

# **2017 FOOD SAFETY SUPERVISOR COMPLIANCE REPORT**

## Contents

<b>Executive summary</b> .....	<b>3</b>
<b>Introduction</b> .....	<b>4</b>
<b>Compliance Activities</b> .....	<b>4</b>
2017 Audit .....	4
Complaints and incidents .....	7
Current and Emerging Issues .....	7
<b>Discussion</b> .....	<b>8</b>
2017 Audit .....	8
Recommendations .....	9
Conclusion .....	9
<b>Appendix A</b> .....	<b>10</b>
RTO Conditions of approval .....	10
RTO approval criteria .....	12



Department of  
Primary Industries  
Food Authority

## Executive summary

The NSW Food Authority (The Food Authority) monitors approved Registered Training Organisations' (RTOs) performance and conduct in delivering NSW Food Safety Supervisor (FSS) training using three monitoring strategies:

1. An annual audit program
2. Complaints investigation and compliance assistance
3. National Register of VET profile reviews, including current approvals, restrictions and training package scope.

### Notable actions

Compliance issues are addressed through the RTO Management System, providing the means for Food Authority staff to action appropriate responses for incidents of non-compliance.

During the period 1 September 2016 to 30 September 2017 six RTOs received notices of intent to suspend for various non-compliances with the Conditions of Approval (CoA's) to teach the NSW FSS. All RTOs successfully implemented the required changes to achieve compliance with the CoA's within the required timeframes, resulting in no actual RTO suspensions during 2017.

The increase in suspension notices issued in 2017 compared to the 2016 audit is explained by the targeted approach to sample selection used in 2017.

### Audit results

The 2017 audit used intelligence gathering to identify at-risk RTOs with potential non-compliance issues. This resulted in six RTOs being selected for audit on this basis, with the remainder chosen based on certificate issuance volume.

Two trends were apparent in the 2017 cohort; the first a lack of technical accuracy in learning materials about the 2-hour/4-hour danger zone rule, and the second insufficient practical assessment requirements and/or practices. Recommendations have been developed to address these issues.

### Recommendations

The Food Authority maintains a policy of continuous improvement in the Food Safety Supervisor program. The audit program provides an opportunity to adjust the program based on trends in compliance actions. Based on the results of the audit, the following recommendations have been developed:

1. **Add 2-hour/4-hour rule to RTO's secure resource drop box**
2. **Review and update Allergen Management resources**
3. **Update the Food Authority website to clarify requirements around delivery of the FSS program**

These recommendations will be actioned and completed during quarter 2 of 2018.

## Introduction

The Food Safety Supervisor (FSS) program delivers food safety training for retail and food service businesses in New South Wales. The program is delivered by registered training organisations approved to teach the required food safety content by the Australian Skills Quality Authority (ASQA) and the NSW Food Authority.

The Food Authority requires Registered Training Organisations (RTOs) to comply with the FSS Program Conditions of Approval using the RTO management system (RTO system). The RTO system incorporates a framework for managing RTO non-compliance with requirements outlined in the *Food Act 2003* and the Food Regulation 2015. Primary regulatory activities include an annual audit project of a sample of RTOs' FSS programs, as well as an RTO approval processes, complaints investigation, and monitoring RTO's ASQA registration data. The objective of these tools is to protect the integrity of the NSW FSS program and ensure RTOs act in accordance with the Authority's FSS program approval criteria and approval conditions (Appendix A).

The *2017 Food Safety Supervisor Compliance Report* (the Report) provides an overview for RTO performance, including the 2017 audit project and compliance incidents for the period 1 September 2016 to 30 September 2017.

## Compliance Activities

The 2016-2017 compliance period saw the low non-compliance incident trend from the previous year continued. The Food Authority investigated three non-compliance incidents and has engaged with NSW Training Services on information sharing to improve resource efficiency in the program.

