

ENVIRONMENTAL  
HEALTH POLICY

FOOD SAFETY SURVEILLANCE STRATEGY

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## 1. Introduction

There is a large amount of literature available on foodborne illness and its devastating effect worldwide on public health. Foodborne illnesses are defined as diseases and are usually either infectious or toxic in nature. The major issue with foodborne illness is the lack of accurate statistics on just how commonly they occur.

The global incidence of foodborne illness is difficult to estimate due to the lack of reporting and diagnosis of a foodborne illness. The World Health Organisation estimate that in industrialised countries, up to 30% of the population suffer from food borne disease each year.

NSW Food Authority estimate that approximately 5.4 million Australians suffer from food related illness each year. Around 4.1 million cases of food poisoning are reported nationally each year with an annual cost of \$1.25 billion to our health system. It is further estimated that of the 20.8 billion meals consumed each year by Australians, 0.02% cause foodborne illness. The Victorian Government Department of Human Services places the figure of foodborne illness incidents at more than 7 million people per year and believes food safety to be one of the most important issues for any government. Most cases in Australia are mild, of short duration and rarely result in death.

The cost of foodborne illness to society is also difficult to estimate, however it is known that the costs globally and nationally are significant. In the USA, food illness is estimated to cost the country over 35 billion dollars per year. Per case, overseas costs are estimated between \$1000 and \$2000 and result from medical care, travel, investigations, loss of productivity, emotional loss, loss of business and legal action. There is no accurate Australian data available to estimate the cost of foodborne illness, however NSW Health estimate the cost to be approximately 2 billion dollars.

The concerning belief is that the incidence of foodborne illness is increasing. The increase is attributed to changes in population demographics, changes in consumer behaviour, emergence of new strains of micro organisms and changes in animal husbandry practices.

NSW Health report that the major contributing factors towards foodborne illness outbreaks in Australia between 1980 and 1995 were inadequate cooking, improper holding temperatures, contaminated equipment, unsafe food sources and poor personal hygiene.

As Australian culture develops, so too does the incidence of 'eating out'. As more Australians eat out, the risk of illness from food increases. It is evident that food authorities, particularly local government, will therefore need to place more emphasis on food safety into the future to ensure that the risks of food poisoning are reduced.

The importance of food safety has been recognised by the NSW State Government, who have developed a specialised department named the NSW Food Authority to manage food safety in NSW. In 2006 the NSW State Government announced the establishment of the NSW Food Regulation Partnership between itself and Local Government. The aim of the partnership is to improve and streamline food regulation in NSW.

The City of Canada Bay Council has also recognised the importance of food safety within the City and has entered into a formal partnership with the NSW Food Authority. The City of Canada Bay has been appointed as an Enforcement Agency under the Food Act 2003 and takes it's responsibilities under the Act seriously. Council's Food Safety Surveillance Strategy documents Council's commitment to food safety within the City and its role in food safety at a state level.

## 2. Aim of the Strategy

In partnership with the NSW Food Authority, minimise the risks associated with the consumption of food sold within the City, through enforcement and education.

## 3. Scope

The Food Safety Surveillance Strategy applies to food safety within the City of Canada Bay Council. Specifically, the Strategy applies to permanent food premises; however the principles outlined are relevant to temporary food premises and mobile food vehicles.

## 4. Legislation, Guidelines, Standards and Codes of Best Practice

Applicable food legislation, guidelines, standards and codes of best practice include:

- NSW Food Act 2003
- NSW Food Regulation 2015
- Food Standards Australia and New Zealand - Food Standards Code
- Australian Standard (AS 4674-2004) - Design, Construction and Fit-out of Food Premises

## 5. NSW Food Regulation Partnership

The NSW Food Regulation Partnership is a partnership between the City of Canada Bay Council and the NSW Food Authority. The aim of the partnership is to share resources, enforce food legislation and encourage effective communication between State Government and Local Government.

## 6 The Food Act 2003 and the Appointment of Enforcement Agencies

The Food Act 2003 enables the NSW Food Authority to appoint Councils as Enforcement Agencies. Councils are required to elect one of three categories dependent on their ability to meet the requirements of each category. Once nominated, the NSW Food Authority will appoint the Council as an Enforcement Agency under the Act.

### 6.1. Category A

The minimum food regulation responsibility level for an enforcement agency. It only covers responding to urgent food safety matters, urgent food recall investigations and six-monthly reporting of food regulation activities.

### 6.2. Category B

This is considered the standard food regulation responsibility level for an enforcement agency. It includes Category A responsibilities, and the following:

- a. Food recall investigations.
- b. Routine inspection and enforcement of the retail and food service sector.
- c. Medium and low risk food complaint investigations.
- d. Collaboration on single-case foodborne illness investigations.

### 6.3. Category C

This is the highest food regulation responsibility for an enforcement agency. It includes responsibilities under Categories A and B and any other responsibility determined in consultation with the NSW Food Authority.

