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Reactions, Regulation and Risk: protecting consumers with food allergies and intolerances

With the prevalence of food allergies rising in many countries including the UK and statistics showing a situation where one in five meals claiming to be 'peanut free' actually contain peanut, new regulations need to be put in place to protect consumers. Hazel Gowland of Allergy Action explores the new food regulations on the horizon and explains the challenges these new rules will face.

In February 2013, Cumbria Trading Standards officers prosecuted a supplier of catering ingredients which had sold peanut labelled as almond to takeaway businesses. The offence was to have 'falsely described' two chicken masala meals as peanut free, when they contained peanut.¹ Ground almond (which is the traditional ingredient used in this kind of dish) is typically two to three times more expensive than ground peanut or peanut flour. In addition, whilst many people allergic to tree nuts such as almond are also allergic to peanuts, the two are not the same. Peanuts are a legume – botanically and in food law,² they must not be confused with nuts such as almonds.³ Unfortunately, some food handlers may also be misled by the fact that 'groundnut' is a synonym of peanut.

Reactions

The Anaphylaxis Campaign, the UK charity supporting those at risk from severe allergies,⁴ collects data on which foods its members are avoiding. Peanut is by far the most commonly avoided food. There is also evidence that it causes more severe reactions in some people. Unexpected peanut in curries and other takeaway meals has caused a number of fatal and near-miss reactions in the past.⁵ Coroners' investigations have led to analysis of retained meals and ingredients taken from catering

suppliers and takeaways.⁶ In the sampling survey undertaken by Cumbrian Trading Standards and other local authorities, one meal in five sold as 'peanut free' actually contained peanut.⁷ This reflects results from previous sampling projects in Lancashire in 2004, Northern Ireland and elsewhere.

Food allergen avoidance

The prevalence of food allergy is reported to be rising in many countries including the UK, with approximately 3-4% of adults and 6-8% of children affected.⁸ In addition, according to Coeliac UK, at least one person in 100 has coeliac disease and needs to avoid gluten. Since 2002 in England, there has been a steady increase in the number of people requiring hospital treatment for anaphylactic shock due to an adverse food reaction,⁹ and about eight to ten people die from food allergies every year in the UK.⁵

Most cases involve the consumption of food containing the allergen ingredient, usually unrecognised by the food supplier and/or the consumer. Common examples include milk powder in sauces, sorbets and mixes, nuts in bakery items and oils, and peanut butter/ground peanut in takeaway meals. The provision of accurate information about allergen ingredients is an essential food safety control for growing numbers of high risk consumers.

Regulation

Existing food law has been used to prosecute food businesses following an allergic reaction, or in cases where labelling, description or food safety practices failed to comply with the law and may have put food allergic, intolerant or coeliac consumers at risk. "Selling food not of the substance demanded by the purchaser" has been used in some cases,¹⁰ as has "Falsely describing or presenting food".¹¹ Other legislation used includes General Food Law 178/2002 EC¹² and Health and Safety Law.¹³ Some consumers have even taken civil action against the food business operator, being awarded compensation and costs, and in some cases settling out of court. Sample UK cases were presented by Hazel Gowland and Michael Walker, an analytical chemist, at the 2011 Food Allergy Meeting of the European Academy of Allergology and Clinical Immunology.¹⁴

New food law on the horizon

From December 2014, all food business operators in the EU will have to provide ingredients about key food allergens to customers on request. In addition, the text size of ingredients on packaging will be regulated and key allergens will need to be highlighted, with the aim of improving legibility. 'Contains' boxes which repeat allergens used as ingredients will no longer be allowed. The use of 'may contain' warning labels to indicate the possible presence of allergens in the production environment will not be affected by these changes.

The purpose of the new Food Information Regulation (1169/2011 EC) is "to achieve a high level of health protection for consumers and to guarantee their right to information."²



It will have three major benefits for food allergic consumers:

- Ingredients lists on packaging will be regulated. The height of a small x will need to be at least 1.2mm high on most packets.
- Key allergen ingredients used in pre-packed foods will need to be highlighted in the ingredients list.
- Food business operators including restaurants, takeaways, schools, nurseries, hospitals, care homes and any other business preparing or supplying food to the public will need to keep information about key allergen

ingredients and be able to provide it to customers on request. This will also apply to EU registered passenger airlines as well as non EU registered planes leaving an EU airport.

Food Labelling is already changing to comply with the new Food Information Regulation. This label has no 'Contains' box. 'May contain' information is provided. Key allergens are in bold in the ingredients list as can be seen in the adjacent image.

The Food Standards Agency, which is responsible for food safety, working with DEFRA, which is responsible for food information, has recently published consumer guidance explaining the key changes¹⁵ and is now updating existing guidance for food businesses and local authority food officers to help them to implement the new Food Information Regulation and align it with existing food law.

Challenges

However, there are still some challenges which need to be met:

- Food businesses will need to work out exactly how to keep, update and make available correct allergen ingredients information to customers who ask.

- Food information will need to be accessible to everybody (not just the food allergic consumer, but everybody preparing or serving food to others). Ingredients information, whether presented on packets, recipes, menus, information folders, websites, chalkboards or via any other oral or written method will need to be clear, understandable and correct.
- Consumers who need to avoid a particular food will need to be encouraged to make themselves known to food handlers. This may be achieved using notices, signs and messages on websites. Customer enquiries will need to be met with an informed and accurate response.
- Staff will need to implement systems to manage, record, update and communicate information about food allergens with both colleagues and customers, and be trained to control allergen risks.
- Food safety and food standards inspections and audits will need to assess allergen controls in the storage, preparation and service/packaging environments, as well as the effectiveness of food allergen information management and communication.

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