Food Standards Agency
food.gov.uk

OFFICIAL SENSITIVE: National Food Standard Priorities for England, Wales, and Northern Ireland

May 2024

Contents

Introduction

This publication reflects the 2024/25 national food standards priorities as identified through the FSA's analysis of available information and intelligence. The priorities are intended to:

- Provide information on issues which present a recurring and national problem in respect of food standards compliance.
- Promote an intelligence-led approach to the delivery of official controls in line with the Food Law Codes of Practice (May and June 2023, Northern Ireland, and England respectively) and the Food Standards Delivery Model.
- Support work to maintain a level playing field for compliant food and feed businesses, which is in the interests of industry as a whole and supports trade in food.
- Protect consumers and realise the FSA Strategy of 'Food you can trust'

Scope

These priorities are applicable to food standards requirements only and are intended to supplement other existing priorities published by the FSA:

- National Enforcement Priorities for animal feed and food hygiene
- National Food Crime Unit Control Strategy Priorities

This document has been prepared solely for guidance and to encourage local authorities to consider the priorities in the course of delivering their food standards responsibilities. It does not constitute legal advice, nor does it purport to inform local authorities of specific actions they must take.

Local authorities should exercise their own discretion and seek appropriate legal counsel where necessary.

Summary

- These priorities have been identified through research and analysis of intelligence from a variety of sources, which indicates that they present a recurring and national problem in respect of food standards.
- The analysis includes external sources e.g. IDB, reports from food liaison groups and Citizens Advice consumer data, and internal sources such as analysis of FSA

sampling programme data and reports to the food crime unit as well as relevant and recorded food incidents.

- It is hoped that by sharing them, partners can consider the information within this document in the context of their regulatory activities and, in England and Northern Ireland, consider this when applying the decision matrix for frequency of official controls in line with the Food Standards Delivery Model.
- The pilot in Wales ended in February 2024 and is in a phase of evaluation before any further decisions are considered in due course. The priority areas may still be relevant for consideration in Wales when delivering food standards official controls.

Who is this publication for?

This document is for:

- Local authority (LA) regulators and management
- Authorised food officers
- Regulatory support officers
- Environmental Health Officers (EHOs)
- Trading Standards Officers (TSOs)
- Port Health Officers (in a supporting inland activity)

Review date

We will regularly review these priorities throughout the year and this document will be formally reviewed by Spring 2025.

Main points

Whilst food businesses remain subject to a programme of risk-based official controls at a frequency defined by the Food Law Code of Practice, this document provides an overview of food standards compliance issues likely to be taking place at a significant or national level. These national food standards priorities have been identified as those which present a recurring and national problem in relation to food standards regulations. The issue of allergens, and specifically the risk associated with undeclared/misdescribed ingredients of concern to consumers with food hypersensitivity, runs across a number of the identified standards priorities.

This document supports the development of a more intelligence-led approach to informing the prioritisation of official controls based on assessments of intelligence, in line with the new Food Standards Delivery Model as reflected in the Food Law Code of Practice in England and Northern Ireland.

The sharing of the priorities is intended to support LAs in how they assess and prioritise those food businesses operating in their area in the production and supply of such foods.

It is not intended that these priorities are the only food standards issues that officers will have to consider in the course of delivering their responsibilities. However, officers are encouraged to take account of these priorities when planning and delivering their intervention programme.

Use of Intelligence to inform food standards priorities

Intelligence is an important element to inform how an officer assesses business risk and uses this to shape the content of their LA's food standards service delivery plan.

As outlined, the priorities are informed by a variety of sources, with the intelligence recorded and shared by officers delivering official controls an essential element.

Where appropriate, officers are encouraged to record relevant intelligence on IDB to ensure colleagues in other delivery & intelligence roles can utilise this to prioritise their strategic and operational work. Without recording and sharing intelligence in this way, the information stays with the officer or on their local system. Recording on IDB will also enable the FSA to build on our understanding of the national picture of intelligence and reflect this in future iterations of the National Food Standards Priorities.

IDB is networked across England and Wales. Work remains in progress and at initial stages around its adoption in Northern Ireland. Where officers do not have access to IDB we encourage that intelligence is shared with the FSA via foodcrime@food.gov.uk

The National Food Standards Priorities supports the changes in the delivery of official controls that the Food Standards Delivery Model (FSDM) introduces greater sharing of intelligence will support one of the key aims of the FSDM. By utilising intelligence, LAs will be able to better enable controls to be delivered where they can most effectively address non-compliance in the supply chain. For example, a non-compliant product having one intervention at point of manufacture or import, rather than non-compliant products being distributed to retail locations, requiring multiple interventions or official controls.

