



Food  
Authority

# Evaluation of the Food Regulation Partnership

Results Summary Report

August 2012

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## About this document

This document reports the findings of the *Evaluation of the Food Regulation Partnership* conducted in 2011. It is one of three reports prepared on the evaluation.

It is intended that this document present a high level, interpretative summary of the evaluation findings.

The other reports simply describe the findings of the two surveys conducted as part of the evaluation:

- *Survey of Council Environmental Health Officers and General Managers* (NSW Food Authority, 2012)
- *Survey of Multi-outlet Retail Food Businesses* (Social Research Centre, January 2012).

All reports are available on the NSW Food Authority website: [www.foodauthority.nsw.gov.au](http://www.foodauthority.nsw.gov.au)

If you have any questions about this document, please contact the NSW Food Authority helpline on 1300 552 406 or [contact@foodauthority.nsw.gov.au](mailto:contact@foodauthority.nsw.gov.au)

## Acknowledgement

The NSW Food Authority would like to thank the members of its Retail Industry Reference Group and the Partnership's Food Regulation Forum for their assistance and input, Environmental Health Officers and General Managers for participating in the online survey and retail food managers for participating in the telephone survey conducted by the Social Research Centre.

## Contents

Executive summary .....	3
Introduction.....	6
Background.....	6
About the Food Regulation Partnership .....	6
Food Regulation Partnership objectives .....	7
Evaluation objectives and design .....	8
Key findings.....	10
Overall, effectiveness of the Partnership is improving the safety of retail food in NSW .....	10
Improvements in retail food business compliance .....	12
More effective regulatory services under the Partnership.....	14
Further improvements on levels of food surveillance consistency needed .....	17
Improved inspection efficiency by councils under the Partnership .....	18
Partnership protocols, guidelines and inspection tools implemented by many councils.....	20
Effective communication networks established under the Partnership .....	22
Local Government Unit effectively supports councils and delivers well regarded activities and outputs ..	24
Conclusion: Recommendations for fine tuning the Partnership .....	24
References .....	26
Appendix 1. Program Logic Model .....	27
Appendix 2. Number of councils providing activity data for each report .....	28
Appendix 3. Criteria and number of councils in each category .....	28
Appendix 4. Councils in NSW categorised by the number of retail food businesses .....	28

## Executive summary

### Background

The Food Regulation Partnership (the Partnership) is a regulatory program that formalises the partnership between the NSW Food Authority (the Authority) and local councils in NSW.

The Authority shares with local councils the responsibility for ensuring that retail and food service businesses are inspected and comply with the food safety regulations under the Partnership. Councils undertake routine inspections of retail/food service businesses while the Authority provides support and assistance to help improve the consistency of inspections and interpretation of food laws, standardising inspection processes and giving technical advice.

The Authority receives ongoing government funds of \$850,000 per annum to resource a five-member Local Government Unit (LGU) that provides the support and assistance underpinning the Partnership. This work includes supporting the statutory Food Regulation Forum that provides high level policy and strategic advice on the Partnership.

Since the introduction of the Partnership in 2008, the LGU has focused on working with councils to implement foundational program requirements including:

- setting up mandatory reporting arrangements and establishing council and LGU service levels,
- preparing guidelines, advice and protocols for councils,
- preparing standard regulatory tools for inspection, compliance and enforcement,
- creating effective state and regional communication networks (by coordinating state-wide and regional meetings with councils, and meetings with retail food businesses, councils and the Authority), and
- conducting targeted training sessions to improve Environmental Health Officer (EHO) skills and knowledge with the view to standardising inspection practices across NSW.

### Evaluation objectives and design

Since 2008, the Partnership has been operating in its current form and many foundational processes are well established. It has been almost four years since the last formal evaluation of the program, so in 2011, the Authority decided an evaluation of the Partnership was timely.

The overall aim of the evaluation was to understand whether the Partnership is working as intended in improving the regulatory system for the retail food sector in NSW. The evaluation focused on answering the following key questions:

- To what extent has the Partnership program been implemented as planned?
- To what extent have the Partnership's intended outcomes been achieved?
- In what ways can the Partnership program be fine-tuned?

### Data collection

The Authority chose to adopt a multi-method approach for the evaluation as this could allow for confirmation of findings through comparison. Five projects were undertaken, aimed at collecting and reviewing new and current data. Projects included surveying local councils (147 responses from EHOs and 26 responses from General Managers)<sup>1</sup> and multi-outlet retail food businesses (50 responses from 28 National/State Managers and 22 Regional/Local Managers)<sup>2</sup>. Council enforcement activities reports<sup>3</sup>, training feedback forms and relevant foodborne illness data held by the Authority were existing data sources that also informed the evaluation study.

<sup>1</sup> NSW Food Authority (2012). *Evaluation of the Food Regulation Partnership, Survey of Council Environmental Health Officers & General Managers in NSW*. Available at: [www.foodauthority.nsw.gov.au](http://www.foodauthority.nsw.gov.au)

<sup>2</sup> Social Research Centre (2012). *Evaluating the Food Regulation Partnership Survey of Multi-Outlet Retail Food Businesses*. A report prepared for the NSW Food Authority by the Social Research Centre. Available at: [www.foodauthority.nsw.gov.au](http://www.foodauthority.nsw.gov.au)

<sup>3</sup> NSW Food Authority, (2008-2011). *Summary report of NSW enforcement agencies' activities, food retail and food service sector*. Available at: [www.foodauthority.nsw.gov.au](http://www.foodauthority.nsw.gov.au)

## Results summary

Overall, the evaluation has found that the Partnership is working as intended and many foundational program requirements are well implemented by both the Authority and local councils.