### 2017 Audit

The Food Authority samples a number of RTOs each year for the audit project as part of its program management. The 2017 sample was determined using the following criteria:

- Review of intelligence sharing with Training Services NSW and the Australian Skills Quality Authority, or
- Review based on issued certificate volume in the last 12 months, or
- Identified using previous compliance history, and
- Where possible, avoid auditing RTOs audited in the last 12 months.

Eleven RTOs were chosen based on these criteria.

### Methodology

Media reports in early 2017 identified several RTOs in the Food Safety Supervisor program were subject to compliance action for breaches of the NSW Smart and Skilled program, which provides government funding to RTOs delivering selected training qualifications relevant to NSW skills shortages.

The NSW Food Authority consulted with NSW Training Services (the Smart and Skilled program owner) to clarify publicised allegations about these actions, and determined four RTOs were in scope for potential breaches of the FSS Conditions of Approval.

Three more RTOs were chosen for recent compliance concerns following feedback from other sources. The remainder were chosen based on issued certificate volume over the calendar year 2016.

All selected RTOs were required to provide all training and assessment materials used to deliver FSS training within two weeks of receipt of their audit notice. Following delivery of training materials either via post, email, or online access, RTOs were also required to complete a compliance survey with a submission turnaround of 3 hours. All RTOs responded within the required time frames.

### Key Findings

Two RTOs achieved full compliance with all Conditions of Approval and no requests for amendments. Two RTOs received mediation notices for minor breaches relating to training content or administration.

One RTO voluntarily cancelled its approval before the audit was completed. This audit did not proceed due to the very low number of certificates issued during its approval (less than 10 over 5 years).

The remaining six RTOs were issued formal notices of intent to suspend their approval for substantive breaches of their Conditions of Approval. Breaches concerned compliance with Conditions a) and o), which are concerned with implementing both the nationally endorsed required units of competency, and the Food Authority's own focus areas training materials.

All RTOs audited in 2017 have successfully implemented all required corrections to their programs. No RTO was suspended during the audit project. The information provided by the RTO that cancelled its approval during the audit will be used as a training exercise to expand the Food Authority's FSS audit capacity.

### Emerging Trends

The results of the audit reveal two noticeable trends in 2016-2017. The first relates to the assessment requirements of the national units of competency and the second concerns content accuracy for the 2-hour/4-hour rule for food preparation.

Four RTOs did not provide evidence of practical assessment for students in their initial audit submissions. Three RTOs provided the relevant evidence after receiving notices of suspension. The final RTO was required to develop and implement mandatory practical skills assessments and part of its non-compliance response. This RTO has since achieved compliance with all requirements of its approval Conditions.

Practical assessment is a mandatory part of the prescribed national units of competency for the FSS program. Providers delivering the retail and hospitality units of competency are required to assess practical demonstration of food safety skills on at least three occasions in a real or simulated kitchen. Some RTOs rely on third party assessments, where students are observed by workplace supervisors and the RTOs' approved assessors review an observation report. Other RTOs have in-house kitchens and assess students directly with specific food safety demonstration tasks.

The second observed trend concerned multiple errors regarding explanation of the 2-hour/4-hour rule for food preparation in the danger zone. While the sample of RTOs is too small to extrapolate a systemic issue from the 2017 sample alone, six RTOs taught students the wrong rule. In four of the six cases this was through an assessment where the correct answer concerned cooling rules (reduce to 21°C within two hours and then to 5°C within a further four hours). These RTOs provided the correct information elsewhere in their training materials. The remaining two RTOs did not provide any information on the correct 2-hour/4-hour rule, and only taught correct cooling processes.



The 2-hour/4-hour rule is an important mechanism for minimising time potentially hazardous food is exposed to temperatures in the danger zone. The Food Authority considers this a key message for students to understand and correctly implement to protect against foodborne illness incidents.

All six RTOs have updated their training and assessment information to correct this error.

In contrast to the 2016 audit, there were very few administrative compliance issues. Two RTOs have been requested to update contact details for their Food Authority record using the *Change of details* form.

