

Regulatory Food Safety Auditor Code of Conduct

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Purpose and application of the Code of Conduct

Purpose

This code applies to all auditors approved by the NSW Food Authority (the Food Authority) to conduct audits of food businesses. Such persons are expected to conduct themselves with integrity, professionalism, and be accountable to the outcomes of audits they perform.

This code has been written with respect to the content of the *NSW Food Act 2003* sections 87–99.

Application

This code applies to all approved regulatory food safety auditors.

Auditors should:

- familiarise themselves with this Code
- familiarise themselves and comply with all legislation concerning auditors, audits, audit performance and the legislation to which they are auditing.

Any approved auditor failing to comply with this Code may have their approval immediately suspended or cancelled by the Food Authority.

Definitions

Actual conflict of interest means when a food regulator would conclude that an auditor's ability to conduct an audit has been compromised by their private or business interests in the client's business.

Apparent conflict of interest means when a food regulator would consider the private or business interests of an auditor may interfere, unduly benefit, or disadvantage their ability to conduct a fair audit of a client's business.

Approval is a term used to describe an auditor that has been approved by the Food Authority.

Approved means a person authorised by the Food Authority to conduct audits. The scope of food businesses an auditor may audit, and any other specific conditions concerning an auditor's approval, will form part of that auditor's approval.

Audit means an evaluation of a business's food safety program or other aspects of a food business to determine compliance with relevant aspects of the Food Act, Food Regulation and policies and procedures of the NSW Food Authority.

Auditor means persons formally approved by the Food Authority to conduct audits of food businesses or other premises requiring food safety audits. All auditors must be approved by the Food Authority to conduct audits.

Food Authority means the NSW Food Authority as constituted under Part 9 of the *NSW Food Act 2003*.

Food regulator means the local, state, territory or Commonwealth Government regulator with the responsibility for food regulation in all sectors of food industry in that state or territory.

Food business means a "business, enterprise or activity" that involves the handling of food intended for sale or the sale of food, regardless of whether the business, enterprise or activity concerned is of a commercial nature or whether it involves the handling or sale of food on one occasion only.

For the purposes of this definition, business, enterprise or activity includes factory, manufacturer, production, entity processing, transporter, store, producer, farm and those businesses that are licensed, accredited or registered or under suspension by a food regulator.

Code means this Code of Conduct.

Commercially sensitive information means information:

- provided to an auditor by a food business during an audit of the business where the businesses commercial interests may be impacted, or
- information provided by someone else other than the food business concerning some aspect of the business audit, where the commercial interests may be affected, where upon receipt of the information, the auditor has been requested not to disclose the information.

Food safety management system is a general term referring to any risk-based food safety management system, including legislated food safety programs and Hazard Analysis Critical Control Points (HACCP) plans. Where such plans refer to legislated food safety programs equal to Standard 3.2.1 of the Australia New Zealand Food Standards Code, a food safety program means a system that:

- systematically identifies the potential hazards that may be reasonably expected to occur in all food handling operations of the food business
- identifies where each hazard identified in a food handling operation under paragraph (a) can be controlled and the means of control
- provides for the systematic monitoring of those records
- provides for appropriate corrective action when that hazard, or each of those hazards, is found not to be under control
- provides for the regular review of the food safety system by the food business to ensure its adequacy
- provides for appropriate records to be made and kept by the food business demonstrating action taken in relation to, or in compliance with, the food safety program.

Gifts means any item offered by:

- a. an employee of a food business
- b. any other person acting on behalf of a food business or in the interests of a food business to solicit favourable treatment during an audit or offered to an auditor in response to a find of non-conformance during an audit of a food business.

This includes findings of a legislative nature and findings in relation to food safety programs. The offer of money to an auditor (bribery) by parties listed in (a) or (b) is considered a gift.

Illegal drug means a habit forming medicinal or illicit substance.

Official information means information:

- provided to an auditor by the Food Authority, or
- provided by another party acting on behalf of the Food Authority*, where upon receipt of the information, the auditor is requested not to disclose the information.

* Where a party claims to be acting on behalf of the Food Authority, the auditor shall not accept the information from that party until the legitimacy of that party has been established.

Relevant officer means the person employed and authorised by the Food Authority to manage regulatory food safety audit activities within NSW.

Preliminary principles

- a. Auditors conducting audits shall do so with diligence, professionalism and integrity.
- b. Auditors must provide a copy of all audit reports to the Food Authority and immediately inform the Food Authority of all notifiable non-conformances detected during audits, in compliance with measures dictated in the *NSW Food Act 2003*.
- c. Auditors shall always act fairly and equitably.
- d. Auditors shall comply with all relevant legislation and policies.

