pathway to partnership

a guide to food regulation in NSW

Part Two
December 2007
## Draft mandatory protocols

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## Draft advisory guidelines

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## Abbreviations, explanatory notes and glossary

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draft mandatory protocols

> Urgent food safety response
> Food complaint referral
> Foodborne illness investigations
> Submitting food samples to DAL for testing
> Activities report
Purpose

The purpose of this protocol is to document the responsibility and urgent response to be taken by councils in the event of an urgent food safety response being required. This is mandatory action regardless of the activity level ie Category A, B or C.

Introduction

It is an unfortunate reality that emergencies either deliberate (eg bioterrorism, sabotage or extortion) or accidental, can seriously threaten the safety of the food supply. They require an immediate on-the-ground response.

The unconditional availability of all food regulatory personnel to address such urgent incidents is critical to protecting consumers. In most cases such emergencies will be covered by Commonwealth and State emergency management plans.

In NSW the response to, and recovery from, food emergencies are in accordance with the Food Industry Emergency Subplan which is a subplan of the NSW State Disaster Plan, known as Displan.

There are, however, some situations that would not trigger declaration of an emergency under Displan, yet the involvement of councils would be essential, eg a serious marine biotoxin incident.

Often an immediate on-the-ground response to these situations is required. In regional and remote areas, it is the council officers that can be on-site more quickly than the NSW Food Authority.

There are three main types of urgent food safety issues:

1. Urgent food recalls invoked by FSANZ
2. Those invoked by the Authority – usually involving a specific type of food or a foodborne illness outbreak
3. Those invoked by a council involving local matters eg extended power loss, fire, flood or truck roll-overs

Criteria for determining an urgent food safety matter. Consider the following:

- is it within the scope of the NSW Food Act 2003?
- is it an imminent threat to food safety?
- is it a serious risk to public health?
- is immediate action necessary?
- will failure to respond result in serious food safety or public health issues?
Examples include:

- extended power loss to a number of food businesses selling ready to eat potentially hazardous food
- a truck roll-over carrying potentially hazardous food
- flood damaged food businesses selling potentially hazardous food
- tampered foods eg intentional contamination
- bioterrorism, extortion and sabotage issues

The Authority can invoke an urgent response to a food safety matter by notifying the particular enforcement agencies involved.

Consideration is being given to authorising enforcement agencies to invoke the response themselves.

There will be limitations to councils appointed to food regulation responsibilities for Category A. The powers of their authorised officers or delegates to issue Prohibition Orders, will only be valid during an urgent food safety response situation.

Procedures in an urgent food safety matter

General

As the responsible agency, the Authority may undertake the following activities in responding to an urgent food safety matter:

- assess food safety risks and determine appropriate response action
- issue Prohibition Orders on various businesses to stop manufacturing or supply of food
- seize unsafe food and supervise disposal in a manner that is safe
- initiate a recall of contaminated food
- trace other possibly affected foods in both directions along the supply chain
- coordinate alternative supply and distribution
- consult and coordinate with other jurisdictions and Federal agencies in relation to a nationally consistent approach of managing risk and controlling the situation
- collaborate with the Australian Quarantine Inspection Service (AQIS) in relation to any unsafe or unsuitable imported food, and any foreign trade implications
- maintain risk communication with the public and issue advice as to how to react to the situation
- maintain public confidence in the food supply in general

The Authority may seek the assistance of councils in undertaking urgent responses required. The specific actions required will be communicated by the Authority to the relevant response council contact on a case by case basis.

This is the mandatory response action required by councils, regardless of the council’s food regulation activity ie Category A, B or C.

Draft advisory guidelines on managing urgent food safety matters

Guidelines to assist councils in responding to urgent food safety matters have been drafted. Refer to ‘Draft advisory guidelines – Managing urgent food safety matters’.
Food recalls

Background

A food recall is action taken to remove from sale and distribution, foods which may pose a possible public health and safety risk to consumers.

A product may be withdrawn from sale for two reasons:

- the product has a quality defect eg colour or texture, or is underweight or has labelling irregularities that do not pose a potential risk to public health and safety
- as a precaution eg stock may be withdrawn from distribution and/or sale pending further investigation. If a risk to public health and safety is established, the product must be recalled.

The type of recall is dependent on the type of product, where it’s sold and the reason for the recall.

There are several types of recalls:

- Trade level – involves recovery of the product from distribution centres and wholesalers. It may also involve recovery of product from hospitals, restaurants and other major catering establishments, and outlets that sell food manufactured for immediate consumption or food that is prepared on the premises.
- Consumer level – involves recovery of the product from all points in the production and distribution networks/chains including any affected product in the possession of consumers.
- Voluntary recall – where the manufacturer or importer initiates the food recall.
- Mandatory recall – where the Director-General of the Authority directs the manufacturer/importer to recall a food product.

Responsibilities

Food Standards Australia New Zealand (FSANZ) nationally coordinates the recall of foods that are a health and safety risk to consumers. The Authority coordinates food recalls within the State and also has the power to mandate a food recall if required.

The majority of food recalls are voluntarily initiated by businesses when food production monitoring has identified a fault or in response to public complaints.

The Authority may also initiate food recalls following the investigation of reported foodborne illness incidents or complaints about the safety of food. If a concern is serious enough to warrant the recall of a food, the Authority’s recall coordinator will work with the manufacturer to ensure the recall is effectively conducted, and will coordinate the recall with other State and local authorities to prevent the food being distributed and sold.

The Authority is responsible for monitoring the efficacy of food recalls, liaising with FSANZ, providing consumer-level recalls to relevant organisations in other jurisdictions, and ensuring appropriate recovery or destruction of affected goods and their documentation.

The Authority is also responsible for maintaining an up to date list of council’s urgent food safety response contacts.

Councils are responsible for providing urgent food safety response contact details to the Authority and keeping the Authority updated on changes. They are also responsible for undertaking the required actions and providing feedback to the Authority.
Procedure for a food recall

In the event of a food recall, the Authority will notify councils via email if the event is relevant to the council.

**Note:** Not all food recalls are notified to councils. If the recall is trade level only or if the food in question is not sold in their jurisdiction then a recall notification is not sent to councils.

There are two types of notifications:

- **For information only**
  
  A food recall is emailed to councils under the heading of 'For Information Only', when the food in question is sold in that jurisdiction, but action by the council officer is not required. This type of food recall will be posted on the FRP website when it is launched – planned in early 2008, and emailing will cease.

- **Urgent for action**
  
  A food recall is emailed to councils under the heading 'Urgent For Action', when the food is being retailed in that jurisdiction and the Authority requires assistance to remove the product from sale. In very serious situations, councils will also be contacted directly by phone.

  Action from councils is usually needed when the recall involves a serious threat to public health or when large quantities of product have been sold through small retail outlets.

  On these occasions the Authority will provide specific direction as to the action required. It will also include contact details for clarification or additional information and what feedback regarding outcomes councils should provide.

  Council is required to undertake the recommended action and provide feedback to the Authority about the outcomes of that action.

  **This is the mandatory urgent response action required by councils, regardless of the council’s food regulation activity ie Category A, B or C.**

  If a council is unable undertake the recommended action it must notify the Authority immediately.

  **Note:** The Food Recall Fact Sheet for Local Government prepared by the Authority outlines information regarding food recalls.

Details of recent national consumer level food recalls can be found on the FSANZ Food Recall page. Information on recent recalls is also available from the Commonwealth Treasury Department’s Product Recall site. The FSANZ recall page also provides contact information for all State and Territory recall co-ordinators.

The Authority will post non-urgent ‘For Information Only’ food recall information on the FRP website once it is launched – planned in early 2008.

**Further assistance**

For assistance, support and advice, contact the Authority’s Local Government Unit on 1300 552 406.
Purpose

The purpose of this protocol is to document and clarify the arrangements for complaint referral between councils and the NSW Food Authority (the Authority).

Introduction

Types of food complaints received by councils and the Authority can be varied and include: matters of an urgent or severe nature, alleged foodborne illness, and complaints regarding hygiene and handling, premises, or quality.

A food complaint or food incident report is identified as an alleged matter which may be a breach of the NSW Food Act 2003 (the Act) and the Food Regulation 2004, including the Food Standards Code (FSC) and industry-specific Food Safety Schemes. The matter may be about a product – whether manufactured within NSW, another State or country – a food business or an event.