Both retail managers and councils agreed that the Partnership has been effective in improving the safety of retail food in NSW. Further support for this view was the overall decreasing trend in confirmed and suspected foodborne illness outbreaks in retail/food service sector in NSW since 2007, but with no clear trends showing a reduction in the number of people becoming ill.

Under the Partnership, food businesses' compliance has improved. Both retail managers and councils think business compliance with food safety standards has improved since 2007. This is supported by the fact that compliance rates for retail food businesses have improved by two-thirds since 2007.

As reported by both councils and retail managers, levels of cooperation between the Authority and councils regarding food regulation have improved under the Partnership. Low levels of duplication of regulatory services were also reported. However, councils gave specific examples where a form of regulatory overlap still exists.

Councils and retail managers reported improvements in the effectiveness of food safety surveillance by councils and the Authority. Multi-outlet retail managers indicated that councils are now more effective in providing food regulatory services than in 2007, and the frequency of annual food inspections was considered appropriate.

Compared with 2007, both retail managers and councils perceived some positive changes in the food surveillance and enforcement consistency experienced by businesses, but there is room for improvement.

Levels of EHO efficiency have also improved under the Partnership. Inspection rates for metropolitan, regional and rural areas increased initially, and then stabilised within the past two years. Currently, 95% of councils are meeting stipulated inspection frequencies and the number of councils meeting the minimum inspection targets has almost doubled since 2008.

A high proportion of councils have implemented Partnership protocols and guidelines. Two areas identified for further improvement are 1) addressing the level of council implementation of the standard inspection tool and 2) the nationally based enforcement protocol.

In light of the evaluation findings, it is clear that the LGU has effectively implemented foundational program requirements. The LGU established effective regional communication networks and conducted well attended and informative training sessions. The quality of many LGU services and materials was also highly rated. However, feedback from councils and retail managers suggested that some aspects of the program need fine tuning.

## Recommendations

These findings have informed the development of a second phase of program initiatives focused on improving regulatory consistency across councils, the regulatory issues resolution process and communication. In addition, the evaluation measures developed for the evaluation and presented in this report will serve as a benchmark against which to assess the impact of the Partnership in the future.

In consultation with the Partnership stakeholders, five recommendations have been put forward for consideration. These include the Authority:

1. taking a renewed focus on regulatory consistency,
2. strengthening its role in assisting councils with resolving food regulatory issues,
3. developing a communication strategy targeting retail food business,
4. reviewing how the LGU supports, assists and monitors food compliance/enforcement activities by NSW councils, and
5. taking a case-by-case approach with relevant councils in order to address situations where duplication of regulatory resources has occurred (eg combined retail/wholesale operations).

## Introduction

### Background

From 2005 to 2008, the NSW Food Authority (the Authority) undertook an extensive policy development and consultation process with local councils and other stakeholders. This resulted in overwhelming support for the Authority to develop a program that formalises the food regulatory partnership between the Authority and local councils in NSW, the Food Regulation Partnership (the Partnership) program.

During that time, more than one-third of all reported foodborne illness outbreaks in NSW involved food that was prepared in retail food settings (OzFoodNet, 2007). The consultation processes also identified the need for a strategy that would address a number of food regulatory problems in the retail food sector in NSW.

As local councils primarily regulate retail food businesses, council food surveillance practices were the key focus of the Partnership program. Traditionally, councils had diverse food surveillance practices due to their autonomous operation and councils being unable to cost recover their food surveillance activities. There was also no requirement for councils to report on their food regulatory systems. Furthermore, multi-outlet food businesses reported that they experienced inconsistent approaches to compliance in different local government areas, thereby increasing compliance costs (NSW Food Authority, 2006).

### About the Food Regulation Partnership

In 2008, the Partnership took effect. It comprised legislation mandating a food surveillance role in the food retail and foodservice industry and provided councils with the capacity to recover enforcement costs. On 1 July 2008, councils began their new enforcement agency role under the Partnership with the objective of reducing foodborne illness in retail food settings.

The Partnership comprises a number of program components including:

- education (Local Government Unit [LGU] provides training to Environmental Health Officers [EHOs]),
- compliance and enforcement support and training (provided by the LGU and councils sign-up to service level agreements),
- a regulatory component (local councils are able to fully recover food surveillance costs), and
- mandatory performance monitoring (councils provide data on food regulatory activities which is compiled by the LGU and published as a report) (NSW Food Authority, 2008–2011)

The Authority receives ongoing government funds of \$850,000 per annum to resource a five-member LGU that provides support and assistance underpinning the Partnership. Ongoing resourcing of the LGU is integral to the success of the program.

The activities and outputs of the LGU include:

- preparing guidelines, advice and protocols for councils (eg *A Guide to Food Regulation in NSW, Draft Protocols and Guidelines Parts 1 and 2*, NSW Food Authority, 2008),
- preparing (in consultation with councils) a standardised inspection instrument for retail food premises,
- defining and establishing council service levels (food surveillance),
- coordinating state and regional meetings annually,
- providing annual, targeted food surveillance training sessions for (new and established) EHOs,
- supporting the statutory Food Regulation Forum<sup>4</sup> that provides high level policy and strategic advice on the Partnership, and
- organising the Retail Food Service Advisory Group<sup>5</sup> meetings.