## 7. Enforcement Agency - Responsibilities, Requirements and Reporting

### 7.1. Meeting Responsibilities and Requirements

As an enforcement agency, Council is required under the NSW Food Act 2003 to meet the requirements delegated to it under its appointment as an enforcement agency. Section 111D of the NSW Food Act 2003 states that it is the duty of the enforcement agency to exercise functions conferred or imposed on it, or delegated to it.

## 7.2. Reporting

Every year, Council is required to submit a report to the NSW Food Authority on its resources and activities for the period.

Reports are to be generated using Council's Authority food register.

## 8. Food Business Types and Inspection Frequencies

### 8.1. Food Business Types

Under the NSW Food Act 2003, food business means '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'.

The NSW Food Act 2003 provides the NSW Food Authority and Council, clear definitions on the type of food businesses each authority is responsible for. The types of food businesses Council is responsible for may include:

- Airport Lounges
- Art Galleries
- Backpacker Accommodation
- Bakery Shop
- Beauty parlour
- Bed and Breakfast
- Biscuit Shop
- Boarding school Onsite kitchen
- Bookshop Cafe,
- Bottle Shop
- Bowling Alley
- Bread Shop
- Cake Shop
- Canteen
- Caravan Park Takeaways
- Caterer
- Charity Function Offsite
- Child Party Centres
- Childcare Centre
- Cinemas
- Coffee Shop
- Confectionery Shop
- Correctional Centre
- Delicatessen
- Doughnut Shop
- Farmer's Markets
- Fitness or Health Clubs
- Floating Restaurants
- Food Home Delivery Service
- Funeral Parlour
- Green Grocer
- Hairdressers
- Health Food Shop
- Holiday Recreational Camp Onsite Kitchen
- Hostel
- Hotel and Motel
- Ice Cream Parlour
- Juice Bar
- Kiosk
- Licensed Club
- Mobile Food Van
- Museum
- Newsagency
- Nightclub
- Nurseries
- Pharmacy
- Poultry shop
- Pub and Tavern
- Restaurant
- School Camp
- School Canteen
- Seafood
- Service Stations
- Sushi
- Swimming Pools
- Takeaway
- Theatres
- Tour Operators
- Tourist Attraction Takeaways
- Train Services
- Variety Stores
- Vending Machine

## 8.2. Food Business Classification

Food businesses have been placed into three categories based on the risks associated with the food sold and handled. The three categories are:

- Level 0 - Low risk businesses
- Level 1 - Medium risk businesses
- Level 2 - High risk businesses

All registered food businesses have been classified using the FSANZ Priority Classification System. See Appendix 1.

The categorisation of a food business may vary dependant on result of inspections undertaken. The variation of a food business's categorisation will be at the discretion of Council.

## 8.3 Food Business Inspection Frequencies

The inspection frequency of a food business will be dependent on their category.

- Level 0 - Will only be inspected should an incident require it (e.g. Complaint).
- Level 1 - Will be inspected once per year (plus re-inspections if required).
- Level 2 - Will be inspected twice per year (plus re-inspections if required).

The above-mentioned Inspection frequencies are to be used as guide only. Inspection frequencies will be at Council's discretion and generally based on risk to food safety.

## 9. Scores on Doors

From the 1st July 2015 the City of Canada bay will be implementing the NSW Scores on Doors Program. Scores on Doors is the NSW food hygiene scoring program that reassures customers about hygiene and food safety standards.

Scores rate a food business' compliance with hygiene and food safety requirements based on the existing, mandatory inspections done by the local council. Scores are based on a standard assessment checklist.

Eligible businesses will be offered a certificate to display in a prominent, public position such as a front window or behind the counter.

Retail food businesses can be awarded a certificate to display after their hygiene and food safety inspection by the local council.

The Scores on Doors program makes public how well local restaurants, takeaway shops and cafés are complying with NSW hygiene and food safety standards. It enables consumers to make informed choices about where to eat or shop for food.

The program promotes competition and encourages businesses to strive for the highest hygiene score through good hygiene and food safety practices that helps reduce food safety risks and illness from food.

### 9.1 Premises Scores on Doors is applicable to:

Scores on Doors is open to eligible retail food businesses operating within participating council areas. The Scores on Doors program is for retail food businesses which process and sell food in NSW that is ready-to-eat, potentially hazardous (ie requires temperature control), and for immediate consumption. Premises include:

- restaurants
- takeaways
- cafes

- pub bistros
- bakeries
- hotels, and
- clubs.

Scores on Doors is not intended for:

- supermarkets
- delicatessens or greengrocers
- low risk food premises or businesses that serve pre-packaged food, such as petrol service stations and convenience stores
- temporary markets, mobile food vending vehicles, or
- retail food businesses which hold a NSW Food Authority license and are separately audited, such as butchers.

## 9.2 How does it work?

Council officers use the unannounced periodic inspection system currently in place to conduct Scores on Doors inspections using the standard Food Premises Assessment Report (FPAR). They calculate a hygiene and food safety score as part of that inspection process. Please note that a rating is only determined during an unannounced inspection which looks at all the elements set out on the FPAR. Announced or partial inspections, for example short follow up inspections, are not used to determine the score.