Examples of common allegations of breaches include:

- illness believed to be caused by eating food
- foreign matter found in food
- unhygienic practices observed eg foods not handled, stored, or processed in accordance with legislation
- labelling breaches
- business trading without appropriate license(s) or notification

Some complaints may not be accepted or may be directed to other agencies such as:

- complaints not about food or food businesses
- frivolous, vexatious and retaliatory complaints not made in good faith
- issues relating to nutrition

Triaging complaints

The following decision steps should help councils to determine where responsibility lies for certain complaints.

1. Is the matter within the scope of the NSW Food Act 2003?
   - Is it ‘food for sale’? This also includes prizes, tastings, and services provided, eg food in hospitals.
   - If it is not ‘food for sale’ refer to the appropriate agency eg NSW Office of Fair Trading, Department of Primary Industries or Department of Agriculture etc.
   - Issues relating to changes in the Food Standards Code should be directed to the code’s authors – Food Standards Australia and New Zealand on 1300 652 166.
   - Issues relating to poor customer service, product warranties, weights and measures should be directed to the NSW Office of Fair Trading on 13 32 20.
• Issues relating to nutrition and healthy eating should be directed to your local health or medical advisor or area health service. See www.health.nsw.gov.au/iasd/areas
• Issues relating to liquor licensing should be directed to the Liquor Administration Board on 9995 0300.

2. Is it a matter for the Authority?
• Does it represent ‘clear and present danger’ requiring an IMMEDIATE response eg injury? These are investigated by the Authority.
• Is it about foodborne illness? ALL reports should be immediately directed to the Authority. Councils are advised of the outcome after the reports have been assessed.
• Does it relate to a business licensed by the Authority? ALL types of complaints about these businesses are investigated by the Authority.
• Does it relate to a primary producer, exporter, importer or manufacturer? These are redirected to the Authority.
• Does it extend across council boundaries? These are investigated by the Authority.
• Is it about compositional food standards? eg excess fat in sausages. These are investigated by the Authority as it requires food sampling and/or testing.
• Is it a complex labelling or advertising matter? eg issues about nutrition information panels, ingredient lists or health claims. Almost any issue other than ‘no label’ on locally-made products is investigated by the Authority.

3. Is it local in:
• nature
• geography
• resources
• expertise

These are generally the domain of local councils.

4. Does it need to be investigated by another (home) council?
If so, refer the complaint on to that council.

Procedure for food complaints referral

Figure 1. is a decision chart for determining food complaint referrals.

Councills with food regulation responsibilities that do not include food complaint investigations ie Category A, are to redirect all complaints received to the Authority.

In the case where an urgent food safety response is warranted, it is mandatory for council to participate in providing any required assistance as determined and instructed by the Authority. Refer to ‘Draft mandatory protocols – Urgent food safety response’.

If a council has food regulation responsibilities that include food complaint investigations ie Category B or C, a number of issues should be considered in deciding whether to address the matter directly or refer it to the Authority. Refer to ‘Triaging complaints’ above.

Any reports or complaints received by council regarding foodborne illness are to be redirected immediately to the Authority. Refer to ‘Draft mandatory protocols – Foodborne illness investigations’.
Any reports or complaints received by council regarding licensed businesses, manufacturers or wholesalers, are to be redirected to the Authority.

Councils are not required to report to the Authority on complaint investigations unless specifically requested in urgent food safety matters or in the six monthly activities report. Refer to 'Draft mandatory protocols – Activities report'.

Any complaints received by the Authority will be assessed and prioritised. Refer to Figure 1.

It would be appreciated if council could contact the NSW Food Authority’s Helpline to set up the food complaint referral mechanism on 1300 552 406.

Complaints may be referred to the Authority either while the complainant is still on the telephone call, or after all the complaint details have been recorded by the service centre or EHO.

- If the caller is still on the telephone, please transfer them to the Authority’s Helpline on 1300 552 406. The Helpline is open 8.30am – 5.30pm on all NSW business days. An after hour duty manager is available via the same number for urgent food safety matters.

- If a council employee has already taken details of a complaint, it can be referred to the Authority’s Helpline team in any of the following ways:

  Telephone:  1300 552 406
  Fax:        02 9647 0026
  Email:     contact@foodauthority.nsw.gov.au
  Mail:       Helpline team, NSW Food Authority, PO Box 6682, SILVERWATER NSW 1811

For situations where a complainant provides details of their complaint to council, and council subsequently determines the complaint should be referred to the Authority, the ‘Food incident report/enquiry request form’ captures relevant information to investigate a complaint. Refer to Attachment 1. This form can be filled in by either the complainant, and left with council, or the referring officer and then forwarded to the Authority.

Importantly, the form includes an indication of the privacy consents obtained from the complainant.

The Authority will similarly redirect appropriate complainants to council service centres by providing the contact number or transferring the call. If the decision to refer the complaint is not made until after the complaint has been recorded, then a written referral with complaint details will be forwarded to the council’s service centre. The complainant will be advised of the referral and given councils contact details.

Problems, issues or feedback on the complaint referral process can be discussed directly with the Authority’s manager, community communications. Refer to contact details above.

How should complaints be investigated?

For guidance on complaint management refer to 'Draft advisory guidelines – Food complaint management'.

Further assistance

For assistance, support and advice, contact the Authority’s Local Government Unit on 1300 552 406.
Figure 1. Decision chart for food complaints

Complainant reports a matter to:

Council

Is the council responsible for complaints (ie Category B or C)?

- NO: Council redirects the matter to the Authority
- YES: Council redirects all FBI to the Authority

Is the complaint re: licensed business or manufacturer? or an urgent or severe nature?

- NO: Council investigates as appropriate
- YES: Council redirects the matter to the Authority

Is the complaint regarding FBI?

- NO: Council provides feedback to the Authority via six monthly report
- YES: The Authority redirects the matter to council

The Authority investigates the matter

Within council’s jurisdiction? (ie not licensed business or manufacturer)

- NO: The Authority provides feedback to council(s) as appropriate
- YES: The Authority investigates the matter

The Authority provides feedback to council(s) as appropriate
## Confidential

### Food incident report / enquiry request

**IMPORTANT NOTICE:** Complainant’s are advised that personal information in this form may be protected by the Privacy and Personal Information Protection Act 1998 (NSW) and the Health Records and Information Privacy Act 2002 (NSW). "By giving this information, I consent to the information being recorded on a database and stored. I also consent to this information being disclosed to other relevant Australian agencies involved in enforcement of food safety and labelling standards and health if needed for follow up of the food safety or labelling issues raised. My consent includes interstate agencies as applicable. Consent IS NOT given to disclose my personal information to the food business complained about, unless my consent has been obtained separately."

---

### 1. Complainant details / person ill:

<table>
<thead>
<tr>
<th>Name:</th>
<th>Company (if applicable):</th>
<th>Or</th>
<th>Anonymous</th>
<th>Consent privacy obtained:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
<td></td>
<td>By phone, or</td>
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<td></td>
<td></td>
<td></td>
<td>In person (complainant signature):</td>
</tr>
<tr>
<td>Address:</td>
<td></td>
<td></td>
<td></td>
<td>Date: / /</td>
</tr>
<tr>
<td>Day Phone:</td>
<td></td>
<td></td>
<td></td>
<td>Email:</td>
</tr>
<tr>
<td>Fax:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>LGA (of complainant):</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### 2. Food safety / labelling issue:

- [ ] Foodborne illness – Note: please always confirm receipt at NSWFA with phone call
- [ ] Food quality / deteriorated product
- [ ] Labelling
- [ ] Requesting advice
- [ ] Other:

**Report details:**

**For all foodborne illness reports:** Complete items (c) to (f) for primary case only.

- (a) Number ill: Number in group:  
- (b) Housing status of those ill: All cohabit Separate but in relationship Mixed All Separate
- (c) Food consumed: (date / time): Food Details:
- (e) Doctor consulted ? Name / facility: Phone:  
- (f) Samples available / taken: Clinical, specify: Food, specify:  
- (g) Extra details: ________________________________________________________________________________________