**Table 1. Summary of Audit non-compliance breaches\***

Condition of Approval	Frequency	Action
a) Comply with the requirements of the <i>Food Act 2003</i> and Food Regulation as they apply to the Food Safety Supervisor program.	6	Notice of intention to suspend
d) Notify the Food Authority in writing of any change to:		All breaches were using a <i>Trainer Application</i> form
i. contact details	-	
ii. ownership of your registered training organisation	-	
iii. the scope of registration as a training organisation (for FSS related units)	-	
iv. trainers (including applications to add new or remove current trainers)	2	
v. method of delivery of the required units of competency	-	
h) Issue the Food Safety Supervisor certificate within ten working days of assessing the student competent for the prescribed Food Safety Supervisor units.	1	Advised to write and implement policy to address this Condition.
j) In compliance with privacy laws, notify enrolling students that personal information will be provided to the Food Authority.	1	Advised to reference appropriate organisations (Food Authority and NSW DPI)
o) Use any resource/material/information required by the Food Authority, in training conducted for the purposes of issuing a Food Safety Supervisor certificate. This includes compliance with any prescribed focus areas identified by the Food Authority as prerequisites to the issue of a Food Safety Supervisor certificate.	2	Mediation and conciliation
	6	Notice of intention to suspend
<b>Total Breaches</b>	<b>18</b>	

Some RTOs were required to address multiple breaches of the Conditions of approval

\* Two RTOs have outstanding audits as at time of writing



## Complaints and incidents

The Food Authority received three complaints between 1 September 2016 and 30 August 2017:

- The Food Authority received two complaints about serial non-postage of FSS certificates and inability to contact the RTO in question. The Food Authority successfully contacted the RTO and resolved the complaints. No further complaints have been received about this RTO's conduct since this time.
- A non-approved RTO was identified offering the NSW Food Safety Supervisor certificate on its website during review of its application to become an approved training provider in the program. The Food Authority launched an investigation, including an audit process, to resolve complexities concerning potential third party training being conducted. Cooperation by RTOs in question led to successfully resolving the issues and no action was required.

## Current and Emerging Issues

### NSW Smart and Skilled Program

The NSW Department of Industry has implemented a funding program for students living and working in NSW to complete vocational education or training through approved RTOs, known as the Smart and Skilled program. The program is regulated through Training Services NSW, who have ASQA-trained auditors reviewing RTOs approved to receive funding under the program.

The Food Authority has established an informal working relationship with Training Services NSW to share intelligence about the sector. The FSS program and Smart and Skilled have overlapping approval conditions around third-party sub-contracting, and Smart and Skilled funding was extended to nationally accredited short courses, like Food Safety Supervision, in 2016. The Food Authority will continue to work with Training Services NSW to ensure RTOs operating in NSW provide high quality training for NSW residents.

### ASQA Compliance

In June 2017 Food Authority officers attended a briefing about ASQA's new audit procedures. The new audit procedure takes a 'student's' perspective and reviews RTOs' procedures and products in the same manner as a student would experience them. This means that ASQA compliance activities begin with the pre-enrolment marketing supplied by the RTO, examine the enrolment process and review all processes and materials provided by the RTO post enrolment - right through to course completion and graduation. According to ASQA, this means RTOs will be subject to much more comprehensive audits by ASQA.

The Food Authority already conducts its own audits for the FSS program in a manner similar to that outlined by ASQA. Further work is being considered to compare the current Food Authority approach with the new approach being rolled out by ASQA. The Food Authority is aware that the FSS program is limited to three units of competency, which permits a much more thorough review of training and assessment materials.

### Content Updates

In April 2016 the ASQA released new national units of competency that supersede the existing FSS units required under the program. ASQA has also provided RTOs with an 18 month teach out period for RTOs to update their materials to be compliant with the new syllabuses.

The Food Authority reviewed the new syllabus requirements and has determined there is no change to the food safety information listed as required knowledge. However, the Food Authority was required to review additional transition requirements to ensure RTOs and students are aware of how the new and old units are accepted as part of recognition of prior learning.