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<sup>4</sup> The Food Regulation Forum is an independently chaired, statutory forum providing high-level advice on the Partnership. It meets 3 times per year.

Since the introduction of the Partnership in 2008, the LGU has been working with councils to implement foundational program requirements including:

- setting up mandatory reporting arrangements and establishing council and LGU service levels,
- preparing guidelines, advice and protocols for councils,
- preparing standard regulatory tools for inspection, compliance and enforcement,
- creating effective state and regional communication networks with councils, retail food businesses and the Authority, and
- conducting targeted training sessions to improve EHO's skills and knowledge with the view to standardising inspection practices across NSW.

### **Food Regulation Partnership objectives**

As outlined in key policy documents, the stated objectives of the Partnership include:

- safer food for consumers — to reduce the impact of foodborne illness caused by the retail food sector,
- to strengthen the food safety response capacity of NSW state and local government agencies, and
- better use of local and state government resources, including avoiding duplication of food regulation services (NSW Food Regulation Partnership Steering Committee, 2005).

Furthermore, after extensive consultation processes, policy developers considered the following elements were essential to a successful Partnership:

- a mandated role for councils clearly stating their responsibilities in the retail and food service sector, commensurate with their resources and capacity,
- full cost-recovery options for councils,
- comprehensive support, assistance and training for councils,
- consistency among councils, and
- evidence that the Partnership's objectives are realised (NSW Food Regulation Partnership Steering Committee, 2005).

For evaluation purposes, Figure 1 presents key components of the 'best practice regulatory system for the retail food sector in NSW'. Adequate food regulatory capacity by councils and consistent application of risk-based food surveillance activities are two assumptions that underpin the program.

Food surveillance consistency was further defined as comprising:

- 1) inspection frequencies that are commensurate with business risk and performance, regardless of council,
- 2) standardised inspection methodology (eg Food Premises Assessment Report<sup>6</sup>) implemented across all councils, and
- 3) choice of enforcement tool<sup>7</sup> by EHOs<sup>8</sup> in accordance with agreed protocols and guidelines.

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<sup>5</sup> The Retail Food Service Advisory Group (industry, councils and the Authority) meets three times per year and discusses common regulatory industry issues.

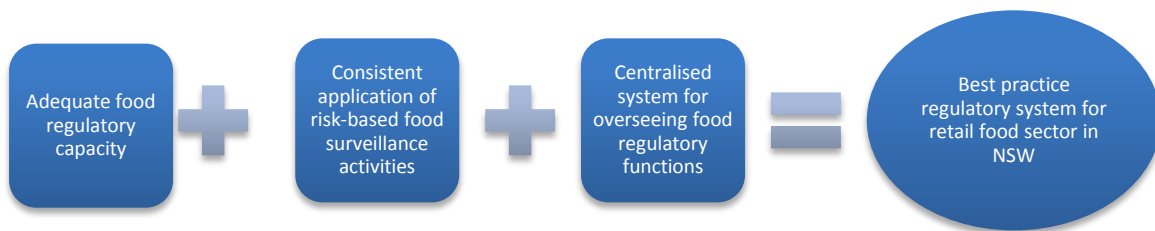
<sup>6</sup> An agreed standardised inspection instrument used to check food safety compliance in retail/food service businesses

<sup>7</sup> Warning Letter, Improvement Notice (fine), Penalty Infringement Notice (fine), Prohibition Notice (business is prohibited from selling food), seizure and prosecution

<sup>8</sup> Council EHOs working in food surveillance are Authorised Officers under the *NSW Food Act*



**Figure 1: Program assumptions of the Food Regulation Partnership**



### **Evaluation objectives and design**

Since 2008, the Partnership has been operating in its current form with many well established foundation processes. In accordance with the Authority’s stated review and evaluation requirements, and the fact that it had been almost four years since the last formal evaluation, the Authority decided an evaluation was timely.

The overall aim of the evaluation was to understand whether the Partnership is working as intended in improving the regulatory system in the retail food sector in NSW. The evaluation focused on the following key questions:

- To what extent has the Partnership program been implemented as planned?
- To what extent has the Partnership’s intended outcomes been achieved?
- In what ways can the Partnership program be fine-tuned?

### ***Program logic informed the evaluation planning process***

To assist with the evaluation planning process, the Authority developed a program logic model of the Partnership (Appendix 1). The model identifies Partnership resources, Local Government Unit activities and outputs alongside the program’s intended outcomes, hierarchically displayed as immediate, intermediate and final outcomes. Measures and targets were then identified for each intended outcome.

### ***Data collection and analysis***

In 2011, the Authority undertook five projects to collect new or review existing data for the evaluation. This included surveying:

- 1) local councils<sup>9</sup> (147 responses from EHOs and 26 responses from General Managers) (NSW Food Authority, 2012), and
- 2) multi-outlet retail food businesses (50 responses – 28 National/State Managers and 22 Regional/Local Managers) (Social Research Centre, 2012).

Existing data was used from:

- 3) Council Enforcement Activity Reports (analysed as per council size and region) (NSW Food Authority, 2008- 2011),
- 4) EHO training feedback forms, and
- 5) foodborne illness investigation/complaints database were also analysed as part of the evaluation study.