### 3. Details of complained-about food business or product:

<table>
<thead>
<tr>
<th>Name or product description:</th>
<th>Company:</th>
<th>Or</th>
<th>Unknown</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address: (required)</td>
<td>Email:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Day Phone:</td>
<td>Mobile:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fax:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>LGA (of food business):</td>
<td>Licence no (if applicable):</td>
<td>NAFSIS no (if applicable):</td>
<td></td>
</tr>
<tr>
<td>Date Mark:</td>
<td>either</td>
<td>Used-by or</td>
<td>Best before: Date shown:</td>
</tr>
</tbody>
</table>

### 4. Details of officer forwarding this form:

**COUNCIL / AHS / AUTHORITY USE ONLY**

<table>
<thead>
<tr>
<th>Officer name:</th>
<th>Position:</th>
<th>Date taken: / /</th>
</tr>
</thead>
<tbody>
<tr>
<td>Organisation:</td>
<td>[ ] Local Council</td>
<td>[ ] NSW Health / PHU</td>
</tr>
<tr>
<td>Day Phone:</td>
<td>Mobile:</td>
<td>Fax:</td>
</tr>
<tr>
<td>Email:</td>
<td></td>
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</table>

### 5. Forwarded for:

- [ ] Information only
- [ ] Investigation / other action: (details):
Purpose

The purpose of this protocol is to document the responsibility and actions to be taken by councils in the event of foodborne illness (FBI) complaints, including alleged single-case foodborne illness and the reports and investigations required.

Introduction

Foodborne illness is caused by consuming foods contaminated with pathogenic bacteria, toxins, viruses, prions or parasites. Such contamination usually arises from improper handling, preparation or storage of food. Foodborne illness can also be caused by the introduction of chemicals, pesticides or medicines to food, or by consuming poisonous substances naturally occurring in certain foods.

The NSW Food Authority (the Authority) is responsible for FBI investigations together with NSW Health. The Authority has developed its own internal Priority Response Protocol for investigating FBI. This protocol categorises FBI cases and outbreaks by size and severity and sets a response level accordingly.

Councils who have food regulation responsibilities, including those in Category A, will be required to assist in urgent FBI situations. Refer to 'Draft mandatory protocols – Urgent food safety response'.

Councils who have additional food regulation responsibilities ie Categories B and C, may be asked to assist in FBI outbreak investigations. Councils in these Categories will also be advised, for their information, about details of single-case FBI. Refer to 'Procedure for single-case foodborne illness' below.

Procedure for FBI outbreaks

All FBI outbreaks are investigated and coordinated by the Authority and wherever practicable in liaison with the local council in which the implicated premises are situated.

Procedure for single-case foodborne illness

All complaints of illness suspected to be related to food should be immediately redirected to the Authority by contacting the Authority’s Helpline on 1300 552 406.

The Authority will log and assess the complaint regardless of whether the FBI complaint is received by council or the Authority. The Authority, in liaison with NSW Health, will undertake a preliminary investigation to determine the severity and feasibility of the complaint and determine whether it’s part of an outbreak or a single-case FBI.

The usual turnaround time for the assessment process is 1 or 2 days. However, where cluster identification is involved it may take longer.
If the assessment determines that the FBI is part of an outbreak or is severe, then an FBI investigation is initiated and further appropriate action will be taken by the Authority’s specialist FBI team, as a matter of priority. Where practicable, the Authority will liaise with the local council in whose area the implicated premises are situated.

If assistance from council is needed, then direct communication will be made between the Authority’s investigation and recall coordinator and the council’s appropriate contact on a case by case basis.

If an urgent response is required by council the Authority will contact council’s lead urgent response contact and action will be initiated. Refer to 'Draft mandatory protocols – Urgent food safety response'.

The Authority may determine that a premises inspection is not required. However, it’s still important to advise councils of these complaints where they relate to premises in their jurisdiction.

The Authority will send councils the complainants contact details regarding any reported single-case foodborne illness that occurs in their local government area. This also includes single household complaints ie more than one reported case within a household.

The email will be sent by the Authority’s investigation and recall coordinator and will contain a report in PDF format that will contain all relevant details of the incident.

The purpose of the information provided is to alert councils to the complaint. Any action taken by council is at the discretion of the relevant council and in accordance with their internal policies.

Council is not expected to investigate single-case FBI matters, nor obtain specimens or samples. If council thinks this is necessary, they should discuss it with the Authority prior to taking any action. Refer to ‘Draft mandatory protocols – Submitting food samples to DAL for testing’.

**The Authority does not require any specific action or feedback from councils.**

When a complainant calls the Authority about a single-case FBI they are advised during the call that a full investigation may not occur unless it’s found to be part of an outbreak. They are also informed that it’s not routine to report back on single-case FBIs.

### Privacy matters

Enforcement agencies eg councils and the Authority are empowered to provide information to each other and NSW Health services under certain conditions (s.136A).

**An enforcement agency is authorised to provide information:**

- to a relevant authority if the enforcement agency considers the provision of the information is necessary to enable the relevant authority to exercise its functions under the Public Health Act 1991 (s.136A(1)). A ‘relevant authority’ for the purpose of this section is defined as the Director-General of Health and a public health organisation within the meaning of the Health Services Act 1997 (s.136A(4)). The reverse is also authorised (s.136A(2))

- to another enforcement agency if the enforcement agency providing the information considers the provision of the information is necessary to enable the other enforcement agency to exercise its functions under the NSW Food Act 2003 (s.136A(1)(b)). Note that the Authority is also an enforcement agency (s.4 NSW Food Act 2003 and Schedule 2, Pt 4 of the Savings, transitional and other provisions).

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1 Severe – including deaths, very serious illness eg haemolytic uraemic syndrome or where there is a rare pathogen eg *Vibrio vulnificus*, *Listeria monocytogenes*. 

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Information may be provided, in accordance with the above requirements, despite any prohibition in, or the need to comply with any requirement of, any Act or law (in particular, the *Privacy and Personal Information Protection Act 1998* and the *Health Records and Information Privacy Act 2002*) (s.136A(3)).

The Authority logs and records all FBI complaints received. It is not necessary for council to also keep detailed records of FBI complaints.

### Further assistance

For assistance, support and advice, contact the Authority’s Local Government Unit on 1300 552 406.

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**Figure 1. Process flow regarding foodborne illness protocol**

- **Identification of FBI OR Complainant advises of any FBI to:**
  - **Council**
    - Council reports all FBI matters to the Authority
      - **NSW Food Authority**
        - Assessment and priority
          - **Severe matter or outbreak**
            - The Authority investigates (liaises with council where practicable)
          - **Single-case FBI**
          - For council’s information
submitting food samples to DAL for testing

DAL is the Institute of Clinical Pathology and Medical Research (ICPMR) Division of Analytical Laboratories, NSW Health.

Purpose

The purpose of this protocol is to document and clarify the arrangements for councils submitting food samples to DAL for testing.

Introduction

The NSW Food Authority (the Authority) has a service level agreement with DAL for the testing of food samples.

Examination of some types of foreign matter in food may also be within the laboratory’s capacity. The Authority permits this service to be used by councils subject to certain conditions.

Because DAL has limited resources and capacity, the Authority must ensure that the number of samples submitted to the laboratory does not exceed capacity. This limited resource is allocated on a priority basis.

Procedure for submitting food samples for testing by DAL

Authority-initiated requests for DAL testing

In some cases, eg Authority-initiated foodborne illness investigations and national and State-based surveys, the Authority may request councils to take samples on its behalf.

There are draft mandatory protocols explaining how councils are expected to respond in an urgent food safety matters.

For other matters, eg surveys, councils will be invited to participate on a voluntary basis.

The Authority will coordinate sampling and liaise closely with those councils involved, including providing general support, copies and interpretation of results.

Clear instructions will be provided to councils including specific sampling procedures, requirements for transport of sample(s), submission process (paperwork, labels) etc. The Authority will also notify DAL of this information.

The Authority will meet the cost of testing, and councils are requested to meet the cost of sampling and transporting sample(s) to DAL. Council may contact the Authority to discuss alternative options if it experiences difficulty in meeting costs.
Council-initiated requests for DAL testing

All council-initiated requests for the testing of food samples or examination of foreign matter by DAL are to be referred to the Authority in the first instance. Using the form in Attachment 1 – ‘Request from council for approval of sample analysis by DAL’, complete and submit to the science officer via fax on 02 9741 4891 or email to sample.submission@foodauthority.nsw.gov.au.