During the premises routine inspection, businesses are assessed against a Food Premises Assessment Report (FPAR) and assigned a star rating reflecting their performance. Eligible food premises receive a hygiene and food safety rating based on points allocated on the FPAR consistent with the FPAR guidelines, akin to a demerit system. Display certificates will be sent out shortly after the conclusion of the inspection.

Businesses display the certificate they are awarded, showing their score. Certificates should be displayed in a prominent position, usually the front window or door or inside.

## 9.3 Food Premises assessment Report (FPAR)

During an inspection, food businesses are assessed using the Food Premises Assessment Report (FPAR). The content of the FPAR has been developed in consultation with NSW councils and is based on legislative requirements of the Food Standards Code (FSC) 1, Food Act 2003 (NSW) and Food Regulation 2010. The FPAR is designed to be used as a compliance checklist and includes a points system from which a hygiene and food safety score (Good, 3 stars; Very good, 4 stars; or Excellent, 5 stars) is determined.

The FPAR is divided into nine sections that relate to compliance with the food safety standards of the Australian New Zealand Food Standards Code. The sections relate to hygiene and food safety and focus on the most important foodborne illness risk factors, including cooling and cold holding temperatures, food prepared ahead of planned service, hot holding temperatures, food handler personal hygiene and food handlers experiencing illness, reheating and cleaning and sanitising of equipment and premises.

## 9.4 After an inspection, generates a hygiene and food safety rating

After the council officer completes the inspection checklist, the points received by the business are tallied and a corresponding hygiene and food safety rating is assigned.

## 9.5 Scoring

Score	Definition
Excellent ★★★★★	The highest expected level of hygiene and food safety practices.
Very Good ★★★★	Very good hygiene and food safety practices. Some minor areas need to be addressed to get a higher result.
Good ★★★	Good general standard of hygiene and food safety. Some non-critical areas need attention to get a higher result.
(no grade)	A business with major hygiene and food safety issues does not get a certificate to display. Depending on the issue, businesses can be issued with warning or improvement notices directing them to address the problem. If they don't, they can be fined and appear on the NSW Food Authority Name & Shame register. In the worst cases a premises can be closed. Businesses not participating in the Scores on Doors program also have no certificate.

## 9.6 Critical Breaches

Points on the FPAR are issued for certain breaches related to level of potential food safety risk, ranging from 1 point (minor) to 8 points (critical). Where a 'critical' food safety breach is found during the inspection—that is, a score of 8 points in the categories listed on the FPAR—the business is automatically ineligible for a rating and is assigned to 'No Grade', irrespective of the total points accrued. If a critical food safety issue is identified during the inspection, it is dealt with by the inspector according to the council's enforcement guidelines, based on NSW Food Authority Compliance & Enforcement Policy, May 2011. Under the enforcement guidelines, council officers use a range of enforcement tools depending on the severity of the issue. Enforcement tools can include warning letters, penalty notices, prohibition orders, seizure notices and prosecution.

Critical Breaches include:

1. **Potentially Hazardous Food (PHF) is under temperature control** - Multiple non-compliances across the premises that are significant (between 5-10oC), or single severe instance of non-compliance (in excess of 10oC) above or below requirements.
2. **Hand washing facilities have warm running water through single spout, single use towels and soap** if there are no hand washing facilities present within a premises requiring them (including dedicated facilities for toilets)

OR

If more than one of the following is not present:

- Warm running water through single spout
  - Single use towels or air driers
  - Soap
3. **Premises, fixtures, fittings and equipment maintained to an appropriate standard of cleanliness**
    - Widespread cleaning issues involving non food contact
    - **and** exposed food is handled in vicinity of unclean surfaces
    - **and** no documented procedures in place regarding cleaning
    - **and** circumstances generally warranting issuing of a 24hr improvement notice or
    - prohibition order

OR

Poor cleaning standards are contributing to a pest problem within the premises

#### **4. Food contact surfaces, eating and drinking utensils in a clean and sanitary condition/ appropriate sanitising method in use**

Widespread unclean food contact surfaces are found:

- **and** exposed food is handled in vicinity of unclean surfaces
- **and** no documented procedures in place regarding cleaning
- **and** no evidence of appropriate sanitizing method in use within premises
- **and** circumstances generally warranting issuing of a 24hr improvement notice or prohibition order

#### **5. Signs of insect infestation of rodent activity in premises**

Evidence of high level active pest infestation and activity within premises which may include:

- evidence of harbourage (nesting)
- evidence of breeding (different life cycles)
- failure to prevent entry of pests (access points)
- inadequate or no pest control program
- evidence of droppings, smears etc. within food storage or food handling areas.

### **9.7 Hygiene and food safety score displayed at premises**

The council officer provides participating business with a certificate for prominent display which shows the hygiene and food safety score achieved during the inspection. The certificate will be mailed to the business.

The certificate should be displayed at the public entrance to the food business or in a prominent location where food is ordered.

The certificate should be displayed until:

- it expires, as marked on the certificate by the issuing officer
- it is replaced by a new certificate from the council- businesses must display only the most current certificate; or
- the business becomes ineligible for the certificate- see section 9.9 for more information.

