Reactions, regulation, risk... and real life

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Disclosures

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Expert adviser – Food Standards Agency

Food Special Interest Group member – RSPH

Safefood Food Safety Knowledge Network Expert

Scientific Committee Member – IFST

Aston University - Health Psychology Study Eating Out

Queen’s University, Belfast – Eating out research study

EAACI Task Force Member – Adolescents and young adults, food allergy

BSACI BAEN – Allergy Education Network

Joint Award in Allergy Awareness with REHIS – training qualification
Real life lessons from reactions

Scientific developments - people and food

Consumer and business behaviour

Making regulation work to protect those at risk
Food Allergy investigations

UK fatal anaphylaxis suspected or confirmed from food allergy since 1988

Supporting families following fatal reactions

Supporting coroners, police and local authority investigations

Investigating and recording ‘near misses’ and other reactions and complaints since 1994

Supporting consumers

Working with regulators

Learning from and advising businesses


Food Allergy investigations

Root cause?

- Fatal cases
- ‘Near misses’, other reactions and complaints

No avoidance
- Avoiding wrong allergen
- Mistake by person, family, friend
- Mistake by food business
- Non compliance or negligence by food business

Fatal cases

‘Near misses’, other reactions and complaints

Mistake by person, family, friend

Mistake by food business

Non compliance or negligence by food business

Avoiding wrong allergen

Fatal cases

‘Near misses’, other reactions and complaints

Mistake by person, family, friend

Mistake by food business

Non compliance or negligence by food business
Ingredients

“Contains allergen”

“May contain”

Allergen Cross contamination

Allergies
Intolerances
Coeliac Disease

Contamination

Physical
Chemical
Microbiological

Food Standards
Product description

Food Safety
Controlling risks
On the horizon...?

- Beyond #14allergens?
- ‘May contain’
- Effective regulation?
- Owen’s Law
- Online ordering
# Beyond #14allergens?

<table>
<thead>
<tr>
<th>Celery</th>
<th>Cereals containing gluten**</th>
<th>Crustaceans</th>
<th>Eggs</th>
<th>Fish</th>
<th>Lupin</th>
<th>Milk</th>
<th>Molluscs</th>
<th>Mustard</th>
<th>Nuts*</th>
<th>Peanuts</th>
<th>Sesame seeds</th>
<th>Soya</th>
<th>Sulphur dioxide</th>
</tr>
</thead>
</table>

*Note: ** indicates gluten which is also an allergen.
UK: Cause of fatal food induced anaphylaxis by trigger in children (younger than 16) and adults, 1992-2018

Beyond #14allergens?

#StupidPeas
Vegan, ‘free from’ and plant-based alternatives
How much is too much? ‘May contain’

Double Blind Placebo - Controlled Food Challenge
Thresholds and Severity

- Baseline
- Stress
- Exertion
‘May contain’ Precautionary Allergen Labelling (PAL)

- Recognised and accepted thresholds for all relevant allergens (ED01 ED05 ?)
- At population level
- Accessible and accepted analytical detection methods
- Effective in different matrices
Effective regulation?

UK 2002-2004: 4 sample cases

Food Allergy: A Summary of recent cases in the criminal and civil courts of the UK

M T Gowland, M Walker

Background: Food allergy has developed a forensic context. Personal injury, fatality and criminal non-compliance by food businesses have come before the UK courts. EU General Food Law (178/2002/EC) and Directive 2000/13/EC. To be consolidated into the proposed Food Information Regulation, address allergens’ avoidance risks relating to composition, labelling and food safety. The European Framework Directive on Safety and Health at Work (Directive 89/391 EEC, and daughter legislative) may also be repealed. Compensation in civil law for loss or damage caused by an allergic reaction to a food sold, not as required, or with misleading of incorrect information has also been sought, via obtaining four sample cases since 2002.

Review

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Food allergy, a summary of eight cases in the UK criminal and civil courts: effective last resort for vulnerable consumers?

