food, they will remain at risk of further reactions.)

After a death which may have involved food allergy, local authority officers should be included in the investigative process as soon as the coroner is informed, and appropriate samples of food, stomach contents etc collected and tested as soon as possible. (This follows recent cases involving police officers who may be less experienced in food evidence collection and food-related investigations.)

The FSA has recently undertaken research into how food businesses are implementing the new Food Information to Consumers Regulation 1169/2011 EC, and is commissioning further research into how food allergic and intolerant consumers currently access the information they need when eating catered food and 'foods sold loose'. It is vital that local authority food officers have an in-depth understanding of the results of these studies and the further needs of growing numbers of consumers at risk. Workshops being arranged on behalf of the FSA in January and February 2014 should start to address this.

10 January 2014