Each year, the Authority publishes a report describing council enforcement activities (NSW Food Authority, 2008–2011). In accordance with Partnership requirements, councils submit standardised information about their food regulation activities for the year<sup>10</sup>. Appendix 2 lists the number of councils contributing to the reports since 2008.

For evaluation purposes, the Authority classified each council according to the size of its geographic area and population density. The three classifications included metro, regional or rural (Appendix 3).

Councils were also categorised (very small to large) according to the number of their high risk and medium risk businesses (Appendix 4).

In 2011, after each training session approximately 530 EHOs provided written feedback on a standard form. The evaluation study included collating and analysing responses from these feedback forms using an online data management program, Survey Monkey™.

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<sup>9</sup> Each of the 152 NSW local councils, Department of Premier and Cabinet – Office of Environment and Heritage (in respect to Kosciusko National Park), Lord Howe Island and Unincorporated West NSW are regarded as food safety enforcement agencies and fall within the scope of the Partnership. For simplicity, in the report, all enforcement agencies are referred to as 'councils'.

<sup>10</sup> Initially, Council Activities reports were published six-monthly. Since 2009, annual reports were published.

## Key findings

### Overall, effectiveness of the Partnership is improving the safety of retail food in NSW

Overall, the evaluation has found that the Partnership is working as intended and many foundational program requirements have been implemented well by both the Authority and local councils.

#### *Positive perceptions of the Partnership by retail managers and councils*

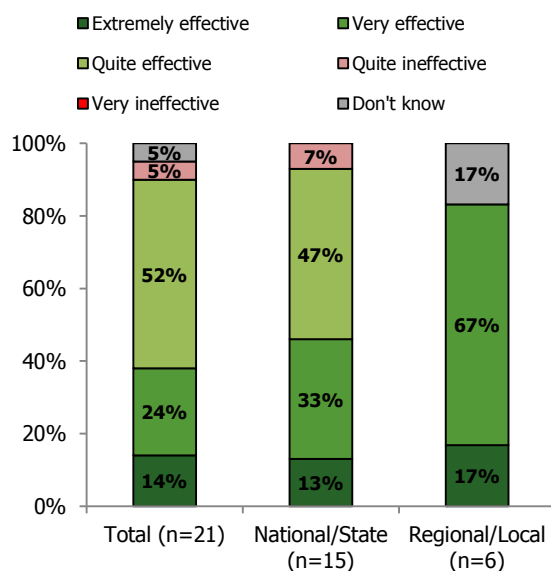
Both retail managers and councils agreed that the Partnership has been effective in improving the safety of retail food in NSW. Further evidence supporting this view was the observed decrease in the rate of actual confirmed and suspected foodborne illness outbreaks in the retail food service sector in NSW since 2007.

Figures 2 and 3 below reveal that both retail managers (90%, 19/21) and councils (88%, 98/112) considered the Partnership to be at least quite effective in improving the safety of retail food.

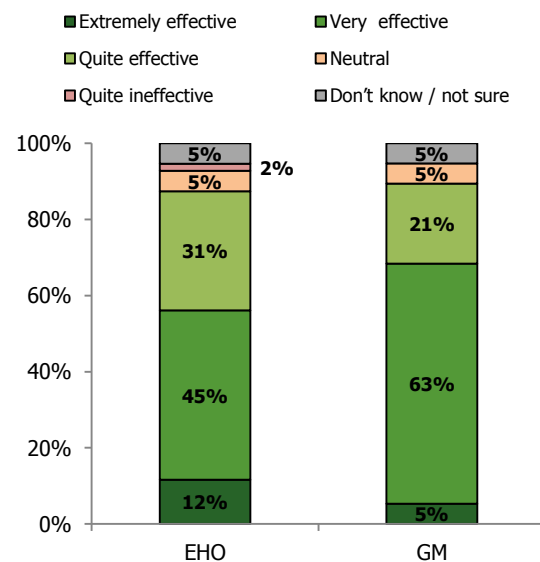
It is important to note that out of the 50 retail managers of multi-outlet stores interviewed (Social Research Centre, 2012 p. 24), less than half had heard of the Partnership program and, therefore, these findings must be treated with caution.

However, it is reassuring that views from 'on the ground' regional/local retail managers were closely aligned with those held by EHOs and General Managers. A high proportion of all three groups agreed that the Partnership had been either extremely or very effective in making retail food safer (NSW Food Authority, 2012).

**Figure 2: Retail managers – overall effectiveness of the Partnership in making retail food safer (Social Research Centre, 2012)**



**Figure 3: Councils – overall effectiveness of the Partnership in making retail food safer (NSW Food Authority, 2012)**



## ***Foodborne illness outbreaks, cases and complaints in the retail food service sector in NSW***

A review of the Authority's foodborne illness data (Figure 4) shows a decreasing trend in foodborne illness outbreaks<sup>11</sup> linked to the retail/food service sector since the introduction of the Partnership in 2008. However, it is worth noting that even though Figure 4 shows an overall negative trend, fluctuations are evident year by year.

Figure 4 presents decreasing outbreaks (per 1000 businesses) against background levels of foodborne illness complaints linked to the retail/food service sector. For the past two years, numbers of complaints have remained fairly constant but at increased levels as compared with 2007–08 and 2008–09. It is possible that this increase is the result of improved monitoring and reporting systems.