The Authority will assess each request on a case by case basis and advise the council contact of the outcome within 24 to 48 hours.

Assessment is based on the laboratory’s capabilities and capacity and the validity and merit of the parcel of work requested. A range of other factors will also be considered when allocating priority.

For urgent matters approval can be sought by telephoning the above mentioned officer on 1300 552 406 or email sample.submission@foodauthority.nsw.gov.au.

If the request falls within the usual scope of an Authority-initiated request, the Authority will issue specific instructions pertaining to the sample.

If the request falls outside the usual scope of an Authority-initiated request, and is approved by the Authority, it will issue specific instructions pertaining to the sample(s). In this instance council is responsible for all costs associated with testing and transport etc.

Samples should not be submitted directly to DAL unless specifically instructed by the Authority.

The system arrangements with DAL will generate reports to the Authority which will then be forwarded to the relevant council.

At any time, councils can utilise private testing laboratories. This will be at council’s expense. It would be appreciated if these test reports could be copied to the Authority for information.

Remember, the Authority may be able to advise on suitable testing procedures.

The Authority welcomes expressions of interest from councils regarding specific ideas or suggestions for potentially valuable survey work. These would be considered in relation to other State and national activities.

Further assistance

For assistance, support and advice, contact the Authority’s Local Government Unit on 1300 552 406.
## Request from council for approval of sample analysis by the Division of Analytical Laboratories

<table>
<thead>
<tr>
<th>Date:</th>
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<tbody>
<tr>
<td>Name of council:</td>
<td></td>
</tr>
<tr>
<td>Name of council contact:</td>
<td></td>
</tr>
<tr>
<td>Contact details:</td>
<td></td>
</tr>
<tr>
<td>Purpose of testing:</td>
<td>(eg investigation of complaint,</td>
</tr>
<tr>
<td>quality issue, survey etc)</td>
<td></td>
</tr>
<tr>
<td>Proposed date of sample</td>
<td></td>
</tr>
<tr>
<td>submission and testing: (include</td>
<td></td>
</tr>
<tr>
<td>timelines if part of a wider</td>
<td></td>
</tr>
<tr>
<td>survey)</td>
<td></td>
</tr>
<tr>
<td>Sample types:</td>
<td></td>
</tr>
<tr>
<td>Tests proposed:</td>
<td></td>
</tr>
<tr>
<td>Other supporting information:</td>
<td></td>
</tr>
</tbody>
</table>

For further information or to discuss a request in advance, contact the Authority’s science officer on 1300 552 406 or email – see below.

Please fax your request to: science officer 02 9741 4891 or email: sample.submission@foodauthority.nsw.gov.au
Purpose

The purpose of this document is to outline the requirements of enforcement agencies regarding their reporting obligations to the NSW Food Authority (the Authority).

Reporting requirements

An enforcement agency is to report to the Authority on the exercise of its functions under the *NSW Food Act 2003* (s.113). The report format was developed in consultation with councils.

**Reporting enforcement agency activities**

- As an appointed enforcement agency, councils are required to provide information to the Authority about their food regulation activities. Refer to Table 1. ‘Activities report’.

Information already known to the Authority is excluded, eg category level, food recalls, severe food complaints and foodborne illness data.

**Notices served under the Local Government Act 1993** are not required to be reported to the Authority.

**Reports are used to achieve outcomes that:**

- guide the design of targeted programs to improve industry compliance
- reduce foodborne illness by controlling critical food handling practices
- demonstrate council activity
- improve consistency among councils
- increase public awareness about food surveillance

**Benefits of reporting are:**

- demonstrates food safety achievements
- focuses on key food safety areas
- improves consistency – food safety compliance in the critical food handling areas
- identifies areas for improvement eg critical food handling practices and food handler and officer training. Refer to Table 2. ‘Potential critical food handling practices – subject to risk assessment’
- enables individual councils to benchmark their food safety outcomes against the State
- regular progress reports to your own council and community on its food safety program
- measurable performance indicators
- justifies resources and funding
- early recognition that the program may not be completed – additional resources or contingency plans needed
• Submitting reports:
  • complete on-line via the Authority’s FRP website when it is launched
    – planned in early 2008
  • help will be available when using the template

Reports are required each six (6) months beginning 1 July 2008. The first reporting period is 1 July 2008 to 31 December 2008.

Details of prosecutions
Councils are required to report to the Authority details of any proceedings for an offence under the NSW Food Act 2003, or Food Regulation 2004, dealt with by the council within 21 days after the proceedings are finally dealt with (s.113(4)).

This includes all matters that are laid before the court irrespective of their outcome.

It does not include Penalty Notices which are not court-elected.

Publishing summary reports of enforcement agency activities
At the end of each reporting period, the Authority will publish summary reports of enforcement agency activities on its FRP website when it is launched – planned in early 2008.

Further assistance
For assistance, support and advice, contact the Authority's Local Government Unit on 1300 552 406.
### Table 1. Activities report

<table>
<thead>
<tr>
<th>Function</th>
<th>Activity (in the 6 monthly reporting period)</th>
<th>Result</th>
</tr>
</thead>
<tbody>
<tr>
<td>Food business profile</td>
<td>Number of high risk food businesses*</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Number of medium risk food businesses*</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Number of low risk food businesses*</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Total number of food businesses</td>
<td></td>
</tr>
<tr>
<td>Regulation services profile</td>
<td>Number of authorised officers engaged in food regulatory work over the 6 monthly reporting period</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Number of full time equivalent (FTE) authorised officers engaged in food regulatory work over the 6 monthly</td>
<td></td>
</tr>
<tr>
<td></td>
<td>reporting period</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Private contractors used</td>
<td>Yes / No</td>
</tr>
<tr>
<td></td>
<td>Resource sharing with other council(s)</td>
<td>Yes / No</td>
</tr>
<tr>
<td>Regulation inspection profile</td>
<td>Combined number of inspections of high and medium risk food businesses including re-inspections</td>
<td></td>
</tr>
<tr>
<td>(excluding low risk businesses)</td>
<td>Combined number of inspections of high and medium risk food businesses satisfactory# at the time of</td>
<td></td>
</tr>
<tr>
<td></td>
<td>reporting (irrespective of the number of re-inspections)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Percentage of primary inspections* complying with ALL critical food handling practices (~)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Of those businesses found not to be complying with all CFHP~, the percentage subsequently complying with</td>
<td></td>
</tr>
<tr>
<td></td>
<td>all CFHP as the result of follow-up action. Note: failed CFHP requires immediate follow-up.</td>
<td></td>
</tr>
<tr>
<td>Food complaint profile</td>
<td>Total number of complaints received</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Total number of complaints investigated</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Complaint type (%):</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Hygiene and handling</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Foreign matter</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Food quality including deterioration</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Labelling or advertising</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Other</td>
<td></td>
</tr>
<tr>
<td>Enforcement action</td>
<td>Number of Improvement Notices issued</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Number of warning letters issued</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Number of Prohibition Orders served</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Number and nature of seizures, eg 12kg home-made yoghurt – deterioration</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Number of Penalty Notices issued</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Number of Penalty Notices court-elected</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Number of prosecutions**</td>
<td></td>
</tr>
<tr>
<td>Value-added services</td>
<td>Technical advice provided for food businesses</td>
<td>Yes / No</td>
</tr>
<tr>
<td></td>
<td>Information provided for food businesses, eg leaflets, hand-outs, fact sheets and website</td>
<td>Yes / No</td>
</tr>
<tr>
<td></td>
<td>Food handler training organised or facilitated</td>
<td>Yes / No</td>
</tr>
<tr>
<td></td>
<td>Any other service provided, eg participation in surveys or pilot programs</td>
<td>Yes / No</td>
</tr>
<tr>
<td></td>
<td>(if yes, please give brief details)</td>
<td></td>
</tr>
</tbody>
</table>


# No breaches observed. Refer to Food Standards Code, Chapter 3.

~ Critical food handling practices. Refer to Table 2.

* Primary inspection means the first annual round of planned, programmed or routine inspections. It does not include re-inspection for a recent unsatisfactory inspection.