### Allergen Focus

Recent foodborne illness investigations have identified that food handlers are not paying sufficient attention to food safety issues associated with allergens. The Food Authority proactively manages its resources in this space and has already developed a co-authored resource available to supplement the FSS allergen module. In 2018 Lupin will also be added to the Food Standards Code, and all resources will need to be updated to include the new mandatory declarations.

### Discussion

The number of *ad-hoc* compliance incidents continues to follow the trend of increasing compliance by RTOs. However, the audit results temper this trend. Six RTOs received notices of intention to suspend their approvals for failure to comply with their conditions of approval.

#### 2017 Audit

There are two categories of compliance the Food Authority investigates as part of its audit; the first is compliance with administrative conditions of approval, and the second is an in-depth review of food safety content. This dual examination ensures that RTOs teach the correct food safety messages and protect the integrity of the NSW FSS system.

The Food Authority's administration conditions were well adopted in the 2017 audit cohort, representing just four breaches (including three from one RTO) of the 18 non-compliances recorded. However, the content based conditions (conditions a) and o)) represented the majority of detected non-compliances. This is not unexpected, as the 2017 cohort was chosen through intelligence gathering exercises, rather than randomly selected.

All six notices of intent to suspend and both mediation actions concerned multiple content inaccuracies. Most notably was the absence of the temperature danger zone 2-hour/4-hour rule. This was most often confused with the guidelines for cooling hot food. The 2-hour/4-hour rule is specifically referenced in the *Knowledge Evidence* sections of the retail unit SIRRFA001 and hospitality unit SITXFSA002 syllabuses, along with a separate curriculum requirement for correct cooling procedures.

In addition to core food safety contamination control content, content non-compliance also concerned failure to adequately adopt the Food Authority's own key focus areas modules. The key focus areas are required as essential content to deliver key food safety information to food businesses through the FSS program. In four cases non-compliance with this requirement was due to a lack of adequate assessment. RTOs have already been advised that new assessment materials will be required – Case Study assessments, based on the key focus areas that have been made available to RTOs since August 2017, but were not assessable for the 2017 audit.





## Recommendations

Recent changes to allergen labelling requirements in the Food Standards Code have necessitated changes to the Food Authority's *Allergen Management* module will need to be made, and represents the first review into the modules since they were introduced in 2015.

### Add 2-hour/4-hour rule to drop box

The Food Authority has factsheets that outline what the requirements are for both the 2-hour/4-hour rule, and cooling processes. While some RTOs already use these resources, by making them available in the dropbox the Food Authority can ensure RTOs adopt the correct messages as required by the units of competency.

### Review and update Allergen Management resources

In May 2018 the Food Standards Code will be updated to require Lupin as a declarable ingredient, alongside nine other allergens. The Allergen Management resources still refer to the 'Top 8' allergens, and as such, must be updated to reflect the new requirements.

### Update the Food Authority website to clarify requirements around delivery of the FSS program

Due to differences between the longevity of ASQA qualifications and the FSS, Food Authority staff have been fielding more queries about the validity of superseded units of competency. The website needs to be updated to ensure it continues to provide current information.

## Conclusion

Day to day compliance for the FSS program is high. There are few complaints from students about alleged misconduct and RTOs respond to Food Authority instructions and investigative enquiries in a timely manner. The high number of notices of intent to suspend during the audit reflects the targeted approach adopted by the Food Authority in 2017, however the co-operative responses from RTOs means that all organisations are still able to deliver the required training. No actual suspensions or cancellations were executed by the Food Authority during the 2017 audit period.

Future projects focus on reinforcing and updating the allergen training materials to cover new declaration requirements (lupin) and refining the key messages for students. This will supplement the recent introduction of case studies assessment tasks as part of the key focus areas modules.