Effective intelligence recording and sharing will inform future priorities as new trends or issues are identified.

Free of charge FSA Intelligence training can be accessed by sending a request to admin@tssw.org.uk and separate FSDM training is hosted on the Regulators Companion Website.

National Food Standard Priorities

(These are not listed in any order of importance).

Priority 1: Authenticity in Takeaway Meals
- Sheep meat speciation and lamb authenticity
- Pizzas – ham speciation and cheese substitution
- Fried fish - speciation

Priority 2: Allergen information at Catering establishments
- East Asian cuisine – egg, fish, soya
- South Asian – milk, mustard, peanut
- Coffee shops and cafes – milk, gluten, nuts
- Licensed premises – sulphites, gluten, milk.

Priority 3: Soft drinks at small/medium retailers
- Non-permitted ingredients or additives
- Labelling, including foreign language and/or lack of mandatory particulars information

Priority 4: Food supplements
- Unauthorised ingredients
- Inaccurate and unauthorised claims
- Composition

Before an officer undertakes an inspection with one of the NFSPs in mind, they may wish to refresh their training on food standards sampling, food standards and food information rules. The FSA recently published letter Ref: TRGEN24002 where LA officers can obtain free training on these topics.

Priority 1: Authenticity in takeaway meals

- **Sheep meat speciation and lamb authenticity**
- **Pizzas – ham speciation and cheese substitution**
- **Fried fish - speciation**

Substitution of ingredients in takeaway meals continues to be identified as an ongoing concern. This can take many forms, from descriptions applied, through to the substitution of ingredients. Failure to comply with food standards requirements can have consequences for those with food hypersensitivities in addition to the consumer detriment which may result from these practices.

This can also have implications for those who observe particular religious and ethical beliefs. Substitution in takeaway meals can occur for several reasons, for example:

Availability: A particular ingredient may not be available due to seasonal variation or supply chain issues. Substitution may enable the takeaway to continue offering the dish without interruption.

Cost Cutting and Misrepresentation: Profits may be impacted by rising ingredient and business running costs. Substitution of cheaper or lower-quality ingredients enables a takeaway to maintain or increase profitability while still charging the same price.

Catering to a certain type of consumer: Substitutions may take place to create versions of dishes for certain consumers e.g. vegan or allergy-free versions.

Changes made by Suppliers: Substitutions may take place further up the supply chain. Suppliers may misrepresent the food and the takeaway Food Business Operator (FBO) may not be aware.

Unlawful Supply Chain: Food or Animal By-Products (ABP) obtained through an unlawful supply chain may be diverted to takeaway meals or misrepresented by suppliers.

Substitution in food, whether as a result of deliberate or accidental misrepresentation or omission, can result in inaccurate allergen information being provided to the customer, customers being misled, and may render food unsafe or not what it says it is.

Poor traceability can indicate a failure to comply with food legislation and may be indicative of fraudulent activity, with businesses more likely to be open to purchasing goods supplied through unlawful means, for example, meat without traceability, illicit procurement of animals and/or slaughtering and sales of ABP not intended for human consumption. With wider food commodities it may be excessive quantities of ingredients/products, which do not appear on recipes/menus or do not match turnover.

An overview of issues that are being indicated by the analysed data can be seen below in points a to c:

a. **Sheep meat speciation and lamb authenticity**

Sheep-meat is generally more expensive than other meats. FBOs may replace the sheep or lamb meat declared in their named dishes with substituted, cheaper types of meat

such as beef or chicken. FBOs may also indicate that meat is lamb, when it is meat obtained from older sheep which can no longer be categorised as lamb.

b. **Pizzas – ham (pork) speciation and cheese substitution**

Pizzas may have named toppings replaced with substituted products and this information may not be communicated to the consumer.

Substitutions may include cheese analogues, meat analogues or meat not satisfying composition and labelling requirements. For example, mechanically separated meat containing turkey species with additives to bind the product being labelled as “ham.”

Where a food product looks like a whole piece of meat, but is made up of two or more separate pieces, the consumer must be informed by the phrase “formed meat” next to the name of the product. For example, where a product has been taken from a whole single piece of meat like a pork leg and processed, this can be described as ham.

