

FOOD SAFETY SUPERVISOR COMPLIANCE PROJECT

2016 RTO AUDITS



Department of
Primary Industries
Food Authority



Contents

Executive summary	3
Notable actions.....	3
Audit results.....	3
Recommendations	3
Introduction	4
Compliance activities	4
2016 audit.....	4
Complaints	7
RTO industry issues.....	8
Discussion	9
2016 audit.....	9
Emerging issues.....	9
Recommendations	9
Conclusion	11
Appendix A	12
RTO Conditions of approval.....	12
RTO approval criteria	14



Executive summary

The NSW Food Authority (The Food Authority) monitors approved Registered Training Organisations' (RTOs) performance and conduct 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.

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.

Notable actions

Between 1 September 2015 to 31 August 2016, one RTO was suspended for issues of non-compliance. A second RTO was issued a notice of intention to suspend, but successfully resolved non-compliance issues within the timeframe provided in the notice. Two RTOs have had their program approval suspended or cancelled following appointment of administrators. Both RTOs have temporarily ceased trading. The Australian Skills Quality Authority (ASQA) released new units of competency for the retail and hospitality training packages that supersede the retail and hospitality units currently in scope for the FSS program. A teach out period applies for existing retail and hospitality units until October 2017.

Audit results

The 2016 audit project investigated RTOs integration of the Food Authority's key focus areas (Safe egg handling, allergen management, cleaning and sanitising) within the competency units required to obtain a NSW FSS certificates since 1 September 2015, and determined RTO compliance with the Conditions of approval.

Twenty five RTOs were chosen for audit based on the volume of certificate output; representing approximately 65% of certificates printed between 1 January 2015 and 30 March 2016. Five formal compliance actions were conducted, including the suspension and notice of intention to suspend mentioned above and three mediation actions.

Eighteen RTOs were advised to remedy low-risk breaches of conditions including removing trainers no longer working with the RTO and updating references of the Food Regulation 2010 to Food Regulation 2015.

One RTO notified the Food Authority early in the audit project it had not taught an FSS course since May 2015 and has since cancelled its involvement in the program by not renewing its approval.

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 food business compliance. In 2016 RTOs continued to improve their compliance with the RTO Conditions of approval (see Appendix A) and high-risk breaches further decreased. Nevertheless the Food Authority will complete the following recommendations to address emerging issues:

1. Update all FSS RTO materials to reference the new units of competency.
2. Use the RTO Forum to inform RTOs about changes to the NSW regulatory requirements; including removing FSS notification requirements and changes introduced through Food Regulation 2015.
3. Amend the trainer application form to provide clarity and align with the Standards for Registered Training Organisation (RTOs) 2015.
4. Update the RTO approval renewal form to include trainer changes (removals).



Introduction

The NSW Food Authority manages Registered Training Organisations' (RTOs) compliance with the Food Authority's Food Safety Supervisor (FSS) Program Conditions of approval using the RTO management system (RTO system). The RTO system principally consists of monitoring tools applied to RTOs in the form of website reviews, hard copy course material reviews, electronic and face-to-face audits, complaint investigation and monitoring RTO Australian Skills Quality Authority (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 RTO system incorporates a framework for managing RTO non-compliance with requirements outlined in the *Food Act 2003* and the Food Regulation 2015, as well as responding to complaints received from students, Environmental Health Officers and other RTOs. The Food Safety Supervisor Compliance Project – 2016 RTO Audits (this Report) reports on RTO compliance for the period 1 September 2015 to 31 August 2016. This period incorporates the Food Authority's rollout of new Key Focus Areas training and assessment materials, implementation of the new Food Regulation 2015 and start of FSS certificates expiring due to the five year shelf life and recertification requirements stipulated in the *Food Act 2003*.

The Report also covers miscellaneous compliance incidents for the same period, and notes emerging issues in the RTO space, including sector instability, and trainer application quality.

Compliance activities

There were significantly fewer compliance incidents during the compliance period compared to 2013-14. Only three were recorded during 1 September 2015 to 31 August 2016 compared to 44 in 2013-14, and all were resolved without incident. One concerned a student request for a late certificate, one concerned a request to clarify a website claim, and an EHO provided feedback on an RTO's training practices on behalf of a food business proprietor.

2016 audit

The RTO System requires the Food Authority to conduct an annual audit project of a sample of RTOs approved to deliver the NSW Food Safety Supervisor certificate. The 2016 sample was determined using the following criteria:

- To capture 75 percent of the volume of certificates issued by RTOs in the last 12 months, or
- Identified using previous compliance history, or
- Identified by audit of the RTO's website, and
- Where possible, avoid auditing RTOs audited in the last 12 months.

The final list of 25 RTOs represented 64.8 percent of the volume of NSW FSS certificates issued between 1 January 2015 and 30 March 2016.



