Food Complaint Investigations

March 2014
Complaint investigations

Why?

• To minimise current and future risks to public health and safety

• For breaches of the Food Act 1984 - selling food that is unsuitable or unsafe
Complaint investigations

When?

• Complaints that present an actual or potential health and safety risk to consumers should be investigated as a priority

• Food quality issues should be addressed with the business directly by the consumer, unless the food is deemed ‘unsuitable’ under the Act

• Consumer compensation matters between the business and consumer cannot be entered into by DH or EHO’s
Complaint investigations

How?

• Be conducted professionally, applying the requirements of the *Food Act 1984* expertly, consistently and without bias to all food premises

• Good customer service - if delays in investigating advise complainant

• Investigations should be thorough and probing

• Appropriate enforcement action should be taken regarding breaches of regulations and *Food Act 1984* e.g. warning letter, PIN, prosecution

• Discretely advise complainant result of investigation

• Protect the privacy of complainants while respecting the rights of food businesses
Complaint investigations

*Thorough and probing*

- Detailed initial assessment - validity of complaint - rule out home contamination
- Gathering good evidence – complainant’s statement, questioning, photos, testing
- Assessing food processes and procedures
- Identify source of contamination/problem
- Advise corrective action & follow up
- Has business taken all due care - due diligence
• Cockroach in heated meal - too intact to have survive cooking process so probably occurred at home
Complaint sources

- Complaints are received from various sources:
  - Consumers
  - Local governments
  - Industry
  - Interstate health & food safety regulatory agencies
  - FSANZ
  - Australian Quarantine & Inspection Service (AQIS)
  - Dairy Food Safety Victoria (Victorian dairy regulator)
  - PrimeSafe (Victorian meat, poultry and seafood regulator)

- Determining where/who a complaint needs to be referred to is not always a simple process
Complaint referrals

- Often complaints will need to be referred to relevant councils, agencies and jurisdictions for their investigation. E.g. home state jurisdiction rule, councils and place of manufacture

- Complaints relating to premises licensed with either PrimeSafe or Dairy Food Safety Victoria are not investigated by council or DH unless they relate specifically to foodborne illness
• Larvae of meal moth in muesli
Food Complaint Investigations

• Full cycle of meal moth showing pupae, larvae and moth
Complaint types

- Contamination:
  - Physical
  - Chemical
  - Microbiological
  - Allergen

(deliberate contamination)

- Foodborne illness
- Food labelling
Contamination

- **Physical**
  (battery in lollipop)

- **Chemical**
  (non-permitted colouring in confectionary)

- **Microbiological**
  (e.g. *E. coli* in bean sprouts)

- **Allergen**
  (undeclared peanut in crumb mixture)
Complaint case study – Glass in frozen pizza

- Example of a good complaint investigation
Complaint case study – Metal in dried pasta (Italy)

- Example of a poor complaint investigation
Complaint case studies

Typical allergen complaint investigation:

- Phone call: “My son/daughter is allergic to X allergen and I know it was in product Y because my child had a reaction.”
- If the product’s ingredient list doesn’t declare this allergen then a lab analysis often needs to be performed
- Council can send the product for analysis, or DH if the business is based interstate
- Depending on analysis results, the complaint may lead to no action, interstate referral, product withdrawal, label changes, product recall or other arrangement with the business
Guess what the foreign object is?
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Deliberate contamination of foods

- Investigating officers need to remain aware that some complaints may arise due to deliberate contamination of food through malicious intent.

- Usually an object that normally would not enter the food during processing unless placed in the food by someone. If possible accidental then not deliberate. eg tablet in a pocket.

- Examples have included syringes, sewing needles, pins, rodents, etc.
Deliberate contamination of foods

- DH must be notified of any instance where the investigating officer forms a view that it may be deliberate contamination.

- DH has an agreed protocol with VicPol in which DH will pass on all information for investigation of fraud, or relevant state agencies if the business is interstate.

- If VicPol pursue investigation it becomes a police investigation. Council and DH role is to assist police only if asked.

- Recently had a case where the police charged the complainant for placing syringe in can soup. Went to court- pleaded guilty to 4 charges including extortion and sentenced to 3 months jail.
Deliberate contamination of foods
Foodborne illness complaints

- **Single** (actual or alleged) food borne illness. The investigation is best handled by local council with the business involved.

- **Two or more** - If a food premises is suspected of causing *two or more* food borne illnesses through a common source or setting it may be viewed as an ‘outbreak’, and the DH Communicable Disease Prevention & Control Unit and the applicable REHO should be notified of the issue within 24 hours.
Labelling complaints

- Typical labelling complaint issues:
  - Label not in English
  - No business address supplied
  - Nutritional information in incorrect format
  - Other Food Standards Code breach

- Food labelling complaints often arise from competitor businesses
Overview

• Most single-incident food complaints are best investigated by local council

• Always think beyond your municipality - issue may be more widespread. Distribution details are important

• Complaints concerning PrimeSafe or Dairy Food Safety Vic licensed premises are not investigated by council or DH unless they concern foodborne illness (if unsure of premises - check!)
Overview

- When deliberate contamination of food is suspected DH must be notified

- Investigating officers are expected to act professionally and within the requirements of the *Food Act 1984* at all times

- If guidance on particular complaint investigations is ever needed consult your team leader. If further help needed please call!