Where a product is formed from a number of pieces of pork, not just pork leg, and made to appear like ham made from pork leg, if the name contains the phrase ham, the name should be “formed ham” or “formed meat.”

It is noted that some FBOs produce formed hams containing allergens such as soya protein as part of the processing. There may be allergenic implications to consider with these products.

Due to religious or cultural reasons, employees of the FBO may not handle pork products and customers may not wish to shop at premises that do, however reserved descriptions should not be used unless they are accurate.

Cheese analogues are usually defined as products made by blending individual constituents, including non-dairy fats or proteins, to produce a cheese-like product to meet specific requirements. If these are used, the menu description should be accurate.

c. **Fried fish – speciation**

Significant increases in raw ingredient costs and running costs are known to be impacting fish and chip friers. Catering establishments may source cheaper fish in place of the traditional or more expensive fish such as cod and haddock. Within catering establishments where the fish is bought in frozen, there may be issues up-chain or where mixed fish products are not declared accurately on menus/product descriptions.

Where availability of the preferred fish is disrupted, the FBO must accurately describe/inform the consumer prior to the order being placed. As fish and crustaceans are known allergens, this can add further complications if consumers are provided a substituted, inaccurately explained or misdescribed product.

Priority 2: Allergen information at catering establishments

- **East Asian**
- **South Asian**
- **Coffee shops and Cafes**
- **Licensed premises**

Allergen information and controls continue to drive consumer complaints and food incidents. The adequacy of the controls an FBO has in place regarding the procurement, storage, use and provision of information for foods containing allergens can have a direct impact on the health of customers with a food hypersensitivity (food allergy, intolerance, or coeliac disease).

Non-compliant allergen information and inadequate allergen controls can take several forms, including changing ingredients without changing the associated menu/product description or accompanying allergen information, using substituted ingredients without considering potential consequences, specification changes to raw ingredients, fraud in the supply chain, foreign labelled foods or literacy issues resulting in misinterpretation, changes in manufacturing practices, outdated information and a lack of staff training.

Some of the reasons that food may be supplied without accurate information and allergy declarations include:

Substitutions: The FBO may substitute ingredients/compound ingredients due to availability, price point, re-formulation, or social trend of consumption of foods and fail to update the allergen information accordingly. Ingredients such as nuts may be substituted with a cheaper variety, either up-chain or within the business preparing the food for the ultimate consumer, without consideration of the potential consequences. This substitution may be done with the intention to deliberately deceive consumers regarding the content of the product for financial gain or due to cost-cutting without consideration of the consequences. Some FBOs may purchase raw materials without accurate food labelling and/or are not able to interpret the mandatory information to inform consumers of the allergens in the products. This can have fatal consequences.

Supply chain issues Imported ingredients/compound ingredients/foods may not adequately legally emphasise the presence of one of the 14 legally prescribed allergens. They may have different names for the ingredient or have different processes or requirements for labelling by-products. If the importer has not conducted due diligence checks, then the supply chain may not be able to provide the caterer the details needed to adequately inform the final consumer. Some precautionary allergen labelling may not be provided or passed on.

Poor confidence in management: FBOs may not be able to provide credible or accurate allergen information to consumers due to a lack of understanding or available allergen information. In some businesses this may be an issue when controlling minds

are not present, or where the allergen procedures or information for products are not up to date or documented.

Poor Controls: The business may have inadequate food safety procedures (based on HACCP (Hazard Analysis Critical Control Points) principles) or may fail to properly implement the identified controls or procedures.

This could include staff training, lack of process or understanding and cross contamination. In a catering establishment there should be a documented risk assessment element in relation to allergen controls.

Unavoidable Allergens: Some FBOs may be unable to eliminate specific allergens from their menu items due to factors like limited space, shared equipment, or ingredients containing allergens which disperse during processing.

When an enquiry about the suitability of menu items is made by a customer that is hypersensitive to one of the prescribed 14 allergens, they must be provided with accurate allergen information either verbally or via documentation. Failure to do so may result in food being served which is not safe for the consumer. The FBO also has a legal duty to serve food which is safe for the consumer, which requires the FBO to consider the potential unintended presence of allergens and to inform their customers accordingly so that they can make a risk-based decision about ordering/consuming if they have a food hypersensitivity. This may be done through a “may contain” statement, or a FBO may inform a customer that a product is not safe for them to eat due to production processes.