** Details to be forwarded to the NSW Food Authority.
Table 2. Potential critical food handling practices – subject to risk assessment

**Generally**

**No unsafe food:**
- No cross-contamination between raw and RTEF
- Adequate time/temperature handling of RTEF, PHF
- Good personal hygiene, especially hand-washing practices
- Effective sanitisation of eating and drinking utensils

**No unsuitable food:**
- eg environmental contamination of RTEF

**Specific Practices**

<table>
<thead>
<tr>
<th>Food processing</th>
<th>Personal hygiene</th>
</tr>
</thead>
<tbody>
<tr>
<td>No source likely to cause cross-contamination (3.2.2 (7-1))</td>
<td>Food handler with foodborne disease/symptoms restricted from food areas (3.2.2 (14-1))</td>
</tr>
<tr>
<td>Separate utensils and equipment used for raw and prepared food (safe and suitable food) (3.2.2 (7-1a))</td>
<td>Food handler with conditions restricted (3.2.2 (14-2))</td>
</tr>
<tr>
<td>Raw and prepared foods handled separately (safe and suitable food) (3.2.2 (7-1a))</td>
<td>Bandages/dressings completely covered with waterproof dressings (3.2.2 (15-1d))</td>
</tr>
<tr>
<td>Hands washed whenever they are a likely source of contamination and immediately before working with RTEF after handling raw food (3.2.2 (15-2))</td>
<td>Hands washed whenever they are likely to be a source of contamination (3.2.2 (15-2a))</td>
</tr>
<tr>
<td>Frozen PHF thawed quickly in microwave, under cold running water, under refrigeration or immediately cooked (3.2.2 (7-4))</td>
<td>Hands/finger nails clean (3.2.2 (15-2a, 3, 4))</td>
</tr>
<tr>
<td>Minimal holding time for PHF at high risk temperatures (3.2.2 (7-2))</td>
<td></td>
</tr>
<tr>
<td>Pathogen control step for PHF (3.2.2 (7-1b((i)))</td>
<td></td>
</tr>
<tr>
<td>Cooked PHF cooled within 2+4 hr rule (3.2.2 (7-3))</td>
<td></td>
</tr>
<tr>
<td>Rapidly re-heat previously cooked and cooled PHF (intended to be held hot) to 60°C or above (3.2.2 (7-4))</td>
<td></td>
</tr>
<tr>
<td>Suitable food thermometer readily accessible and accurate (3.2.2 (22))</td>
<td></td>
</tr>
</tbody>
</table>

**Hand washing facilities**
- Hand wash facility correctly located, adequate size, accessible, properly installed, clearly designated (3.2.3 (14), 3.2.2 (17-1a))
- Clean disposable towels or

**Water supply**
- Adequate and potable quality (3.2.3 (4))
- Ice made from potable water (3.2.2 (7-1a), 3.2.3 (4-2))

**Cleaning, sanitising and maintenance**
- Food contact surfaces clean (3.2.2 (20-1b))
- Eating and drinking utensils clean (3.2.2 (20-1a))
- Toxic cleaning agents properly used, labelled and stored (3.2.3 (15), 3.2.2 (6-1a), (8-1), (9b), (10a))

**Dish and glass washing facilities**
- Effective sanitisation (3.2.2 (20), 3.2.3 (13-3))

**Pest control**
- No evidence of vermin (3.2.2 (24-1c))
- Pesticides properly used, labelled and stored (3.2.3 (15), 3.2.2 (6-1a), (8-1), (9b), (10a))
- No live animals present (3.2.2 (24-1a))

**Food standards**
- No unsafe food (section 16, NSW Food Act 2003)
- No unsuitable food (section 17, NSW Food Act 2003)

---

‘Critical’ means very likely to or has resulted in the production of unsafe or unsuitable food.

‘PHF’ means potentially hazardous food.

‘RTEF’ means ready-to-eat food(s).

Numbers in brackets relate to the Food Standards Code, Chapter 3.
Retail and food service types and their inspection frequencies
Managing urgent food safety matters
Perceived conflicts of interest
Resource assistance in unforeseen circumstances
Food complaint management
Purpose

The purpose of this document is to describe the types of retail and food service businesses and their respective recommended inspection frequencies.

Definition of retail and food service businesses

A retail food business includes:
- a food business which performs as its principal food-related activity, the production of food for direct sale to the consumer
- the sale or service of food directly to the consumer including but not limited to any food business listed in Table 1. ‘Food businesses and their recommended inspection frequencies’.

It does not include:
- primary production
- businesses licensed by the Authority – including retail meat premises
- manufacturers
- wholesalers
- food transport vehicles

Retail and food service businesses and inspection frequencies

Retail food businesses have been placed into three recommended inspection frequency levels. The inspection frequency is based on the risks associated with the food and how it’s handled at each business type, as shown in Table 1.

The recommended inspection frequency should be used in conjunction with a performance history qualifier.

- Food businesses that have undergone three (3) consecutive inspections with no critical food safety breaches identified may have their inspection frequency reduced.
- Food businesses that are found to have critical food safety breaches may have their inspection frequency increased.

The following table is a general guide to planning a desktop inspection program with recommended levels of inspection. It’s anticipated that inspection frequencies would be reviewed after the initial inspection of the food business.

The recommended inspection frequencies are indicative only and have been developed based on a previous ANZFA paper, ‘Food Safety: The priority classification system for food businesses’, and the draft paper by the Australian Government Department of Health and Ageing, ‘Business Sector Food Safety Risk Classification Framework’.

Further assistance

For assistance, support and advice, contact the Authority’s Local Government Unit on 1300 552 406.
Table 1. Food businesses and their recommended inspection frequencies