Displaying an out of date or false certificate is considered misleading conduct and action may be taken as appropriate.

### **9.8 Requests for review of star rating**

City of Canada Bay will not re-rate a business upon request.

An appeal regarding the rating may be lodged in writing to the Coordinator Environment & Health, within seven days of the issue of the certificate. Upon receipt of a letter of appeal the Coordinator Environmental Health shall cause a review to be undertaken of the rating. The review must be completed and the appellant informed of the result within 14 days of the receipt of the letter of appeal.

The review shall be a desk based review of the officers rating and shall not be undertaken by the officer who conducted the inspection.

### **9.9 Certain instances may result in removal of certificate**

Council officers often conduct inspections outside the routine inspection program due to complaints or other information. In these circumstances a new score can be calculated if the inspection is unannounced and all elements in the FPAR are covered by the inspection. If this results in a change to the businesses' rating the previous certificate must be removed and a new certificate may be issued (depending on the score received).

In circumstances where inspection of all FPAR elements is not undertaken, but the inspection indicates a critical food safety breach that would automatically render the business ineligible for a grade, the existing certificate may be removed.

## 9.10 Participating is voluntary

The Scores on Doors program is currently not legislated and is based on voluntary participation by councils and food businesses falling within the scope of the program.

## 9.11 Expiry date for certificates

Expiry date of the certificate is as follows:

- Level 2 premises – Six (6) months from date of issue.
- Level 1 Premises – Twelve (12) months from date of issue.

## 9.12 Cost

There is no fee payable for participation in Scores on Doors.

## 9.13 Eligibility for Scores on Doors

To be eligible to participate in the Scores on Doors program, there must be no outstanding food administration and inspections fees for the food premises.

# 10. Fees and Charges

## 10.1. Indicative Fees and Charges

The amended NSW Food Act 2003 allows Council to charge food businesses an administration fee:

'Without limiting subsections (1) (a) and (b) and (2A), a fee or charge referred to in any of those provisions may cover the following matters:

- a. the costs of the Food Authority in administering a food safety scheme and other related provisions of this Act,
- b. the costs of the processing of applications for licences and for the grant or renewal of licences under food safety schemes,
- c. other costs of providing services in relation to a food safety scheme (whether or not the provision of the service is requested or agreed to),
- d. annual administration charges in respect of the exercise by enforcement agencies, or any class of enforcement agency, of all or specified functions under this Act in relation to food businesses that are not required to be licensed under this Act, or any class of such food businesses'.

(Food Act 2003 - 139 2B - Regulations)

The NSW Food Authority provided all Councils with prescribed maximum administration fees set out in the Regulation as seen below:

Annual Administration Charge	
Number of full-time equivalent food handlers at premises	Maximum Annual Administration Charge per premises
5 or less	\$250
6-50	\$500
51 or more	\$2000

The NSW Food Authority also provided Councils with a maximum recommended fee for inspections and this is prescribed as \$143.08 per hour, with a minimum charge of half an hour.

As part of the new partnership, Councils then have the option to set their own fees by either adopting the NSW Food Authorities recommended fees or designing a new fee structure which relates to the specific council area.

## 10.2. Council's Fees and Charges

The Local Government Act 1993 allows Councils to charge an approved fee for services provided under any Act:

- 'The services for which an approved fee may be charged include the following services provided under this Act or any other Act or the regulations by the council:
  - supplying a service, product or commodity

- giving information
- providing a service in connection with the exercise of the council's regulatory functions - including receiving an application for approval, granting an approval, making an inspection and issuing a certificate
- allowing admission to any building or enclosure.
- In particular, a council may charge an approved fee for inspecting premises that are reasonably required to be inspected in the exercise of the council's functions, whether or not the inspection is requested or agreed to by the owner or occupier of the premises'.

(Local Government Act 1993 - Section 608 - Council fees for services)

In determining such a fee, Council must:

- 'A council, if it determines the amount of a fee for a service, must take into consideration the following factors:
  - the cost to the council of providing the service,
  - the price suggested for that service by any relevant industry body or in any schedule of charges published, from time to time, by the Department,
  - the importance of the service to the community,
  - any factors specified in the regulations.
- The cost to the council of providing a service in connection with the exercise of a regulatory function need not be the only basis for determining the approved fee for that service.
- A higher fee or an additional fee may be charged for an expedited service provided, for example, in a case of urgency'.

(Local Government Act 1993 - Section- 610 D - How does a Council determine the amount of a fee for service?)

The NSW Food Act 2003 has an effect on the fee charged under the Local Government Act 1993 as outlined below:

- 'If the amount of a fee for a service is determined under another Act:
  - a council may not determine an amount that is inconsistent with the amount determined under the other Act, and a council may not charge a fee in addition to the amount determined under the other Act.
  - If the charging of a fee for a service is prohibited under another Act, a council must not charge a fee for the service under this Act'.

(Local Government Act 1993 - Section 610 - Effects of Other Acts)

For more information regarding inspection and administration fees please refer to Council's current Fees and Charges.