The FSA has observed a rise in allergen-related incidents at various types of catering establishments. Through analysis of these incidents, the following common allergens have been highlighted across different global cuisines as giving cause for concern in terms of increased incident occurrence a to d:

a. East Asian – egg, fish, and soya in East Asian catering such as those serving Chinese or Sushi cuisines.

b. South Asian – milk, mustard, and peanut in South Asian catering such as Indian, Pakistani, Bangladeshi, Sri Lankan, Nepalese, Bhutanese, or Maldivian cuisines.

c. **Coffee shops and cafes** – milk, gluten and nuts in coffee shops and cafes.

d. **Licensed premises** – - sulphites, gluten and milk in licensed premises such as wet pubs, nightclubs, bars, and cocktail bars.

Priority 3: Soft drinks at small/medium retailers

- **Labelling and ingredients**
- **Additives – non permitted additives / excess additives**

Analysis of data has highlighted an increase in complaints and food incidents in relation to soft drinks supplied by small and medium retailers, with non-compliances including non-compliant labelling and ingredients and non-permitted and excess additives covered in points a and b below:

a. **Labelling and ingredients**

Some ingredients can pose a problem if consumed in excess and/or by those who are vulnerable, for example due to the age or health of the consumer or due to food hypersensitivity. Since 2023, the FSA has become aware of more cases where children had become unwell after consuming excessive quantities of slush ice drinks in a short period of time. As a result, the FSA issued new guidance for industry on the consumption of these drinks: 'Not suitable for under-4s': New industry guidance issued on glycerol in slush-ice drinks.

Certain additives are legally required to be accompanied by prescribed warning information on food products containing them[1]. FBOs who have not sought guidance prior to entering the market may not have provided this required information on the food label.

Foreign labelled drinks or drinks intended for a different market may not comply with the mandatory food information requirements which apply to food sold in the UK, or associated rules around presentation or the use of claims. Non-compliances may include ingredient labelling, composition, pictorial representations, name of the food as well as recognised names in ingredients lists, or non-permitted ingredients. There have been instances where an over-label has been applied omitting the reference to certain additives contained within the product. FBOs may break down multipacks into singular items to sell individually, which can inadvertently remove the mandatory information on the outer packaging that does not appear on the individual products.

b. **Additives – non permitted additives / excess additives.**

Food additives are subject to assimilated Regulation (EC) No. 1333/2008, which establishes conditions relating to the use of each additive and maximum permitted levels, with a drive to use the minimum to achieve the technological function desired.

There have been significant challenges faced by LAs dealing with foods from outside UK/EU that contain additives that are not permitted or contain additives at excessive levels, or where the mandatory warning is not provided, or where an over sticker has been applied over the original label which omits one or more additives. There has been a large consumer demand for US soft drinks and drinks from Asia which may not conform with the UK requirements.

[1] For example see Food colours and hyperactivity - Food additives | Food Standards Agency

Priority 4: Food supplements

- **Unauthorised ingredents**
- **Claims**
- **Composition**

Food Supplements legislation across the nations (England, Wales, and Northern Ireland) defines a Food Supplement as 'any food the purpose of which is to supplement the normal diet and which is a concentrated source of a vitamin or mineral or other substance with a nutritional or physiological effect, alone or in combination and is sold in dose form'.

The regulatory status of products on the borderline between food supplements and medicinal products, or medical devices may not be immediately obvious. The Medicines and Healthcare products Regulatory Agency (MHRA) classifies the following as a medicinal product by virtue of Regulation 2 of the Human Medicines Regulations 2012:

- any substance or combination of substances presented as having properties of preventing or treating disease in human beings

or

- any substance or combination of substances that may be used by or administered to human beings with a view to restoring, correcting, or modifying a physiological function by exerting a pharmacological, immunological, or metabolic action, or making a medical diagnosis.

European Community legislation on medicinal products is not fully harmonised and products are classified under national regulations (Human Medicines Regulations 2012 [SI 2012/1916]). For this reason, it is possible that a product classified as a medicine in the UK may be classified as, for example, a food in another Member State.