## Appendix A

### RTO Conditions of approval

The approved RTO must:

- a) comply with the requirements of the Food Act 2003 and Food Regulation 2015 as they apply to the Food Safety Supervisor program
- b) comply with the RTO approval criteria as it applies to the Food Safety Supervisor program
- c) conduct Food Safety Supervisor training for the purposes of issuing Food Safety Supervisor certificates only with trainers agreed to by the Food Authority in writing
- d) notify the Food Authority in writing of any change to
  - i. contact details
  - ii. ownership of your registered training organisation
  - iii. the scope of registration as a training organisation (for FSS related units)
  - iv. trainers (including proposals to add new trainers and/or removal of current trainers)
  - v. method of delivery of the required units of competency
- e) not use recognition of prior learning (RPL) for the purposes of issuing a Food Safety Supervisor certificate, unless it is applied for the purposes of re-certifying a person that currently holds a Food Safety Supervisor certificate within the immediately preceding period of five years. not issue a Food Safety Supervisor certificate for circumstances under which the Food Authority will issue a Food Safety Supervisor certificate (as published on the Food Authority's website)
- f) use the Food Authority's SmartForm system to issue Food Safety Supervisor certificates to competent students
- g) issue the Food Safety Supervisor certificate within ten working days of assessing the student as competent for the prescribed Food Safety Supervisor units
- h) not subcontract any training conducted for the purposes of issuing an Food Safety Supervisor certificate to any non-approved RTO, or to a trainer that has not been accepted for your RTO by the Food Authority
- i) in compliance with privacy laws, notify enrolling students that personal information will be provided to the Food Authority
- j) limit class sizes to 30 students where face to face delivery of training for the purposes of issuing a Food Safety Supervisor certificate is conducted
- k) store blank Food Safety Supervisor certificate stationery in a secure location
- l) pay any amount due to the Food Authority under the Food Act 2003 by the specified time
- m) not produce training or advertising material that inaccurately represents the requirements of the Food Act 2003 and Food Regulation 2015



- n) use any resource / material / information required by the Food Authority, in training conducted for the purposes of issuing a Food Safety Supervisor certificate. This includes compliance with any prescribed focus areas identified by the Food Authority as prerequisites to the issue of a Food Safety Supervisor certificate.
- o) the Food Authority may conduct evaluations of RTO performance for quality assurance purposes. This may include 1) attendance of Food Authority staff at one or more training sessions conducted by your organisation and/or 2) request training and assessment materials
- p) the Food Authority may refer complaints, information and related material to the Australian Skills Quality Authority or any other person or body the Food Authority considers having a legitimate interest in receiving it.

If approved, the RTOs approval will remain in force for 12 months from the date of approval.

Approved RTOs will be published on the Food Authority's website.



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## RTO approval criteria

The approval criteria that Registered training Organisations (RTOs) must meet to be considered for approval under the Food Safety Supervisor program fall into three categories:

1. RTO criteria
2. RTO trainer criteria
3. Fees

### 1. RTO criteria

RTOs must:

- be registered with the Australian Skills Quality Authority (ASQA).
- offer the units of competency specified by the NSW Food Authority (the Authority) and published on the Authority's website (i.e. 2 x hospitality units or 1 x retail unit),
- not have restrictions placed on them by ASQA, or an equivalent national, State or Territory registering and course accrediting body, that impacts their ability to offer the specified units of competency.
- not have had their registration withdrawn or suspended in the last three years
- have been operating as an RTO continuously for at least one year prior to the submission of their application
- offer one or more delivery options (e.g. face-to-face, online, workplace based, correspondence, or a combination of these)
- issue NSW Food Safety Supervisor certificates on behalf of the Food Authority, in addition to the Statement of Attainment

### 2. RTO trainer criteria

Trainers and assessors must:

- a) meet appropriate requirements of the *National Standards for Registered Training Organisations (RTOs) 2015* made under the *National Vocational Education and Training Regulator Act 2011*.
- b) appropriate conditions for assessors provided in the required units of competency.

### 3. Fees

- The annual approval fee payable by RTOs to the Food Authority is \$1200 per year.
- An additional one-off initial processing fee of \$100 will also apply (non-refundable if application is not approved).
- Purchase the Food Safety Supervisor certificates from the Food Authority at a fee of \$30 per certificate.

