

Updates to the Food Standards Agency's Technical Guidance on Food Allergen Labelling and Information Requirements

CIEH response to consultation

March 2020

About the Chartered Institute of Environmental Health (CIEH)

CIEH is the professional voice for environmental health representing over 7,000 members working in the public, private and third sectors, in 52 countries around the world. It ensures the highest standards of professional competence in its members, in the belief that through environmental health action people's health can be improved.

Environmental health has an important and unique contribution to make to improving public health and reducing health inequalities. CIEH campaigns to ensure that government policy addresses the needs of communities and business in achieving and maintaining improvements to health and health protection.

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Key points:

CIEH welcomes the Food Standards Agency's revised Technical Guidance on Food Allergen Labelling and Information Requirements which will be of benefit to food businesses and food enforcement authorities. Overall, the technical/drafting updates to the document improve the readability of the document.

In response to the specific question posed in the consultation, we are of the view that the approach to determining PPDS should be included in the Technical Guidance.

The definition of PPDS at Annex B to the consultation brings within scope a wider range of foods than originally anticipated. For example, labels with all ingredients listed will need to be provided on foods served from behind a counter where there is the opportunity for dialogue with consumers. We are concerned this may reduce dialogue with consumers and provide a false sense of security. Those we want to protect may be discouraged from asking about allergens in the belief that all relevant information is included on the label. However, allergens arising from cross-contamination would not be included.

More advice for businesses on PPDS labels or signposts to this information could usefully be included in the Guidance.

It is our view that the Technical Guidance should better acknowledge that foods other than the 14 listed in the Food Information to Consumers Regulation No 1169/2011 (FIC) can cause allergic reactions in vulnerable consumers and appropriate advice provided to businesses.

It is acknowledged that the consultation relates to England although it is anticipated similar requirements will apply in Northern Ireland and Wales. This response is therefore a consolidated CIEH response for England, Wales and Northern Ireland.

New legislation, The Food Information (Amendment) (England) Regulations 2019, will come into force on 1 October 2021 changing how food businesses in England are required to provide allergen information on foods prepacked for direct sale (PPDS). They will be required to have on their packaging, or a label attached to the packaging, the name of the food and a list of ingredients with any of the 14 allergens listed in the European Food Information to Consumers Regulation No 1169/2011 (FIC) emphasised in the list. Separate equivalent legislation is planned in Northern Ireland and Wales.

The Food Standards Agency (FSA) is seeking views on proposed updates to its Technical Guidance on food allergen labelling to reflect the new legal requirements and has taken the opportunity to propose some technical/drafting updates.

Technical Guidance for food businesses and food enforcement authorities on allergen information requirements is essential and will help to ensure the consistent application of requirements. CIEH welcomes the Guidance and is of the view that overall, proposed updates have improved the quality and readability of the document.

The most significant amendments to the Guidance relate to foods that are PPDS. These amendments are necessary to reflect new legislation that will come into force in 2021 requiring them to be labelled with the name of the food and a list of ingredients with the allergens emphasised.

The new legislation does not specifically define PPDS. The approach to determining PPDS has been provided at Annex B to the consultation and sets out three criteria, all of which have to be met:

- Food is presented to the consumer in packaging
- Food is packaged before the consumer selects or orders it
- Food is packaged at the same place it is sold

Whilst the criteria are clear, the impact is that a wider range of foods will come within the definition of PPDS than was originally thought to be the case, including food served from behind a counter where there is the opportunity for dialogue with customers.

Our members have raised concerns about the proposed approach to PPDS including that it will reduce dialogue with customers and may give a false sense of security. Vulnerable consumers may be discouraged from asking about allergens because they think all allergen information is on the label. However, allergens arising from cross-contamination would not be included in the list of ingredients on the label.

Whilst good manufacturing standards ensure that each product line is dealt with in isolation, the catering environment is very different. Allergen cross-contamination between foods during normal food production will occur because any food could be allergenic. Whilst this is not a problem for 98% of customers, the allergic consumer needs to have a dialogue with the business because, unless the business knows that a food needs to be specially prepared, they cannot take the necessary precautions. This could mean that precautionary labelling will be placed on all foods as well as a full ingredients label.

The challenges in providing a full list of ingredients in a catering environment will be significant. The list could be extensive so handwritten labels may not be practical and the risks associated with printing labels in advance not insignificant e.g. wrong label attached to product, supplier data changes not incorporated. Many smaller businesses will not have the resources (technologists and cost) to implement the new requirements. Further, short notice supplier or recipe changes may not be considered.

Businesses need clear, concise information about what is expected of them. More information about labelling requirements should be included in the Guidance. For example, is the requirement the same as for prepacked foods where ingredients must be listed in order of descending weight?

It is likely that some smaller businesses will find the new requirements too challenging and resort to selling only prepacked foods prepared offsite. The consequence will be less choice for customers and, as these products may go out of date more quickly, food waste could increase.

From an enforcement authority perspective, verifying compliance with the new requirements has been identified as a potential challenge. The evidence demonstrates that businesses providing prepacked foods in a manufacturing environment are experiencing difficulties complying with the same allergen labelling requirements that are going to apply to foods PPDS. Given the increased complexities associated with the catering environment, and the budgetary implications of sampling to verify compliance, concerns raised by enforcers are well founded.

The draft Guidance does not sufficiently acknowledge that foods other than the 14 listed in FIC legislation have the potential to cause life threatening allergic reactions. Further advice for businesses on this would be of benefit.

A number of omissions/typographical errors have been identified in the draft Guidance as follows:

Paragraph 70, last sentence needs rewording as it appears a word has been omitted

Paragraph 76, penultimate sentence spelling error change to 'verifying'

Page 27, example box, the word 'you' omitted from allergy statement

Finally, the intended audience on page 3 should include enforcing authorities.