The person or company marketing a product, has a responsibility to do so in accordance with the law. The Human Medicines Regulations 2012 (SI 2012/1916) provide that, unless exempt, any medicinal product placed on the UK market must have a marketing authorisation (MA), traditional herbal registration (THR) or certificate of registration as a homoeopathic product granted by the European Commission or by the UK Licensing Authority. A marketing authorisation or registration is only granted for a medicinal product which meets statutory standards of safety, quality, and efficacy, whilst products registered as traditional herbal medicines or as homoeopathic medicines must meet statutory standards of safety and quality. Traditional herbal medicinal products are required to demonstrate plausible efficacy alongside other criteria.
The MHRA classifies products on a case-by-case basis. Final determinations issued by the Medicines Borderline Section provides brief details of the determination for the product at the time it was investigated and where relevant, refers to product ingredients.

If a classifier does decide that a product is a medicinal product, then unless an exemption applies, it will be subject to the Human Medicines Regulations 2012 [SI 2012/1916]. More on this topic can be seen on the UK Government website.

If a product falls outside of the MHRA's definition of a medicinal product, or medical device, it should then be considered whether they fall within food legislation, or whether other legislation applies, for example the General Product Safety Regulations.

Food supplements that contain familiar substances like vitamins, amino acids or minerals are generally subject to food safety and food labelling legislation rather than medicine controls, unless the product is presented for medicinal uses or containing medicinal ingredients/substances.

An overview of issues with food supplements that are being indicated by the analysed data can be seen in a to c below:

a. Unauthorised ingredients

Where substances meet the definition of a food supplement, it should be noted that assimilated Regulation 1925/2006 does not apply.

The only permissible sources of vitamins and minerals for use in food supplements are outlined in Annex II of Assimilated Directive 2002/46/EC on food supplements, as amended (for the EU and NI), and in Schedule 2 of The Nutrition (Amendment etc.) (EU Exit) Regulations 2019 (for GB). Any food supplement containing vitamin or mineral sources not listed in these documents (e.g., potassium glycinate complex) is considered non-compliant.

Additionally, certain ingredients are classified as novel foods and require authorisation before they can be used in food supplements.

These ingredients are detailed in the EU novel food catalogue or the UK's list of authorised novel foods.

It is important to note that while these ingredients may not be considered novel in all food categories, they could be novel, specifically in supplements. Therefore, it is essential to review the specified food category alongside the ingredients.

b. Claims

If the product bears health claims, these should relate only to those authorised via assimilated Regulation 1924/2006 on nutrition and health claims (including disease risk reduction claims) and present on the EU Register on nutrition and health claims (for the EU and NI) or on the Great Britain nutrition and health claims register (for GB). Certain on-hold claims are also permitted. Claims which refer to preventing, treating, or curing a disease / illness are not permitted and should be reported to the MHRA.

This can be a complicated issue. UK guidance on claims can be found from the Department of Health and Social Care (DHSC) and the Committee of Advertising Practice (CAP). The wording of permitted claims cannot be unduly changed.

No legitimate, legally compliant sports nutrition product should contain any ingredients that can stimulate testosterone or growth hormone levels to an extent that they fall outside the clinically accepted 'normal' range. So-called 'prohormone' or 'steroid-like' ingredients may be considered medicinal or controlled substances listed in the Misuse of Drugs Act 1971. Where officers believe that a food supplement contains a controlled substance it is advised that they contact the Home Office via enquiries@homeoffice.gov.uk

c. Composition

Food Supplement Legislation states that no person shall sell a food supplement in the manufacture of which a vitamin or mineral has been used unless that vitamin or mineral:

- is listed in [Schedule 1 to the Nutrition (Amendment) (EU Exit) Regulations 2019]; and is in a form which is listed in [Schedule 2 to the Nutrition (Amendment) (EU Exit) Regulations 2019],

and

- meets the relevant purity criteria. The relevant purity criteria are the purity criteria, if any, specified in EU-derived domestic legislation, retained direct EU legislation or in regulations made by the Secretary of State under regulation 3 of the Nutrition (Amendment) (EU Exit) Regulations 2019 or, in the absence of such purity criteria, generally acceptable purity criteria for the substance in question recommended by international bodies.

As with any food product, the potential for offenders to fraudulently increase profits through adulteration or substitution is evident in relation to food supplements. In some instances, this may mean that the products consumers buy contain very little of the specific advertised ingredient but do not present any overall food safety concerns.

More information on the composition, labelling and legislation relating to food supplements can be seen on the UK Governments website.

About this publication: FSA-NFSPs-2024

Follow us on Twitter: @foodgov

Find us on Facebook: facebook.com/FoodStandardsAgency