## 11. Food Business Inspection Procedure

### 11.1. Inspection Procedure

Food businesses will be inspected at a frequency dependant on their category classification (Section 8). When conducting the inspection, Council's Authorised Officer should:

- Attend to the premises when due for inspection without prior notice being given to the food business.
- Present themselves at the front counter, advise that they are at the premises to conduct an inspection under the Food Act 2003 and request to speak to a person with the authority to represent the business.
- Conduct the inspection whilst the business is open for trading.
- Provide proof of identity when requested.
- Adhere to any occupational health and safety requirements applicable whilst in attendance at the food business.
- Conduct the inspection with or without the presence of the person authorised to represent the business.
- Record all non-compliances with food legislation.
- Provide a written report to the food business on all outcomes from the food business inspection.
- Answer any questions from the food business relating to the report or other related food safety matters.
- Demonstrate good food safety principles when possible (e.g. Wash hands when entering the food business).
- Be courteous and fair throughout the inspection.
- Exercise discretion when required in all of the above matters.

### 11.2. Re-Inspection

Council will undertake a re-inspection (where required) to enforce compliance with food legislation. A re-inspection will be undertaken for all non-compliances with food legislation where the risk is considered greater than low and the non-compliance cannot be immediately rectified.

### 11.3. Enforcement

#### 11.3.1 Verbal Warnings

Council's Authorised Officers may issue verbal warnings for non-compliances with food legislation where the risk of the non-compliance is considered low or can be immediately rectified.

#### 11.3.2 Written Warnings

Council may issue a written warning (letter) for non-compliances with food legislation where the risk of the non-compliance is considered low, is the first offence and not an immediate risk to public health.

#### 11.3.3 Improvement Notices

An Improvement Notice (and applicable fee charged) may be issued for non-compliances with food legislation where a prior warning is not complied with (verbal or written) and/or the risk of the non-compliance is medium or high.

#### 11.3.4 Prohibition Orders

A Prohibition Order may be issued by Council for non-compliances with food legislation where a prior warning is not complied with (verbal or written), an Improvement Notice has not been complied with and the risk of the non-compliance is a serious threat to public health.

#### 11.3.5 Seizure Notices

Council's Authorised Officers may seize food or equipment where it is believed that the food or equipment pose a serious threat to public health.

### 11.3.6 Penalty Infringement Notices

Council may issue a Penalty Infringement Notice at any time under the NSW Food Act 2003. In determining whether to issue a Penalty Infringement Notice, Council will consider the level of offence and circumstances surrounding the offence.

### 11.3.7 Prosecution

Council may undertake prosecution for repeated non-compliances with food legislation or where a serious non-compliance has occurred.

## 12. Urgent Food Safety Response and Food Complaint Management

### 12.1. Investigation of Urgent Food Complaints

It is an unfortunate reality that emergencies either deliberate (e.g. 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.

### 12.2. Types of Complaints and General Procedure

There are three main types of urgent food safety issues:

- Urgent food recalls invoked by FSANZ
- Those invoked by the NSW Food Authority - usually involving a specific type of food or a foodborne illness outbreak
- Those invoked by a council involving local matters e.g. extended power loss, fire, flood or truck roll-overs

When determining an urgent food safety matter the following criterion is considered:

- 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 e.g. intentional contamination
- bioterrorism, extortion and sabotage issues

The following general procedures will be carried out in an urgent food safety matter as a cooperative effort between enforcement agencies.

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

### 12.3. Food Recalls

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 (e.g. 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 e.g. 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.

### 12.4. Responsibilities in the event of a Food Recall

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 NSW Food 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 NSW Food 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 NSW Food 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 NSW Food 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 NSW Food Authority and keeping the NSW Food Authority updated on changes. They are also responsible for undertaking the required actions and providing feedback to the NSW Food Authority.

### 12.5. Procedure for a Food recall

In the event of a food recall, the NSW Food 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 required 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.

An Authorised Officer under the NSW Food Act 2003 is to be available to respond to urgent food safety matters at all times. Urgent food matters will be coordinated by Council's Environmental Health Coordinator.

### 12.6. Food Complaint Referral

Examples of common allegations of breaches include:

- illness believed to be caused by eating food
- foreign matter found in food
- unhygienic practices observed e.g. 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

The following steps are followed when determining where responsibility lies for certain complaints.

- 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, e.g. food in hospitals.
- If it is not 'food for sale' refer to the appropriate agency e.g. 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 (02) 6271 2222.
- 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](http://www.health.nsw.gov.au);
- Issues relating to liquor licensing should be directed to the Liquor Administration Board on 9995 0300 or [info@olgr.nsw.gov.au](mailto:info@olgr.nsw.gov.au).

### 12.7. Is it a matter for the NSW Food Authority?

- Does it represent 'clear and present danger' requiring an IMMEDIATE response e.g. injury? These are investigated by the NSW Food Authority.
- Does it relate to a business licensed by the NSW Food Authority? ALL types of complaints about these businesses are investigated by the NSW Food Authority.
- Does it relate to a primary producer, exporter, importer or manufacturer? These are redirected to the NSW Food Authority.
- Does it extend across council boundaries? These are investigated by the NSW Food Authority.
- Is it about compositional food standards? E.g. excess fat in sausages. These are investigated by the NSW Food Authority as it requires food sampling and/or testing.
- Is it a complex labelling or advertising matter? E.g. 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 NSW Food Authority.