<table>
<thead>
<tr>
<th>Recommended annual inspection frequency*</th>
<th>Business type</th>
<th>Characterising feature</th>
<th>ANZFA priority classification</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>LEVEL 0</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Incident Only</strong></td>
<td>Backpacker accommodation</td>
<td>No meals served</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Confectionery shop</td>
<td>Low risk foods, packaged</td>
<td>P4</td>
</tr>
<tr>
<td></td>
<td>Health food shop</td>
<td>Low risk foods, packaged</td>
<td>P4</td>
</tr>
<tr>
<td></td>
<td>Newsagency</td>
<td>Low risk foods, packaged</td>
<td>P4</td>
</tr>
<tr>
<td></td>
<td>Pharmacy</td>
<td>Low risk foods, packaged</td>
<td>P4</td>
</tr>
<tr>
<td></td>
<td>Variety stores</td>
<td>Low risk foods, packaged</td>
<td>P4</td>
</tr>
<tr>
<td></td>
<td>Vending machine</td>
<td>Low risk foods, packaged</td>
<td>P4</td>
</tr>
<tr>
<td><strong>LEVEL 1</strong></td>
<td>Beauty parlour</td>
<td>Offer coffee and tea</td>
<td>P3</td>
</tr>
<tr>
<td></td>
<td>Biscuit shop</td>
<td>Medium and low risk foods only</td>
<td>P3</td>
</tr>
<tr>
<td></td>
<td>Bottle shop</td>
<td>Serving port from port barrel</td>
<td>P3</td>
</tr>
<tr>
<td></td>
<td>Bread shop</td>
<td>Bread only</td>
<td>P3</td>
</tr>
<tr>
<td></td>
<td>Cinemas</td>
<td>Medium and low risk foods only</td>
<td>P3</td>
</tr>
<tr>
<td></td>
<td>Doughnut shop</td>
<td>Medium and low risk foods only</td>
<td>P3</td>
</tr>
<tr>
<td></td>
<td>Fitness or health clubs</td>
<td>Medium and low risk foods only</td>
<td>P3</td>
</tr>
<tr>
<td></td>
<td>Green grocer</td>
<td>Medium and low risk foods only</td>
<td>P3</td>
</tr>
<tr>
<td></td>
<td>Ice cream parlour</td>
<td>Medium and low risk foods only</td>
<td>P3</td>
</tr>
<tr>
<td></td>
<td>Hairdressers</td>
<td>Offer coffee/tea</td>
<td>P3</td>
</tr>
<tr>
<td></td>
<td>Nightclub</td>
<td>Medium and low risk foods only</td>
<td>P3</td>
</tr>
<tr>
<td></td>
<td>Service stations</td>
<td>Medium and low risk foods only</td>
<td>P3</td>
</tr>
<tr>
<td></td>
<td>Swimming pools</td>
<td>Medium and low risk foods only</td>
<td>P3</td>
</tr>
<tr>
<td><strong>LEVEL 2</strong></td>
<td>Airport lounges</td>
<td>Takeaways – hot holding</td>
<td>P2</td>
</tr>
<tr>
<td></td>
<td>Art galleries</td>
<td>Serving meals</td>
<td>P2</td>
</tr>
<tr>
<td></td>
<td>Bakery shop</td>
<td>Custard tarts, meat pies</td>
<td>P1</td>
</tr>
<tr>
<td></td>
<td>Bed and Breakfast</td>
<td>Serving meals</td>
<td>P2</td>
</tr>
<tr>
<td></td>
<td>Boarding school</td>
<td>Onsite kitchen</td>
<td>P1</td>
</tr>
<tr>
<td></td>
<td>Bookshop café</td>
<td>Serving meals</td>
<td>P2</td>
</tr>
<tr>
<td></td>
<td>Bowling alley</td>
<td>Serving meals</td>
<td>P2</td>
</tr>
<tr>
<td></td>
<td>Cake shop</td>
<td>Custard tarts, meat pies</td>
<td>P1</td>
</tr>
<tr>
<td></td>
<td>Canteen</td>
<td>Serving meals</td>
<td>P2</td>
</tr>
<tr>
<td></td>
<td>Caravan parks</td>
<td>Takeaways – hot holding</td>
<td>P2</td>
</tr>
<tr>
<td></td>
<td>Caterer</td>
<td></td>
<td>P1</td>
</tr>
<tr>
<td></td>
<td>Charity function</td>
<td>Offsite</td>
<td>P1</td>
</tr>
<tr>
<td>Business Type</td>
<td>Service Provided</td>
<td>Priority Classification</td>
<td></td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>---------------------------------------</td>
<td>-------------------------</td>
<td></td>
</tr>
<tr>
<td>Childcare centre</td>
<td>Serving meals</td>
<td>P1</td>
<td></td>
</tr>
<tr>
<td>Child party centres</td>
<td>Serving meals</td>
<td>P1</td>
<td></td>
</tr>
<tr>
<td>Coffee shop</td>
<td>Serving meals</td>
<td>P2</td>
<td></td>
</tr>
<tr>
<td>Correctional centre</td>
<td>Serving meals</td>
<td>P1</td>
<td></td>
</tr>
<tr>
<td>Delicatessen</td>
<td></td>
<td>P2</td>
<td></td>
</tr>
<tr>
<td>Farmer’s markets</td>
<td>Takeaways – hot holding</td>
<td>P2</td>
<td></td>
</tr>
<tr>
<td>Floating restaurants</td>
<td>Serving meals</td>
<td>P1</td>
<td></td>
</tr>
<tr>
<td>Food home delivery service</td>
<td></td>
<td>P2</td>
<td></td>
</tr>
<tr>
<td>Funeral parlour catering</td>
<td>Caterer</td>
<td>P1</td>
<td></td>
</tr>
<tr>
<td>Holiday recreational camp</td>
<td>Onsite kitchen</td>
<td>P1</td>
<td></td>
</tr>
<tr>
<td>Hostel</td>
<td>Onsite kitchen</td>
<td>P1</td>
<td></td>
</tr>
<tr>
<td>Hotel and motel</td>
<td>Serving meals</td>
<td>P2</td>
<td></td>
</tr>
<tr>
<td>Juice bar</td>
<td>Unpasteurised</td>
<td>P1</td>
<td></td>
</tr>
<tr>
<td>Kiosk</td>
<td>Serving meals</td>
<td>P2</td>
<td></td>
</tr>
<tr>
<td>Licensed club</td>
<td>Serving meals</td>
<td>P2</td>
<td></td>
</tr>
<tr>
<td>Mobile food van</td>
<td>High risk foods</td>
<td>P2</td>
<td></td>
</tr>
<tr>
<td>Museum food shop</td>
<td>Serving meals</td>
<td>P2</td>
<td></td>
</tr>
<tr>
<td>Nurseries</td>
<td>Serving meals</td>
<td>P2</td>
<td></td>
</tr>
<tr>
<td>Poultry shop</td>
<td></td>
<td>P1</td>
<td></td>
</tr>
<tr>
<td>Pub and tavern</td>
<td>Serving meals</td>
<td>P2</td>
<td></td>
</tr>
<tr>
<td>Restaurant</td>
<td></td>
<td>P2</td>
<td></td>
</tr>
<tr>
<td>School camp</td>
<td></td>
<td>P1</td>
<td></td>
</tr>
<tr>
<td>School canteen</td>
<td>Takeaways – hot holding</td>
<td>P2</td>
<td></td>
</tr>
<tr>
<td>Seafood shop</td>
<td></td>
<td>P2</td>
<td></td>
</tr>
<tr>
<td>Sushi</td>
<td>Onsite manufacture</td>
<td>P2</td>
<td></td>
</tr>
<tr>
<td>Takeaway food shop</td>
<td></td>
<td>P2</td>
<td></td>
</tr>
<tr>
<td>Theatres</td>
<td>Serving meals</td>
<td>P2</td>
<td></td>
</tr>
<tr>
<td>Tourist attractions</td>
<td>Takeaways – hot holding</td>
<td>P2</td>
<td></td>
</tr>
<tr>
<td>Tour operators</td>
<td>Caterer</td>
<td>P1</td>
<td></td>
</tr>
<tr>
<td>Train services</td>
<td>Serving meals</td>
<td>P2</td>
<td></td>
</tr>
<tr>
<td>Vending machine</td>
<td>Perishable</td>
<td>P2</td>
<td></td>
</tr>
</tbody>
</table>

* Inspection frequency can be varied based on the business performance.

Priority classifications are based on the ANZFA (now FSANZ) priority classification system. This system is being revised. The Authority has considered the revisions in determining, at face value, priority food business classifications.

**Note:**
- P1 and P2 classifications are considered, at face value, high risk
- P1 classifications are targeted for possible licensing consideration by the Authority, in keeping with national strategies
- P3 classifications are considered medium risk
- P4 classifications are considered low risk
Purpose

The purpose of these guidelines is to document matters for consideration when determining the appropriate level of response, and management, when faced with urgent food safety matters.

The key components within this document will form the basis of training delivered to councils by the NSW Food Authority (the Authority). For further information contact the Authority’s Local Government Unit on 1300 552 406.

Introduction

These guidelines should be read in conjunction with the ‘Draft mandatory protocols – Urgent food safety response’.

If there is an imminent threat to food safety an urgent food safety response may be invoked and councils will be required to respond.

There are other situations where an emergency is not declared but a situation may exist which could potentially lead to a threat to food safety, eg flood, fire or extended power failure.

The primary objective of managing an urgent food safety matter is to achieve a food safety outcome.

Aim to:

- prevent foodborne illness – ensure compliance with critical food handling practices
- ensure food is handled hygienically
- ensure premises are clean and appropriate

Councils should provide the Authority with their urgent food safety response contacts.

An authorised officer under the NSW Food Act 2003, should be available at all times to action urgent matters.

If councils experience problems relating to resources, refer to ‘Draft advisory guidelines – Resource assistance in unforeseen circumstances’ for further information.

Procedures when responding to an urgent food safety matter

The level of preparedness will impact on the effectiveness of the response.

Consider the following:

- does the situation compromise any of the critical food handling practices?
- does the situation provide a potentially serious threat to food safety?
- should the situation be dealt with by the Authority?

Note: If the situation is to be dealt with by the Authority, it’s important to establish communication channels between the two parties to ensure a smooth and effective response.
Undertake a risk assessment of the situation

It is important to undertake a risk assessment to determine the appropriate level of response.

Consider the following:

- identify areas which are and are not affected. Consider using other available resources eg for extended power failures, the energy authorities can be approached to assist in determining which areas have lost power and the duration of the power loss
- use council’s database to identify premises which may be affected
- identify the risk level of those premises potentially affected. It is also important to consider additional risks that may develop over time, eg low risk premises affected by flooding may result in wet goods having a potential to develop into high risk
- the consumer base which may be affected during the situation eg during a flood, consider focusing on those premises that serve high numbers of people and where people gather – clubs, pubs, hotels and shopping centres

Identify the scope of the situation

One way of identifying the scale of premises affected is to survey the affected area. This can be done by scouting. Any council staff travelling their normal route can observe and provide feedback to the council. It may be that only a small number of premises need attention, as the situation may not have affected the majority.