M. Hazel Gowland, Michael J Walker

Abstract

Food allergy has a forensic context. The authors describe eight cases in the UK courts involving fatalities, personal injury or criminal non-compliance with food law from mainly ‘grey’ literature sources. The potentially severe consequences for people with food allergy of non-compliance with labelling law have led to enforcement actions up to criminal prosecution for what might otherwise be regarded as ‘trivial’ non-compliance. The authors suggest there should be central collation of such cases. Non-compliances should be followed up in a more rapid and robust manner. Evidence of fraud in the catering supply chain supports recent calls for zero tolerance of food fraud. Businesses must guard against gaps in allergen management, for which there are readily available sources of training and guidance, but also against fraudulent substitution in the supply chain, about which training and guidance should be developed. New allergen labelling legislation and case law appear to place responsibility on food businesses even for the forensically problematic area of allergen cross-contamination. The courts can be an effective last resort for vulnerable consumers; however, there is evidence of knowledge and skill gaps in both the investigation and prosecution of potentially serious incidents of food allergen mismanagement and mislabelling. Thorough investigation of food allergy deaths is required with a tenacious and skilled approach, including early realisation that samples of the food and/or stomach contents from a post mortem examination should be retained and analysed. The supply chain must be rigorously examined to find out where adulteration or contamination with the fatal allergen occurred.

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Keywords: food allergy; allergens; allergic reaction; anaphylaxis; fatality; death; criminal justice; courts; coroner; food industry; prosecution; forensic; fraud
The forensic implications of food hypersensitivity – a review of cases in United Kingdom courts: January 2014–February 2020
Paul Wilson

Paul Wilson’s curry order
January 30\textsuperscript{th}, 2014

Leading to conviction for gross negligence manslaughter and other food offences
Young people: tragic circumstances

Milk in yogurt used to bind meat in a doner kebab

Unlabelled sesame flour in dough of baguette

Peanut present in Indian food requested nut free
Natasha’s Law – from October 1\textsuperscript{st} 2021

- Labelling items prepacked on site (PPDS)
- Before the customer chooses or orders them
- Name of item, ingredients, 14 allergens
Megan Lee

- Megan and friend both 15
- December 30, 2016 via Just Eat
- Allergic to nuts and peanuts. Avoided prawns too
- Peanut protein

- Manslaughter by gross negligence
- (Successful appeal by one of the two men convicted)
- Food and Health and Safety offences
### Food hypersensitivity: Offences

1. The food sold was not of the nature, substance or quality demanded  
   
   *(S14 FSA 1990)*

2. The information provided with the food (label, face to face, website, menu etc) was misleading  
   
   *(S15 FSA 1990)*

3. The food was unsafe because the information provided was incorrect  
   
   *(178/2002)*

4. The business had failed to highlight on the packaging, or signpost, keep and make available information about #14allergens  
   
   *(FIR 1169/2011)*

5. The food business had not assessed risks (including the possibility of FH people eating their food) and put in effective controls  
   
   *(Article 5 852/2004)*

6. The business had failed to ensure people affected by its activities (eg customers) were not exposed to health and safety risks or not alerted to such risks  
   
   *(HSAW Etc 1974)*

7. Manslaughter – possibly through gross negligence
Penalties

Fines, costs and compensation

Community orders

Jail

£
Additional business risks

- Civil claim
- Reputational damage
- Loss of business
On 28 April 2017 I commenced an investigation into the death of Owen Carey, 18 years old. The investigation concluded at the end of the inquest on 13 September 2019. The conclusion of the inquest was: (2) (medical cause of death) severe food induced anaphylaxis and (4) (conclusion) On 22 April 2017, Mr Carey died from a severe food induced anaphylactic reaction from food eaten and ordered at a restaurant despite making serving staff aware of his allergies.
Online ordering

Deliveroo pizza death: Man with peanut allergy died after just two bites, inquest told

James Atkinson had a severe allergic reaction shortly after eating a chicken tikka masala pizza from Dadyal Pizza, Newcastle. He told paramedics "I am going to die"

Daniel Jarman, Head of Ethics, Compliance and Assurance at Deliveroo, told the inquest how they had reviewed all 36 of James' orders, including a previous order from Dadyal in 2018, and found he didn't leave any notes at any stage.
Staff member prosecuted

• Blackpool pizza restaurant waiter
• Boy 3 – milk allergy
• Sold pizza with vegan non milk cheese
• Served vegetarian Margarita containing milk
• Moments later gasping for air - anaphylactic shock
• Oxygen, rushed to hospital
• Waiter tried to cover tracks – change order on computer
• Waiter Fined £290, Compensation £800, Costs £830
Near miss

**BINGO**

- Seasonal offer e.g. Christmas
- Allergy declared but not recorded
- Middle managers missing
- Online or App ordering
- Poorly managed event requests
- Silo training
- Allergen matrix not complete
- Fusion eg curry on pizza
- Weddings and parties
- Supplier substitute
- Poorly managed ‘may contains’
- Bought in labels not retained