The NSW Food Authority can be contacted on:

- Telephone on 1300 552 406;
- Facsimile on (02) 9741 4888;
- Email to [contact@foodauthority.nsw.gov.au](mailto:contact@foodauthority.nsw.gov.au) ;
- Mail at Consumer & Industry Contact Centre  
C/- NSW Food Authority  
PO Box 6682  
Silverwater NSW 1811.

### 12.8. General Food Complaints

Council will investigate general complaints about food businesses (e.g. foreign matter in food, dirty premises, poor hygiene practices etc); including food borne illness (food poisoning) complaints.

Providing the following information will help the City of Canada Bay investigate your food poisoning complaint:

- The nature, time and location of the incident;
- Details of the restaurant, function or event where you believe you consumed the contaminated food including full street address details;
- If anyone has become ill, their symptoms and when they started to become ill;
- What they ate at the suspected meal and what others ate as well, including dips and sauces;
- If there is any left over food that could be tested if an officer determines this is warranted.

Councils are responsible for food safety responses for its businesses however matters will be referred to the NSW Food Authority where multiple cases of Food Borne Illness (FBI) are identified or the nature of the complaint is required to be forwarded to the NSW Food Authority. See Memorandum of Understanding and [www.foodauthority.nsw.gov.au](http://www.foodauthority.nsw.gov.au) .

### 13. Perceived Conflicts of Interest

A 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.

Where an Authorised Officer believes a potential conflict of interest has arisen in relation to the regulation of a food business, the potential conflict must be acknowledged and the Manager Health, Buildings & Environment advised. Where the conflict of interest cannot be resolved, Council may seek assistance from the NSW Food Authority.

Council's Code of Conduct should be referred to when assessing a potential conflict of interest.

### 14. Acceptance of Gifts, Food and Drink

From time to time, Authorised Officers may be offered gifts, food or drink following an inspection of a food business. Under no circumstances should an Authorised Officer accept any gift, food or drink offered to them by the food business. Where refusal of the gift, food or drink may be considered offensive and is therefore accepted, the offering should be recorded in Declaration of Inducement Register in accordance with Council's Code of Conduct.

### 15. Registration of Food Businesses and Council's Food Business Register

#### 15.1. Registration of Food Businesses

Under the Food Act 2003, all food businesses must notify the Council of their details prior to business. Once notified, Council will register the business on Council's Food Business Register. It is the responsibility of the food business proprietor to ensure that any changes to the original notification are advised to Council within seven days of the change.

#### 15.2. Council's Food Business Register

Council's Food Business Register is powered by Technology One. All details provided by the food business as part of their notification are entered into Council's Food Business Register and updated as required.

All details from food business inspection activities will be entered into Council's Food Business Register. The register will be used to schedule inspections and track any actions required.

The register will store all of Council's information on food surveillance and will be used to generate reports required by the NSW Food Authority.

##### 15.2.1. Integrity of Information

Accuracy of information kept in Council's Food Business Register is imperative and all persons accessing the register will be responsible for ensuring the information remains accurate.

##### 15.2.2 Data Entry

Council's authorised officers are responsible for entering all information relating to inspection activities and business notifications.

It is critical that all information is entered and a tracking item initiated for each action taken. Failure to do so will result in inaccuracies when reporting.

### **15.2.3 Privacy**

All information entered into and obtained from Council's Food Business Register is confidential and information must be handled in accordance with Council's Code of Conduct.

## **16. Education**

Council aims to provide a detailed and diverse education program as part of its food surveillance strategy.

Council's environmental health unit will aim to provide targeted education programs, pilot studies, regular print of the food digest newsletter, ongoing updates on the website, verbal and written education where required to ensure all food business have access to the latest information available.

### **16.1. Methods of Education for Food Business**

#### **16.1.1 Targeted Education Programs**

Council will provide as required food handling workshops per year open to all food handlers in the area. The workshops aim to provide a forum for discussion of relevant food safety issues, any changes in food legislation and their impacts, an opportunity for food handlers to update their skills and an environment which provides for a growing relationship between Council's Environmental Health Officers and business.

#### **16.1.2 Targeted Pilot Studies & Food Safety Campaigns**

Targeted Pilot Study opportunities will arise as the partnership with the NSW Food Authority grows and Council will aim to provide its local business with any opportunities where they arise and are feasible to be involved in these programs.

Targeted Pilot studies offer diverse training opportunities for business often in areas which are emerging as big issue items in the future.

Food Safety campaigns are an exciting evolution which has evolved through the partnership program with the NSW Food Authority. They are a new concept based on science; using risk assessment, food safety interventions, compliance actions and re-inspections to affect long term changes in food handler behaviour and achieve food standards compliance.

The campaigns are designed to target specific food safety issues (e.g. personal hygiene, cross contamination, temperature control) that have a direct impact on food borne illness (FBI)

They also provide the opportunity for Environmental Health Officers (EHO's) to use their inspection tools developed through previous training programs, on specific food safety issues; facilitating a consistent approach across the State.