Once the affected premises or areas, depending on the scale, are identified, a plan of action can be initiated to target these.

Identify what action can be taken by council

It may be appropriate for councils to initiate some immediate action, depending on the situation.

This may include:

- communications to food businesses
- communications to residents of the areas
- pick up of affected food
- temporary secure storage of affected food to be disposed
- disposal of affected food

The Authority can be approached for assistance. Refer to ‘Draft mandatory protocol – Resource assistance in unforeseen circumstances’.

Identify what action is being taken by business owners

The action taken by shopkeepers will demonstrate how responsible they are.

For example:

- are the businesses discontinuing selling food which is affected or not correctly stored?
- do the businesses have appropriate insurance?
- are foods that are unsafe or unfit for consumption adequately disposed?
- is unsafe or unfit food that is left on the footpath for pick up and disposal clearly labelled ‘unfit for human consumption’? This is important in deterring scavenging of these foods by people.
Insurance issues

If food is removed from sale, then it’s no longer ‘food for sale’. Enforcement agencies have no jurisdiction under the *NSW Food Act 2003*, if the food is no longer ‘food for sale’. Consequently, any requests from an insurer for EHOs or the Authority’s officers to make an assessment should be carefully considered. Insurance companies should send their own assessor to state that the food is not fit for use.

Verification of response actions

It is recommended that a verification program be established to validate that actions taken during the urgent situation have been appropriate and effective. This may include random checks or inspection of food businesses.

Further assistance

For assistance, support and advice, contact the Authority’s Local Government Unit on 1300 552 406.
Purpose

The purpose of this document is to outline the policy and procedure with respect to the provision of assistance by the NSW Food Authority (the Authority) when there is a perceived conflict of interest.

Background

Councils appointed to undertake food regulation roles have a responsibility to ensure that those obligations are met.

There may be situations where there is a perceived conflict of interest for councils undertaking their duties. **Councils are encouraged to seek alternate solutions to managing perceived conflicts of interest.**

These include:

- using another council to undertake the activity
- employing a contractor independent of the situation
- sharing resources with another council

**The benefits of teaming up with other councils include:**

- opportunity to build on current knowledge and practices
- gaining an additional resource that can be called upon
- consistency among councils throughout the State in food surveillance

Definition of conflict of interest

The term ‘conflict of interest’ refers to situations where a conflict arises between public duty and private interest, which could influence the performance of official duties and responsibilities. Such conflict generally involves opposing principles or incompatible wishes or needs.

Conflict of interests can involve pecuniary interests ie financial interests or other material benefits or costs, or non-pecuniary interests.

They can involve the interests of the public official, members of the official’s immediate family or relatives (where these interests are known), business partners or associates, or friends. Hostility as well as friendship can give rise to an actual or perceived conflict of interest.

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Procedure for making application for assistance

Request for assistance is to be lodged in writing and addressed to the Director-General of the NSW Food Authority.

The request should cover the following aspects.

(a) The particular circumstances including:
   • the food business name and address
   • the relationship between the food business and council or affiliated parties
   • the reasons for requesting assistance

(b) Specific information about the support being requested, including:
   • exactly what does the council want the Authority to do
   • estimated commencement date
   • estimated duration of the support being requested
   • liaison and communication channels

(c) Proposed costs and funding of the activity including:
   • estimated cost of the service requested
   • the administrative funding arrangement
     • council’s to seek funding from a particular source
     • the Authority to invoice council for the service
     • some other arrangement by consultation

(d) Information in relation to the alternative options already explored by the council and the outcomes of those pursuits.

   Note: Councils need to demonstrate that they have pursued alternative options.

(e) Information about council’s contingency plans for addressing future instances of the particular circumstance.

Assessment of the request

The Authority will consider the request for assistance.

The deliberation process may include:

• evaluating the merit of the perceived conflict of interest presented by council
• initiating further discussion with the council that is seeking assistance, to progress the matter
• initiating discussion with the parties affected, where appropriate
• evaluating evidence of alternate options already exhausted by council
• considering capacity with respect to the Authority’s current resources, to undertake the activity requested by council
• considering capacity with respect to the councils current resources and situation, to effectively undertake the activity requested by council
• seeking advice from the Food Regulation Forum
The Authority will reply in writing in a timely manner to the council that has made the request.

Further assistance

For assistance, support and advice, contact the Authority’s Local Government Unit on 1300 552 406.
Purpose

The purpose of this document is to outline the procedure regarding the provision of assistance by the NSW Food Authority (the Authority) when there are unforeseen circumstances that prevent the council from undertaking its food regulation role.

Background

Councils appointed to undertake food regulation functions have a responsibility to ensure they are met (s.111D).

There may be situations where councils have difficulty undertaking their role due to unforeseen circumstances, eg a disaster event.

Definition of unforeseen circumstances

An unforeseen circumstance may include:

- an unexpected event, or series of events, that prevent council undertaking its food regulation role, eg disasters such as power loss, fire, flood or earthquake
- a sudden loss of staff through resignation, serious accident or illness
- inability to recruit staff over an extended period
- competing or urgent priorities overtake food regulation functions

An unforeseen circumstance does not include:

- planned leave by council staff
- short term vacancy of staff
- short term leave by staff eg training, study, sick, recreation, long service etc

It is anticipated that these situations will be effectively managed internally by councils.

Principles and options

The key principle is councils have primary responsibility for food regulation, either on their own or in partnership with other councils or contractors.

Every attempt will be made by the Authority to respond to reasonable requests for assistance.

In keeping with the key principle, the Authority should only be approached where other options have been exhausted.
Potential options are:

- re-prioritising routine work
- deploying contingency resources within council
- using another council’s resources
- employing a contractor

As resource issues become more prevalent in view of the workforce shortage issues, a contingency plan should be developed to ensure food regulation continuity.

The benefits of teaming up with other councils or identifying potential contractors to assist, extend well beyond the food regulation function, eg environmental areas, waste control and public health inspections.

**Procedure for making application for assistance**

In many cases, requests for assistance may be due to a sudden disaster event requiring immediate action. Contact the Authority on 1300 552 406 to ensure prompt support.

As soon as practicable, the request should be confirmed in writing, email is acceptable, and addressed to the Director-General of the NSW Food Authority.

The request should cover the following aspects:

(a) The particular circumstances including:

- the series of events that has led to the unforeseen circumstance and the consequences of the circumstance
- the names, addresses and history, where possible, of affected food businesses
- the reasons for requesting assistance

(b) Specific information about the support being requested including:

- exactly what does the council want the Authority to do
- estimated commencement date
- estimated duration of the support being requested
- liaison and communication channels

(c) Proposed costs and funding of the activity including:

- estimated cost of the service requested
- the administrative funding arrangement
  - council’s to seek funding from a particular source
  - the Authority to invoice council for the service
  - some other arrangement by consultation
(d) Information in relation to the alternative options already explored by the council and the outcomes of those pursuits

**Note:** Councils need to demonstrate that they have pursued alternative options.

(e) Information about council’s contingency plans for addressing future instances of the particular circumstance.

### Assessing the request

The Authority will consider all requests for assistance in accordance with these guidelines. The process may include:

- evaluating the merit of the unforeseen circumstance and the consequences of the circumstance, with emphasis on food regulation and honouring the food regulation partnership
- initiating further discussion with the council that is seeking assistance, to progress the matter
- evaluating evidence of alternate options already exhausted by council
- considering capacity with respect to the Authority’s current resources, to undertake the activity requested by council
- considering capacity with respect to the councils current resources and situation, to effectively undertake the activity requested by council
- seeking advice from the Food Regulation Forum

In situations of urgency, the Authority will respond immediately. In non-urgent situations, the Authority will consult with the councils and confirm its response in writing, in a timely manner.

### Further assistance

For assistance, support and advice, contact the Authority’s Local Government Unit on 1300 552 406.
Purpose

The purpose of this protocol is to provide guidance regarding the management of food complaints.

Introduction

Types of food complaints received by councils and the Authority can be varied and include: matters of an urgent or severe nature, alleged foodborne illness, and complaints regarding hygiene and handling, premises, or quality. Refer to 'Draft mandatory protocols – Food complaint referral'.