- e. Auditors should avoid all real or apparent conflicts of interest.
 - f. In the event of a conflict of interest arising during an audit, an auditor shall declare this conflict to the Food Authority as soon as possible. The Food Authority shall then determine the appropriate course of action.
 - g. Auditors shall always show respect for other people.
 - h. Audits must only be performed by approved auditors.
 - i. Auditors shall only conduct audits in the jurisdiction where they are approved to conduct audits, unless approved by the food regulator of another jurisdiction to conduct audits in that jurisdiction. Auditors found practicing outside of their jurisdiction of approval without having a formal approval from the appropriate food regulator of that jurisdiction, are in breach of this Code.
 - j. Auditors shall not audit food businesses outside their approved endorsements.
 - k. Auditors shall not behave in a manner that compromises the Food Authority.
 - l. Auditors shall assist the Food Authority with enforcement activity taken as a result of the auditor's activities. This includes, but is not limited to, providing statements of evidence for matters concerning legal prosecutions. Auditors shall not be responsible for paying costs associated with the activity of the Food Authority.
 - m. Auditors shall not seek or accept recompense from any client for failure to implement appropriate action in relation to a finding of non-conformance detected during an audit. This includes, but is not limited to, non-conformances of a legislative nature.
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Ethical obligations

Respect for persons

Auditors shall behave in a fair manner and without undue favouritism, patronage or prejudice displayed toward any person associated with a food business.

Respect for the dignity, rights and views of others

Auditors shall not let their personal beliefs influence the outcomes of audits they perform. Auditors shall not use abusive, obscene or threatening language or behaviour towards any person associated with the food business. Physical and/or verbal violence against any person during the audit process is considered a breach of this Code.

Natural justice

Auditors will follow the principles of procedural fairness (natural justice) when making decisions. The principles of procedural fairness require an auditor to:

- provide opportunity for both sides of an issue to be heard and considered before decisions are made
- not allow any personal interest associated with an audit or a person associated with a food business to influence an audit outcome
- act in good faith while conducting audits
- provide sound reasons to support decisions made whilst conducting audits.

Health, welfare and safety concerns

Auditors shall conform with all aspects of occupational health and safety legislation in NSW (including the health and safety policies of food businesses auditors are requested to audit). Auditors shall further respect the health, safety and welfare of all persons and/or animals associated with a food business

while conducting audits at a food business, as well as ensure their own health, safety and welfare is not unlawfully put at risk while conducting audits.

Equal Employment Opportunity (EEO)

Auditors shall act in accordance with NSW EEO legislation.

Discrimination

Auditors shall not unlawfully discriminate against any employee of a food business, or other person associated with a food business, or member of the general public while conducting regulatory food safety audits. Issues covered by “unlawfully discriminate” include but are not limited to; discrimination based on sex, colour, race, religious or other personal belief or other issue in NSW anti-discrimination legislation. This does not include recommendations made by an auditor to an employee of a food business concerning the employee’s health should they be afflicted with a condition or illness capable of affecting food safety (for example, Salmonellosis).

Sexual harassment

Auditors shall not sexually harass any employee of a food business or other persons associated with a food business, or member of the general public while conducting audits. Auditors shall also take all reasonable actions to prevent sexual harassment when conducting audits of a food business. Sexual harassment means any behaviour that would be deemed by a reasonable person to be of a sexual nature. Auditors should understand that sexual harassment is defined by the recipient of the behaviour. Auditors acknowledge that the Food Authority will investigate all occasions where an auditor has been reported to have behaved in a “sexual manner” while conducting regulatory food safety audits.

Workplace harassment

Auditors shall not behave in a manner considered by employees of a food business, or other persons associated with a food business, or any member of the general public as offensive, abusive, obscene, threatening, belittling or other type of behaviour considered to be a breach of the Food Authority’s own employee behavioural standards or policies for approved regulatory food safety auditors. Auditors should note that this requirement applies to behaviours both of a verbal and physical nature. Auditors are advised that statements concerning the consequences of not implementing advice concerning non-conformances are not regarded as threatening behaviour.

Confidentiality

Strict confidentiality is required from all auditors concerning the nature of processes and practices (and complaints arising from these practices) concerning food produced at food businesses they have been requested to audit.

Strict confidentiality is also required from auditors when dealing with any allegation of discrimination, workplace harassment, whether the allegation concerns them, another auditor, or any other person associated with a food business where they may be required to conduct an audit. A breach of confidentiality is deemed a breach of this Code.

Victimisation or reprisal

Auditors are not to threaten, or act to the detriment of any person. To do this is considered a breach of this Code.

Behaviour and attitude

Auditors are expected to display the following attributes during audits:

- Conduct themselves in a positive manner with a positive attitude to policies and directions provided by the Food Authority.

- Maintain an open and honest approach with all parties involved in audits and maintain thorough communication whilst conducting audits or dealing with audit outcomes.
- Treat audit participants fairly, equitably and consistently, and follow criteria, policies and processes when making decisions concerning audit findings.
- Respect all persons when conducting audits, irrespective of their ideas and/or modes of operation.
- Avoid inappropriate behaviour when conducting audits; this includes behaviour perceived to be intimidating, hostile or offensive. Auditors are reminded that the recipient of the behaviour is the person defining the behaviour.
- To not respond in kind to intimidating or threatening behaviour displayed during an audit. In the event of such behaviour, auditors are advised to immediately suspend the audit and directly inform the relevant officer.