These programs will then be introduced through the food business sector aiming to provide educative material, relevant information and implementation ideas for retailers.

#### **16.1.3 Food Digest Newsletter**

Council has designed a comprehensive, informative and easily readable newsletter which will be provided to food business as part of the education Strategy. The "Food Digest" newsletter aims to provide food handlers and business owners with regular updates on food safety issues including but not limited to temperature control, food handling, hand washing and any relevant changes to food legislation.

The Food Digest newsletter will aim to be sent out quarterly however Council will ensure that the newsletter is developed and sent at critical times of the year in relation to legislative changes or based around issue specifics arising from inspections to ensure a sustainable and informative structure is maintained.

#### 16.1.4 Website & Facts sheets - Online

Council's website has been designed to provide a one stop information shop for food business. The website includes information and details in relation to Council's food surveillance strategy, the NSW Food Regulation Partnership, relevant codes & policies in relation to food, relevant forms, fact sheets and new business requirements.

Council's website will be updated regularly with information for food business and the aim is to grow the website to a point where it is the central information area to be used by food handlers and alike.

#### 16.1.5 Verbal and Written Communication

Council's Environmental Health Officers are available to discuss any issues with food proprietors and can be readily accessed by phone, email or approached during inspection.

Council's inspection routine aims to not only provide enforcement of food standards but also an educative tool to increase knowledge among food handlers.

Council will also aim to provide written information to food business as the need arises which may include various information relating to food safety, food handling and legislative changes.

### 16.2. Education of General Public

Council will endeavour to promote the new food safety surveillance strategy through its website and local media. Council will endeavour to publicise food statistics for the area to provide the community with an overall feel for the level of food safety in the area.

The information gathered through inspection and complaints in relation to food business will remain confidential however Council may publicise overall statistics which do not identify specific businesses.

Business should be aware that the NSW Food Authority has the powers to name food businesses prosecuted or fined by Council in an effort to educate the public and provide for an open and transparent system which allows for the community to make an informed decision on where they eat.

## 17. Communication

Communication is a critical aspect of achieving food safety outcomes. Council is required to effectively communicate with:

- NSW Food Authority
- Other Councils
- Food Businesses
- General Public

### 17.1 Methods of Communication

There are a variety of methods Council will use to communicate with the above-mentioned sectors:

- Telephone
- Email
- Face to Face
- Written Correspondence
- Council's Website
- Media

## 17.2. Communication with NSW Food Authority

Effective communication between Council and the NSW Food Authority is necessary to ensure the success of the Food Regulation Partnership. Council may request information or assistance from the NSW Food Authority at times and conversely the NSW Food Authority may seek assistance or information from Council. Council will cooperate where possible with such requests.

## 17.3. Communication with Other Councils

Council will assist other Councils where requested in providing information and assistance. Council will also communicate with other Councils where a food safety matter spans across Local Government Areas.

## 17.4. Communication with Food Businesses

Open and honest communication with local food businesses is vital in maintaining food safety. Council will remain open and honest with food businesses and provide assistance when requested. Council will ensure that food businesses are made aware of changes to food legislation, food safety news/initiatives or any change in relation to food safety that may impact local businesses.

## 17.5. Communication with General Public

Council will provide food safety education and information to the general public when requested or when necessary. Council will remain attentive to complaints about food business and communicate with the complainant as to the progress of their complaint.

# 18. Training, Appointment and Competency of Authorised Officers

## 18.1. Appointment of Authorised Officers

An Authorised Officer is a person appointed under Division 3 of Part 9 of the Food Act 1993 as outlined below;

- An enforcement agency may appoint a person to be an authorised officer for the purposes of this Act, but only if the enforcement agency considers the person has appropriate qualifications or experience to exercise the functions of an authorised officer.
- Each enforcement agency is to prepare and maintain a list of authorised officers appointed by it.
- Unless sooner revoked, the appointment of an authorised officer by a person or body ceases to have effect if the person or body ceases to be an enforcement agency.

## 18.2. Powers of Authorised Officers

For the purposes of this Act, an authorised officer may, at any reasonable time, do any one or more of the following:

- alone, or with such police officers or other persons as the authorised officer considers necessary, enter and inspect any premises that the authorised officer reasonably believes are used in connection with the handling of any food intended for sale or the sale of food, or any food transport vehicle,
- alone, or with such police officers or other persons as the authorised officer considers necessary, enter and inspect any premises or food transport vehicle, in which the authorised officer reasonably believes that there are any records or documents that relate to the handling of any food intended for sale or the sale of food,
- examine any food intended for sale,
- open and examine any package that the authorised officer reasonably believes contains any food intended for sale or any equipment,
- open and examine any equipment,
- examine any labelling or advertising material that appears to the authorised officer to be intended for use in connection with any food intended for sale or any equipment,
- subject to Division 1 of Part 6, for the purpose of analysing any food sold or intended for sale or for carrying out any other examination in order to determine whether the provisions of this Act or the regulations are being complied with, demand, select and obtain samples of any food,