Procedure for investigating food complaints

Each council can determine its own complaint handling and investigation procedures. It is recommended that a food complaint management policy be developed by council.

This year the Authority conducted food complaint investigations training for councils. This will be on-going.

Information that should be collected includes:

- complainant’s name, address, telephone – is the complaint a juvenile?
- source eg consumer; received verbally, by letter or in person
- complaint details
- whether the complainant wishes the matter to be investigated
- whether the complainant intends taking private action
- whether the complainant wishes to remain anonymous
- whether there is any article or product to be collected – collection decision will be made by the investigating agency
- purchase details – place, date, time, served by, receipt, and any conversation
- whether the complainant has already contacted the business
- product or article details – description, supplier’s name, lot, lot identification, size, barcode number, date marking and type
- date and time the complaint was received and the name of the recording officer

Complainants should be advised of their rights to avoid potential misunderstanding of council’s role in the investigation. Councils should advise the complainant of council’s process and procedures including the feedback procedure and any privacy issues.

Consider applying a risk assessment to determine the priority. Factors to be considered and the application of a weighting system is outlined in the table below:
<table>
<thead>
<tr>
<th>Factors to be considered:</th>
<th>Weight</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Effect on consumer health</strong></td>
<td></td>
</tr>
<tr>
<td>None</td>
<td>0</td>
</tr>
<tr>
<td>Disquiet</td>
<td>1</td>
</tr>
<tr>
<td>Injury</td>
<td>4</td>
</tr>
<tr>
<td>Illness</td>
<td>6</td>
</tr>
<tr>
<td>Death</td>
<td>20</td>
</tr>
<tr>
<td><strong>How widely the product or event is distributed</strong></td>
<td></td>
</tr>
<tr>
<td>Small distribution (&lt;100 customers per day)</td>
<td>1</td>
</tr>
<tr>
<td>Medium (101-1000 customers per day)</td>
<td>2</td>
</tr>
<tr>
<td>Large (&gt;1000 customers per day)</td>
<td>3</td>
</tr>
<tr>
<td><strong>Past compliance of the food business (CHECK)</strong></td>
<td></td>
</tr>
<tr>
<td>Satisfactory</td>
<td>1</td>
</tr>
<tr>
<td>Unsatisfactory</td>
<td>2</td>
</tr>
<tr>
<td>Sanctions</td>
<td>3</td>
</tr>
</tbody>
</table>

Other factors to be considered include:
- exposure to susceptible consumers
- significance to industry
- economic fraud not covered by other agencies

The likely public health impact can be determined by the sum of weightings in the three risk areas as follows:
- **high** >10
- **medium** 5-10
- **low** <5

Remember, any allegations of foodborne illness, or any matter presenting a ‘clear and present danger’ is to be redirected to the Authority.
Consider priority

The following classifications are used by the Authority and are repeated here as a guide. Timeframes are approximate.

Urgent
- has caused or has the potential to cause serious harm or injury to the consumer
- investigate as soon as possible

High
- will not cause serious physical harm to a consumer, eg premises with extremely poor hygiene or handling, or foreign matter detected in food that could result in minor injury
- investigate within one week

Medium
- more than one complaint about a food business regarding poor hygiene, poor handling practices, unsound structures of premises or incorrect labelling
- investigate within one month

Low
- single report of poor hygiene, poor handling or food quality related issues
- inspect at a convenient time

Further assistance

For assistance, support and advice, contact the Authority’s Local Government Unit on 1300 552 406.
abbreviations, explanatory notes and glossary

> Abbreviations
> Explanatory notes
> Glossary
Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>AQIS</td>
<td>Australian Quarantine Inspection Service</td>
</tr>
<tr>
<td>DAL</td>
<td>The Institute of Clinical Pathology and Medical Research (ICPMR) Division of Analytical Laboratories, NSW Health</td>
</tr>
<tr>
<td>FBI</td>
<td>Foodborne illness investigation</td>
</tr>
<tr>
<td>FSANZ</td>
<td>Food Standards Australia New Zealand</td>
</tr>
</tbody>
</table>

Explanatory notes

- Reference to ‘council(s)’ or ‘local government’ includes the Director-General of the Department of Environment and Climate Change in respect of Kosciuszko National Park
- Section references in the information pack refer to the *Food Amendment Act 2007*

Glossary

**References used in the glossary are:**

- *NSW Food Act 2003*
- *Food Amendment Act 2007*
- *Food Regulation 2004*
- *FSANZ Food Standards Code*

**Advisory guidelines**

- Guidelines which are advisory in nature

**Enforcement agency**

a. The NSW Food Authority

b. A relevant body appointed as an enforcement agency under Division 2 of Part 9 of the *NSW Food Act 2003*

c. any person or body, or a person or body within a class of persons or bodies, prescribed by the regulation for the purposes of this definition (other than a relevant body within the meaning of Division 2 of part 9)
Food

1. Includes:
   a. any substance or thing of a kind used, or represented as being for use, for human consumption (whether it is live, raw, prepared or partly prepared)
   b. any substance or thing of a kind used, or represented as being for use, as an ingredient or additive in a substance or thing referred to in paragraph (a)
   c. any substance used in preparing a substance or thing referred to in paragraph (a) (other than a substance used in preparing a living thing) if it comes into direct contact with the substance or thing referred to in that paragraph, such as a processing aid
   d. chewing gum or an ingredient or additive in chewing gum, or any substance used in preparing chewing gum
   e. any substance or thing declared to be a food under a declaration in force under section 38 of the Food Standards Australia New Zealand Act 1991 of the Commonwealth, whether or not the substance, thing or chewing gum is in a condition fit for human consumption

2. However, ‘food’ does not include a therapeutic good within the meaning of the Therapeutic Goods Act 1989 of the Commonwealth

3. To avoid doubt, ‘food’ may include live animals and plants

Food business

A business, enterprise or activity that involves:
   a. the handling of food intended for sale, or
   b. the sale of food

regardless of whether the business, enterprise or activity concerned is of a commercial, charitable or community nature or whether it involves the handling or sale of food on one occasion only.

Food Regulation Forum

A committee established by the Minister whose members consist of the Director General, and others as specified in s.115A, and whose functions are specified in s.115B of the NSW Food Act 2003.

Function

Includes power, authority or duty.

Mandatory protocols

Protocols established which are compulsory.

Member of staff of the Food Authority

A person employed under Chapter 1A of the Public Sector Employment and Management Act 2002 in a Division of the Government Service to enable the Food Authority to exercise its function.
Premises
Includes:

a. land (whether or not vacant)
b. the whole or any part of a building, tent, stall or other structure (whether of a permanent or temporary nature)
c. a pontoon
d. a vehicle (other than a food transport vehicle while it is engaged in the transport of food)

Proprietor of a food business
Includes:

a. the person carrying on the food business
b. if that person cannot be identified the person in charge of the food business

Relevant body
A local council, or the Director-General of the Department of Environment and Climate Change (but only in respect of Kosciuszko National park).

Sell
Includes:

a. barter, offer or attempt to sell
b. receive for sale
c. have in possession for sale
d. display for sale
e. cause or permit to be sold or offered for sale
f. send, forward or deliver for sale
g. dispose of by any method for valuable consideration
h. dispose of to an agent for sale on consignment
i. provide under a contract of service
j. supply food as a meal or part of a meal to an employee, in accordance with a term of an award governing the employment of the employee or a term of the employee's contract of service, for consumption by the employee at the employee's place of work
k. dispose of by way of raffle, lottery or other game of chance
l. offer as a prize or reward
m. give away for the purpose of advertisement or in furtherance of trade or business
n. supply food under a contract (whether or not the contract is made with the consumer of the food), together with accommodation, service or entertainment, in consideration of an inclusive charge for the food supplied and the accommodation, service or entertainment
o. supply food (whether or not for consideration) in the course of providing services to patients in public hospitals (within the meaning of the Health Services Act 1997) or inmates in correctional centres (within the meaning of the Crimes (Administration of Sentences) Act 1999)
p. sell for the purpose of resale
For further information contact:

Local Government Unit

**NSW Food Authority**
6 Avenue of the Americas
Newington NSW 2127

**Tel** 1300 552 406
**Fax** 02 9741 4869
**Email** council@foodauthority.nsw.gov.au