In addition, although the overall rate of outbreaks linked to retail/food service might have declined since 2006–07, the number of people becoming ill fluctuates from year to year and trends are not obvious (see Table 1). It is possible that a single outbreak can affect hundreds of people.

As always, foodborne illness data requires careful interpretation. Issues for consideration relate mainly to under reporting. Firstly, the numbers of unreported sporadic cases of foodborne illness for this sector are unknown and are therefore not included in this data set. Other issues include the fact that at times, 'true' outbreaks are not able to be classified as such due to lack of physical evidence.

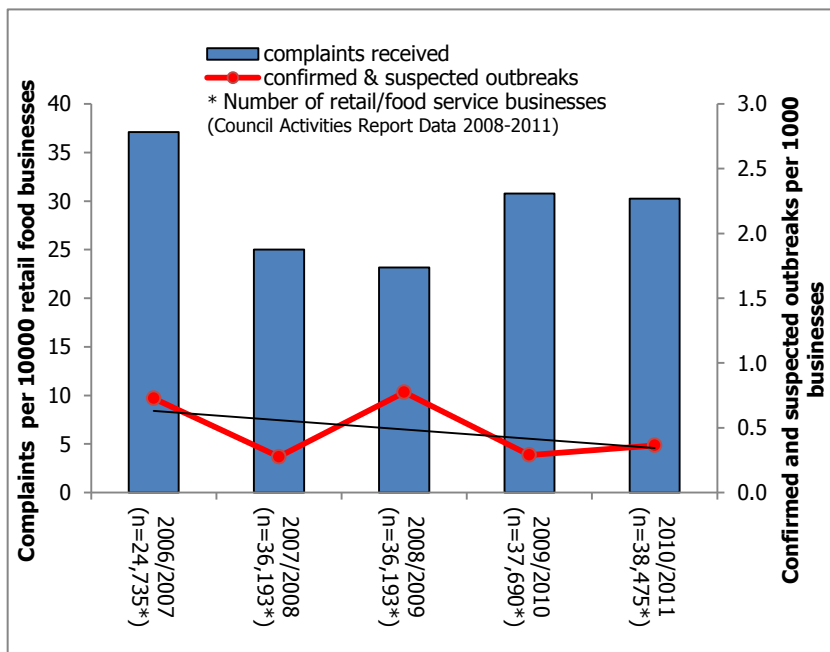
There are also additional issues for consideration when trying to make meaningful causal assertions about the program and its impacts. More broadly, any apparent reduction in foodborne illness outbreaks cannot be viewed as solely due to the impact of the Partnership. Other food safety interventions with similar high-level outcomes such as the Authority's Name-and-Shame and the Food Safety Supervisor Program were also implemented within the same period. The effect seen could therefore be the result of multiple causes.

Finally, there is a need to acknowledge the fact that the 'reduction in foodborne illness attributable to retail food service' is a long term intended outcome of the Partnership. Therefore, the actual reduction of foodborne illness is contingent on many additional conditions. Compared to immediate and medium term outcomes, reduction of foodborne illness is less directly under the control of the program (the Authority's LGU and councils).

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<sup>11</sup> Confirmed and suspected outbreaks per 1000 businesses

**Figure 4: Foodborne illness outbreaks, cases and complaints for the retail/food service sector in NSW**



**Table 1: Foodborne illness outbreaks and case numbers**

Year	No. of outbreaks	No. of cases
2006–07	18	622
2007–08	12	137
2008–09	28	345
2009–10	11	274
2010–11	14	190

### Improvements in retail food business compliance

Under the Partnership, food business compliance has improved. Retail managers and councils agree that food safety compliance in retail outlets is better now than in 2007. Council activity data confirms this view with decreasing rates of non-complying businesses and application of enforcement tools.

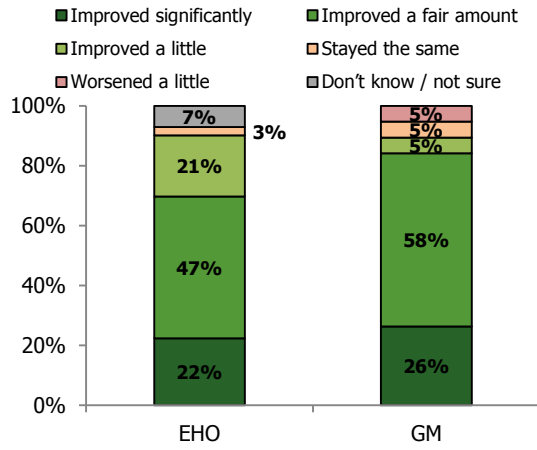
Figure 5 shows that 90% of EHOs and General Managers in the study believed that retail food service businesses improved their food safety compliance, at least a little, since 2007 (NSW Food Authority, 2012).

As outlined in Figure 6, retail managers also indicated they thought that compliance levels had improved since 2007. The *Survey of multi-outlet retail food businesses* (Social Research Centre, 2012 p.6) found that two-thirds of retail managers considered compliance with food safety standards to be better now than in 2007.