- for the purpose of analysis, take samples of water or soil or any other thing that is part of the environment in which any food is handled to determine whether that environment poses a risk to the safety of the food for human consumption,
- take samples of any thing, other than for the purpose of analysis, that the authorised officer reasonably believes may be used as evidence that an offence has been, or is being, committed under this Act or the regulations,
- examine any records or documents referred to in paragraph (b), make copies of those records or documents or any part of them and, for that purpose, take away and retain (for such time as may be reasonably necessary) any such records or documents or any part of them,
- stop and detain any vehicle that the authorised officer is authorised by this subsection to enter,
- open, or require to be opened, any container used for the conveyance of goods, or any package, that the authorised officer reasonably believes to contain any food sold or intended for sale, or any equipment,
- take such photographs, films or audio or visual recordings as the authorised officer considers necessary,
- take any measurements and make sketches or drawings or any other type of record,
- require a person to provide information or answer questions in connection with the authorised officer's functions under this Act or to produce any record, document or thing that an authorised officer is authorised to examine under this Act,
- require a person to state the person's name and residential address,
- generally make such investigations and inquiries as may be necessary to ascertain whether an offence under this Act or the regulations has been or is being committed.

This section does not authorise entry into any part of premises that is being used solely for residential purposes, except:

- with the consent of the occupier of the premises, or
- under the authority of a search warrant, or
- if that part of the premises is being used for the preparation or service of meals provided with paid accommodation.

### 18.3. Competency and Training of Authorised Officers

Council's Authorised Officers hold tertiary qualifications in health and food safety related disciplines. To qualify as an authorised officer, they must undergo an intensive training program. Officers regularly attend specialist courses and briefings to make sure their skills and knowledge are at the forefront of food industry best practice.

## 19. Appendix 1 - FSANZ Priority Classification System

Source: NSW Food Authority Pathway to Partnership - A Guide to Food Regulation in NSW (Part Two)

Recommended annual inspection frequency*	Business type	Characterising feature	ANZFA priority classification
<b>LEVEL 0</b>			
<b>Incident Only</b>	Backpacker accommodation	No meals served	
	Confectionery shop	Low risk foods, packaged	P4
	Health food shop	Low risk foods, packaged	P4
	Newsagency	Low risk foods, packaged	P4
	Pharmacy	Low risk foods, packaged	P4
	Variety stores	Low risk foods, packaged	P4
	Vending machine	Low risk foods, packaged	P4
<b>LEVEL 1</b>			
<b>Minimum 1</b>	Beauty parlour	Offer coffee and tea	P3
	Biscuit shop	Medium and low risk foods only	P3
	Bottle shop	Serving port from port barrel	P3
	Bread shop	Bread only	P3
	Cinemas	Medium and low risk foods only	P3
	Doughnut shop	Medium and low risk foods only	P3
	Fitness or health clubs	Medium and low risk foods only	P3
	Green grocer	Medium and low risk foods only	P3
	Ice cream parlour	Medium and low risk foods only	P3
	Hairdressers	Offer coffee/tea	P3
	Nightclub	Medium and low risk foods only	P3
	Service stations	Medium and low risk foods only	P3
	Swimming pools	Medium and low risk foods only	P3
<b>LEVEL 2</b>			
<b>Minimum 2</b>	Airport lounges	Takeaways – hot holding	P2
	Art galleries	Serving meals	P2
	Bakery shop	Custard tarts, meat pies	P1
	Bed and Breakfast	Serving meals	P2
	Boarding school	Onsite kitchen	P1
	Bookshop café	Serving meals	P2
	Bowling alley	Serving meals	P2
	Cake shop	Custard tarts, meat pies	P1
	Canteen	Serving meals	P2
	Caravan parks	Takeaways – hot holding	P2
	Caterer		P1
	Charity function	Offsite	P1

Minimum 2 (continued)	Childcare centre	Serving meals	P1
	Child party centres	Serving meals	P1
	Coffee shop	Serving meals	P2
	Correctional centre	Serving meals	P1
	Delicatessen		P2
	Farmer's markets	Takeaways – hot holding	P2
	Floating restaurants	Serving meals	P1
	Food home delivery service		P2
	Funeral parlour catering	Caterer	P1
	Holiday recreational camp	Onsite kitchen	P1
	Hostel	Onsite kitchen	P1
	Hotel and motel	Serving meals	P2
	Juice bar	Unpasteurised	P1
	Kiosk	Serving meals	P2
	Licensed club	Serving meals	P2
	Mobile food van	High risk foods	P2
	Museum food shop	Serving meals	P2
	Nurseries	Serving meals	P2
	Poultry shop		P1
	Pub and tavern	Serving meals	P2
	Restaurant		P2
	School camp		P1
	School canteen	Takeaways – hot holding	P2
	Seafood shop		P2
Sushi	Onsite manufacture	P2	
Takeaway food shop		P2	
Theatres	Serving meals	P2	
Minimum 2	Tourist attractions	Takeaways – hot holding	P2
	Tour operators	Caterer	P1
	Train services	Serving meals	P2
	Vending machine	Perishable	P2