Dress standards

Auditors must conform to a standard of dress for the work to be undertaken. Auditors should dress respectably, respectfully (appropriate to religious belief), be clean and not (through their dress standards) compromise the professionalism of food safety auditors.

Auditors must comply with industry specific or client specific dress requirements while conducting audits on a food businesses premises, this includes compliance with any required biosecurity protocols.

Identification

An auditor shall produce identification verifying themselves as an approved regulatory food safety auditor on demand.

Use of alcohol and drugs

Auditors must not:

- smoke on the premises of a food business in any area other than that deemed by the proprietor of the premises to be a smoking area
- at any time, consume any substance (for example, alcohol or illegal drugs) capable of altering their behaviour or their ability to competently conduct regulatory food safety audits. To do so is considered a breach of this Code which may result in the immediate suspension or cancellation of the auditor's approval
- use legal drugs obtained by prescription or direct purchase, in any way other than in direct compliance with the prescribing Doctor's or manufacturer's direction.

Conflict of interest

Auditors must avoid conflicts of interest at all times. In the event of an auditor learning that an actual or apparent conflict of interest exists, the auditor shall immediately inform the relevant officer within the Food Authority. After investigation, the relevant officer will advise the auditor whether they may continue to audit the food business. Following this, the matter must be detailed in writing by the auditor to the Food Authority.

Examples of situations that are considered to constitute an actual or apparent conflict of interest include:

- The auditing of a business where the auditor has provided specific direction to the business in how to manage food safety risks associated with its food safety program, this may or may not include drafting the business's food safety management system. In situations where a regulatory food safety auditor has provided general food safety advice to a business, providing this advice does not include or provide specific direction to the food business on how to manage a food safety risk associated with its food safety program, should not be considered a conflict of interest.

- Arranging food safety training or participating as a food safety trainer in sessions where company specific solutions to food safety risks associated with a company's food safety program are discussed or provided. It should be noted that discussing non-conformances during an audit should not be considered a conflict of interest. It should be further noted that a conflict of interest is not considered to occur where such information is limited to general information freely available in the public domain, and company specific solutions are not provided or discussed.
- Food businesses where the regulatory food safety auditor has a direct financial interest. It should be noted that remuneration provided to an auditor for auditing a food business does not constitute a conflict of interest.
- Preferential treatment of a person, organisation or interest (including but not limited to pecuniary, commercial, political or religious interests) during a regulatory audit as a result of a regulatory auditors' previous association with that person, organisation or interest.
- Food businesses where the regulatory auditor, or a close family member or associate of the auditor, has a direct relationship with a direct competitor of the business being audited. In this situation, the proprietor of the food business should be notified of the relationship and allowed to decide whether the regulatory auditor may continue the audit of their business. Should the proprietor refuse the auditor, the auditor should inform the Food Authority, who will then decide on an appropriate course of action.

Failure to declare a conflict of interest may result in the suspension or cancellation of an auditor's approval by the Food Authority.

Acceptance of benefits

Any auditor found to accept gifts will be subject to immediate investigation by the Food Authority that may lead to the suspension or cancellation of their approval. The investigation may lead to criminal prosecutions being commenced against the auditor.

This does not include refreshments such as tea and coffee or basic meals such as sandwiches provided to an auditor while conducting an audit of a food business.

Any attempt made by a client to offer a gift to an auditor, where the intent of offering the gift may reasonably be perceived to be an attempt to influence an audit outcome, and/or a response to a non-conformance finding, must be reported to the Food Authority as soon as possible.

Official information and public comment

Commercially sensitive information and official information provided to an auditor shall not be used by an auditor to gain advantage for themselves, another person or organisation.

An auditor shall not make public statements or be interviewed by the media on matters concerning audits, clients, the Food Authority or other government bodies associated with the Food Authority's activity, unless provided with express written permission by the Food Authority. If provided with such permission, any statement made by an auditor will only discuss facts; at no time, should an auditor offer an opinion on the legislation or policies administered by the NSW Food Authority.

Falsification of results

Any auditor found to be deliberately providing false information on audit reports will have their approval immediately suspended or cancelled by the Food Authority.

Declaration of understanding and compliance

I declare that I have read, understand and will comply with all aspects of the NSW Food Authority's Approved Auditor Code of Conduct when undertaking regulatory food safety audits as an approved food safety auditor in NSW.

I agree that failure to comply with this code of conduct may result in the non-issue of my approval to conduct regulatory food safety audits or the immediate suspension or cancellation of my existing approval to conduct regulatory food safety audits.

Sign
Print name
Date

More information

- Visit foodauthority.nsw.gov.au
- Email food.contact@dpi.nsw.gov.au
- Phone 1300 552 406

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