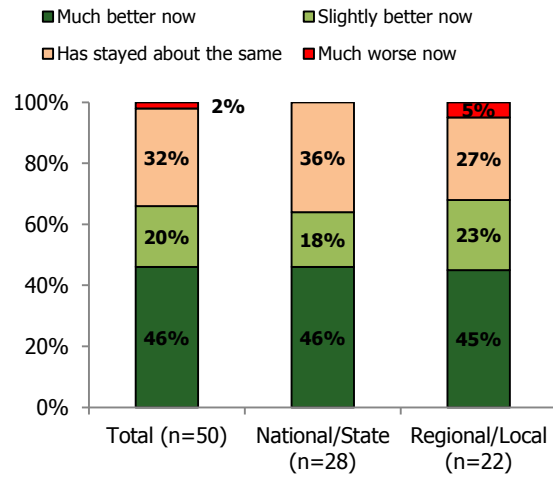
A number of key themes driving better compliance emerged from retail manager responses including:

- more inspections from council EHOs, with stricter monitoring and enforcement (combined with some feedback that councils are more consistent in what they are looking for, are more helpful in working with some managers to improve food safety, and council inspections are now followed up more closely by some retailers),
- a stronger focus from senior management driving better compliance with food safety standards,
- increased awareness of food safety by both customers and the media in recent years, and the need for food retailers to protect and strengthen their reputation (eg 'Name-and-Shame' initiative),
- improved training of staff in food safety standards, and
- a feeling that food retailers are generally attributing more importance to food safety standards (Social Research Centre, 2012, p. 7).

**Figure 5: Councils – change in compliance in retail outlets since 2007 (NSW Food Authority, 2012)**



**Figure 6: Retail managers – change in compliance in retail outlets since 2007 (Social Research Centre, 2012)**



### **Decreasing trends for non-compliant inspections and enforcement tool issue rates**

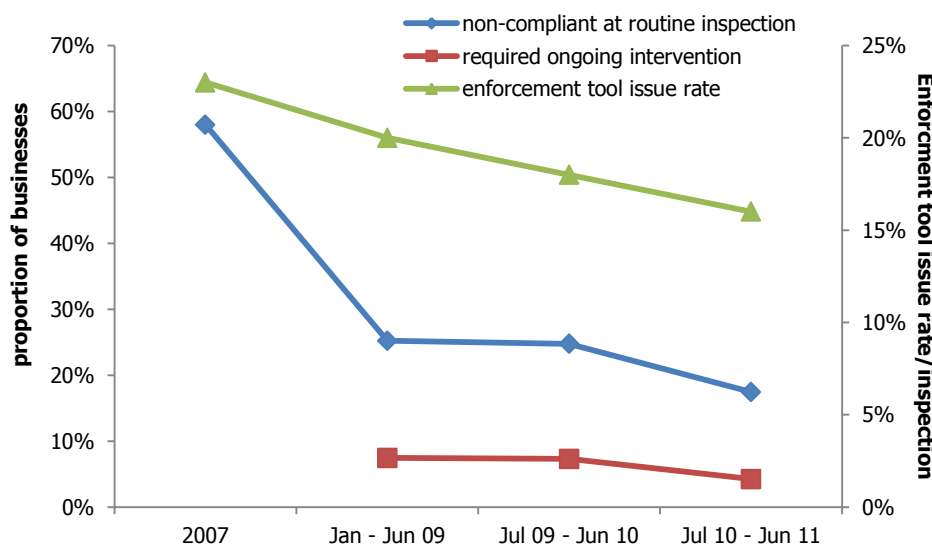
Figure 7 indicates that since 2007, the overall proportion of non-complying<sup>12</sup> businesses at routine inspection decreased by more than two-thirds, from 58% in 2007 to 18% in 2010–11.

In addition, in nearly three years the number of businesses requiring ongoing intervention due to continual poor compliance has almost halved, from 7.4% (2009) to 4.2% (2010–11) (Figure 7).

Figure 7 also shows that, overall, the proportion of enforcement tools (warning letters, improvement notices and penalty notices) employed by councils relative to the total number of inspections conducted<sup>13</sup> has gradually decreased<sup>14</sup>. The issue rate of enforcement tools has decreased from 23% (baseline survey) in 2007 to 16% in 2010–11. Detailed analysis of council’s Activities Report data (NSW Food Authority, 2008-2011) indicated that just over half of the councils (79/152) used fewer enforcement tools in their food surveillance work compared with 2008. For sixteen councils, however, there was no change in their application of enforcement tools.

In summary, it is worth noting that the Partnership may not be solely responsible for this general decrease in non-compliance rates for the retail sector. Other programs such as ‘Name-and-Shame’ (introduced in 2007) and ‘Food Safety Supervisor’ (introduced in 2011) may have contributed to this general reduction in the number of non-compliant businesses.

**Figure 7. Changes in retail food business non-compliance and enforcement tool rates**



## **More effective regulatory services under the Partnership**

### **Councils provide effective regulatory services**

Retail managers indicated that councils are effective in providing food regulatory services. Feedback from councils indicated that they considered the Partnership was helpful in improving these services.

As shown in Figure 8, over three-quarters of retail managers surveyed believed councils provided extremely, very or quite effective food regulatory services<sup>15</sup> (Social Research Centre, 2012, p.12).

<sup>12</sup> % of non-complying business = no. of businesses requiring re-inspection/total routine inspections during the period.