Key findings

Nineteen RTOs were assessed as compliant. There was an increase in non-compliance with condition d) compared to 2014 and concerned outdated approved trainer lists. Compliance took the form of requesting RTOs to review current trainer lists and confirm website listings. No RTO was reliant on trainers no longer employed to issue FSS certificates. Out-of-date references to NSW legislative requirements concerned incorrectly identifying the Food Regulation 2010 instead of 2015, and in six cases incorrectly advising either FSS or food business notification requirements. These issues were considered low-risk breaches without risks to food safety. A breakdown of approval condition breaches is at Table 1.

One RTO notified the Food Authority it was not actively enrolling or teaching FSS courses at the present time, and Byte records indicate it has not issued any FSS certificates since May 2015. This RTO has since allowed its approval to lapse, and was therefore not audited.

Five RTOs received formal compliance actions; three mediation and conciliation, one notice of intention to suspend, and one suspension. The three mediation and conciliation responses, and the suspension concerned condition o) of the Conditions of approval, which states RTOs must:

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.

Four RTOs did not demonstrate sufficient integration or adoption of the three key focus areas as required by the Food Authority. In two cases this was represented by insufficient assessment materials. Two RTOs did not include any key focus area materials. The three RTOs issued mediation and conciliation notices have since complied with the focus areas requirements by adopting the content and assessments unchanged from the Food Authority's materials.

Notices of intention to suspend were issued based on training materials omitting key information from the ASQA-approved syllabus for the required units of competency, thereby failing to educate students about correct food safety practices and knowledge. Both RTOs responded within the required timeframe. One RTO was subsequently suspended for not addressing all the compliance actions in the notice of intention to suspend and for failing to incorporate the key focus areas.

Box 1. New content requirements

Key focus areas

From 1 September 2015, to be certified as an FSS for a food premise in NSW and issued a valid certificate, a person must attain required units of competency from an approved RTO under the FSS program.

The units of competency must incorporate three key focus areas determined by the Food Authority and published on its website:

- Safe egg handling
- Allergen management
- Cleaning and sanitising practices

These focus areas were developed by Charles Sturt University in consultation with the Food Authority based on Foodborne Illness trends in the retail and hospitality sector.



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.	2	Notice of intention to suspend - One suspension issued for ongoing non-compliance.
d) Notify the Food Authority in writing of any change to: <ul style="list-style-type: none"> 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) v. method of delivery of the required units of competency. 	5 - - 8 -	All breaches were completed via mediation with requests for confirmation of correct information using an <i>RTO Change of details</i> form.
j) In compliance with privacy laws, notify enrolling students that personal information will be provided to the Food Authority.	1	RTO provided evidence of compliance within 24 hours of being made aware of breach – no action required.
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. Minor information inaccuracies (Table 2).	3	Mediation and conciliation – insufficient adoption of assessment materials.
	1	Notice of intention to suspend - Suspension issued for ongoing non-compliance.
	8	Mediation
Total breaches	28	

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



Table 2. Summary of minor information inaccuracies

Information requirement	Frequency	Compliance Action
Food Regulation 2015 Material referenced the Food Regulation 2010.	7	Advise to update references to Food Regulation 2015.
Notification Instruction for food businesses to notify the Food Authority of business and/or FSS.	6	Advise to remove references to notifying the Food Authority.
Food Safety Plan RTOs teaching nationally listed food safety plans as mandatory.	3	Advise to clarify NSW legislative requirements that FSPs are not mandatory.

Information was identified in training and/or advertising material. All breaches were resolved using mediation

Complaints

The Food Authority received three complaints between 1 September 2015 and 31 August 2016:

- A student requested the Food Authority intervene to retrieve his FSS certificate after he had not received it within the required 10 day issuance period. The RTO complied with the student's request before the Food Authority initiated any compliance action. No further action was taken.
- An RTO advised the Food Authority a second RTO was incorrectly advertising the FSS requirements on their website, in breach of the Conditions of approval. After consulting with the alleged offending RTO, the Food Authority determined there was no breach of the Conditions of approval. The RTO also removed the statements in question from the website in good faith.
- An EHO provided feedback on behalf of a food business proprietor alleging an RTO was coaching non-English speaking students through the Food Safety Supervisor course. Due to the timing of the complaint the RTO in question was added to the 2016 Audit project. Following a complete audit of the RTO's training and assessment materials and strategies including interviews with the RTO's compliance officer, no further action was considered necessary. The RTO's training materials and accessibility strategies for non-English speaking student complied with the requirements for student accessibility in the national *Standards for Registered Training Organisation (RTOs) 2015*.

The RTO Administrator, Licensing and Accreditation Services and the Helpline continue to receive regular calls enquiring about options for recertification, RTOs updating their FSS delivery options, and administrative requirements and permissions.