<sup>13</sup> Routine inspections and re-inspections

<sup>14</sup> The Authority expects that a certain number of businesses will require ongoing intervention by councils due to breaches of the food safety standards. When breaches are minor or of a non-serious nature, businesses are able to continue operating under instruction from the council. However, if the breach identified is significant, the business may be issued with an Improvement Notice and/or Penalty Notice, requiring them to rectify the breach within a defined time period.

<sup>15</sup> Food regulatory services includes inspection and training

Comments by managers who considered councils ineffective in assisting the delivery of safer food in NSW most often reported reasons relating to food surveillance inconsistency across councils.

Figure 9 shows that over 85% (96/112) of EHOs and 90% (18/20) of General Managers considered that the Partnership was helpful in improving council food regulatory services.

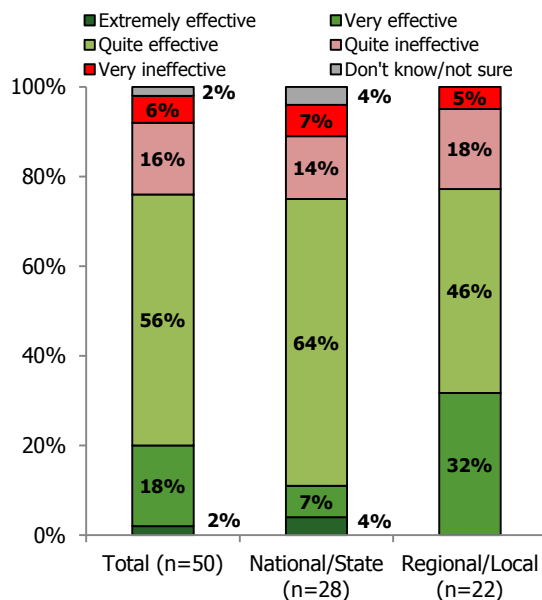
A positive comment from a council General Manager was:

*As General Manager, I have observed a noticeable increase in the enthusiasm for, and the knowledge relating to, food premises in my staff.*

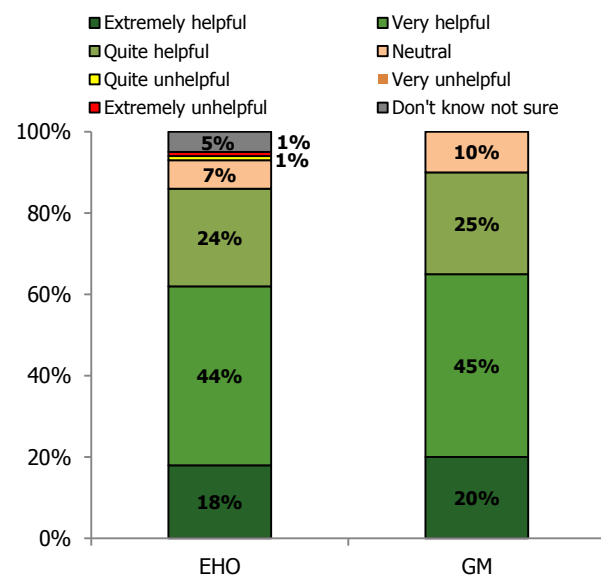
One council reported:

*Great Partnership, cost effective training and keeping staff up-to-date, great networking and shared skills and resources between the Authority and councils also helps to keep councils focused on the consistent approach to food surveillance across NSW approach.*

**Figure 8: Retail managers – effectiveness of local councils in assisting delivery of safer food (Social Research Centre, 2012)**



**Figure 9: Councils – helpfulness of Partnership in improving council food regulatory services (NSW Food Authority, 2012)**



**Councils and retail managers perceived low levels of duplication of regulatory services across councils in NSW**

Almost 70% of councils (NSW Food Authority, 2012) and 76% of retail managers (Social Research Centre, 2012) thought the level of duplication of regulatory services between councils and the Authority was either rare or non-existent. However, examples provided by EHOs indicate further work is needed to determine the extent of overlap (if any) in regulatory services.

**Measuring changes in the level of duplication has proven to be difficult**

Evaluation findings have highlighted a number of issues when measuring the level of change of duplication of regulatory services. Firstly, retrospective survey results (Social Research Centre, 2012) were inconsistent with original baseline survey findings (TNS, 2008). It also appears that the phrase 'duplication of regulatory services' was interpreted differently by survey participants and this may have influenced the findings.

Under the Partnership, 'duplication' means two regulatory agencies are performing the *same* food compliance roles on the *same* process within a food business. However, some survey respondents used



the term to refer to a form of regulatory overlap where regulatory agencies visit the same food business albeit for different reasons.

In 2007, the Authority commissioned TNS Social Research to conduct a baseline survey of retail food businesses before the Partnership took effect. It found that about half of the food business managers (14/25) surveyed at that time perceived significant or moderate duplication of regulatory services across councils and the Authority.

More recently, the survey of retail managers undertaken by the Social Research Centre (2012) found that two-thirds of managers thought duplication was at low levels (Social Research Centre, 2012 p. 23).

Furthermore, almost half of the EHOs (63/115) and General Managers (10/18) surveyed thought that duplication was a lot less now compared to four years ago (NSW Food Authority, 2012).

In summary, 'true' duplication may no longer be an issue in NSW but there does appear to be a number of outstanding business examples where a form of duplication exists. Duplication of regulatory resources arises when there is a lack of clear delineation between retail and wholesale activities in the retail/food service sector. Council EHOs provided a number of specific examples of occasions where state and local agencies visited the same food business, albeit for different purposes. This included:

- bakeries,
- hospital sites with retail shops,
- oysters (retailers/shuckers), and
- supermarkets with licensed butcher shops (boning rooms).