RTO industry issues

Trainer applications

There is a growing trend for RTOs to submit incomplete trainer applications. RTOs have submitted 55 incomplete trainer applications since 1 January 2016. In all cases applications were missing one or more documents providing evidence of either the required training qualification, or required content qualification. To address this issue the Food Authority is revising its *RTO Change of details* form to clarify evidence requirements for new trainers. A stand-alone trainer application form that clearly outlines the relevant standards from the *Standards for Registered Training Organisation (RTOs) 2015* and the minimum required documents is being developed.



Department of
Primary Industries
Food Authority

Discussion

The results of the audit and number of compliance incidents follow a trend of increasing compliance as RTOs continue to improve their performance under the FSS program.

2016 audit

The audit results reveal that 21 of the 28 (75%) compliance breaches concerned low-risk administrative lapses or NSW-specific legislative inaccuracies that do not pose a food safety risk. The number and type of minor inaccuracies identified during the audit is consistent with recent changes made during the remake of the Food Regulation 2015. The remake of the Food Regulation 2015 coincided with implementation deadlines for RTOs to incorporate new materials for the Food Authority's key focus areas as part of FSS re-certification, which may explain the high number of references to the Food Regulation 2010 and food business and FSS notification requirements.

Thirteen breaches of condition d) occurred concerning contact details changing (email/website changes; n = 5) and trainers no longer working at RTOs (n = 8). Approved RTOs have the opportunity to provide correct details during their annual approval renewal. No such reminder exists for trainer changes, although there is an option to remove trainers in the *Change of details* form. A regular reminder option should be considered to improve compliance in this area.

The audit results reveal over 83 per cent of RTOs have adopted the key focus areas as required by the Food Authority, and 92 per cent of students are being exposed to the content.

Registered training organisations were very co-operative during the audit and provided timely responses to requests for material or compliance actions. RTOs appreciated the larger than usual undertaking would take longer to complete, at latest up to three months after originally submitting materials. This was due to the larger number of RTOs in the audit and competing urgent projects suspending the audit for two weeks in June.

Emerging issues

New units of competency

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 retail and hospitality training packages.

The Food Authority reviewed the new syllabus requirements for each new unit and has determined there is no change to the food safety information listed as required skills and knowledge. The NSW FSS program will adopt ASQA's new units and the same teach out period for both the retail unit and the hospitality units. This will require public facing FSS material to be reviewed for current accuracy and updated to reflect the new units of competency.

Recommendations

The Food Authority will be completing the following actions in response to the issues identified in this report.

The current FSS units of competency have been superseded. To maintain the FSS program currency, the new units need to be adopted on the Food Authority website and on all relevant material to comply with the Food Regulation 2015.



1. Updating all FSS RTO materials to reference the new units of competency.

The 2016 audit project identified a large number of RTOs have not updated their training materials to reflect NSW legislation following introduction of the Food Regulation 2015. The incorrect information is low risk for food safety outcomes but still needs to be addressed.

2. Use the RTO Forum to inform RTOs about changes the NSW regulatory requirements; including removing FSS notification and changes introduced through Food Regulation 2015.

Trainer applications are increasingly being submitted incompletely, delaying approvals for RTOs and in some cases preventing certificate printing within the required ten days.

3. Amending the trainer application form to provide clarity and align with the *Standards for Registered Training Organisation (RTOs) 2015*.

The 2016 audit identified a number of RTO Byte records contained trainer entries for trainers no longer employed at the RTO. There is no prompt or reminder for RTOs to remove trainers who have moved on from their organisation.

4. Updating the RTO approval renewal form to include trainer changes (removals only).



Department of
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Food Authority

Conclusion

Registered training organisations (RTOs), approved to deliver the Food Authority's Food Safety Supervisor (FSS) program, continue to improve in performance and in compliance with the RTO conditions of approval. Non-compliance with the Conditions of approval were typically low-risk breaches concerning trainers no longer employed by the RTO still listed with the Food Authority or incorrect references to the Food Regulation 2010.

New training and assessment material requirements for the NSW Food Safety Supervisor provided RTOs with the opportunity to review their materials as they assessed the best way to incorporate the Charles Sturt University-developed key focus areas materials for Allergen management, Safe egg handling, and Cleaning and Sanitising. The new units of competency recently endorsed by ASQA provide RTOs with further opportunities to update their training materials.

The audit demonstrates over 83 per cent of RTOs have adopted the key focus areas as required by the Food Authority, and 92 per cent of students are being exposed to the content.

The recommendations outlined in this report address emerging non-compliance trends for RTOs and will assist RTOs to improve their compliance with the Conditions of approval.



Department of
Primary Industries
Food Authority

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.



Department of
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Food Authority

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:

- meet appropriate requirements of the National Standards for Registered Training Organisations (RTOs) 2015 made under the National Vocational Education and Training Regulator Act 2011.
- 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.





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