With the problem being infrequent, resolving any duplication of regulatory resource issues will require the Authority to take a case-by-case approach with the relevant council.

### ***Strong cooperation between the Authority and councils under the Partnership***

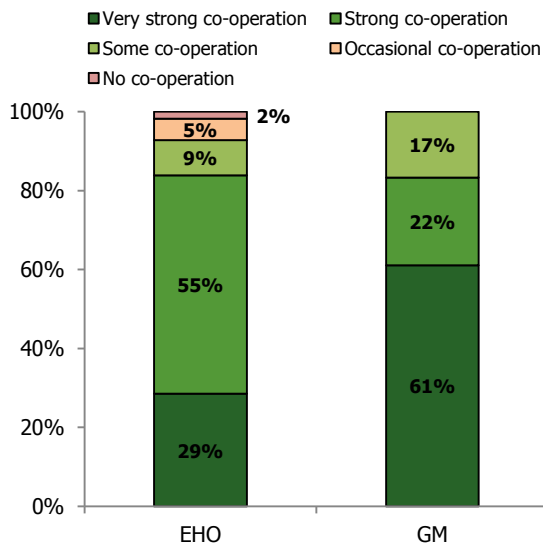
Almost 70% of retail managers that were aware of the Partnership and almost 85% of EHOs (94/112) and General Managers (15/18) reported strong cooperation between the Authority and local councils regarding food regulation (Figure 10).

Comments made by council EHOs and General Managers referred to the importance of the Partnership in improving communication and cooperation between councils and the Authority. Specific examples included state group meetings, EHO training, and the web portal.

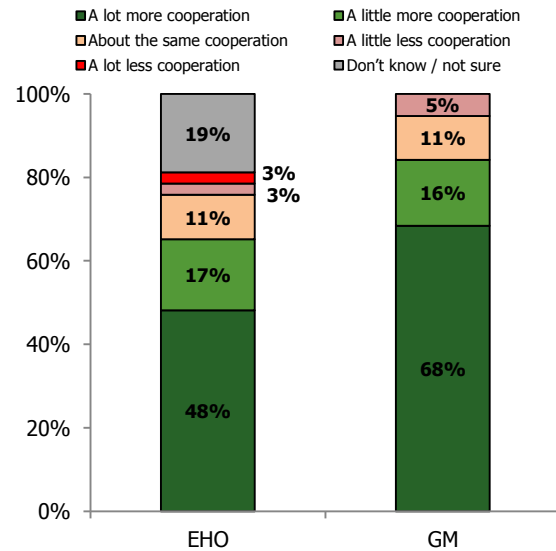
When EHOs and General Managers were asked about the amount of change in the level of cooperation between the Authority and councils since 2007, around half of the EHOs (54/112) and over two-thirds of General Managers (13/18) thought there was a lot more cooperation (Figure 11).

Retail managers, however, perceived less change. Compared with four years ago, one-third of retail managers said there is a lot more cooperation now, but about half said the level of cooperation was about the same (Social Research Centre, 2012, p.9).

**Figure 10: Councils – level of cooperation between the Authority and councils (NSW Food Authority, 2012)**



**Figure 11: Councils – change in level of cooperation between the Authority and councils since 2007 (NSW Food Authority, 2012)**



### Further improvements on levels of food surveillance consistency needed

As revealed by the two surveys, councils and retail managers perceived some positive changes in consistency of food inspection and enforcement action since 2007. However, there is room for further improvement.

Overall, more than one-quarter (28%) of retail managers thought that local councils were generally quite consistent in their food regulatory requirements of retail food outlets, this being the view of 41% of regional/local managers who presumably experience council regulatory requirements first hand. Around one-third (34%) of managers provided a more neutral response, noticing some consistency and some inconsistency between councils. Another one-third (36%) of managers thought that councils were quite or very inconsistent, with a higher number of state level managers (25%) compared with regional/local managers (5%) rating councils as very inconsistent. This difference in opinion may reflect the state level manager's broader perspective across more councils (Social Research Centre, 2012 p.16).

When asked about the reasons for the improved level of consistency in food regulatory requirements across local councils in NSW, feedback from one retail manager was:

*It has improved because of the Food Regulation Partnership and the communication between the local council and the NSW Food Authority (National/State Manager of multiple retail outlets in NSW)*

One retail manager offered the following reasons why inconsistencies exist:

*Reporting is very inconsistent. Every council uses a different reporting system so it is hard to compare...there are some councils that use contract inspectors that are quite unrealistic in their expectations. Other councils...their inspectors seem to be more consistent, they seem to have more training or standardisation between them.*

By comparison, in the view of council EHOs, levels of inspection consistency experienced by retail food businesses was slightly improved. Overall, almost 40% of the 110 councils that participated in the survey thought that businesses experienced at least quite consistent food inspections by councils. Just over 41% of councils thought that businesses experienced at least some consistency, with the remaining councils (17%) saying that food businesses experience both inconsistent and consistent food inspections or worse (NSW Food Authority, 2012).

From the perspective of one council:

*Creating high levels of consistency between Authorised Officers, many of whom work on their own in regional/remote areas, will always be challenging.*

**Mixed views on the consistency of enforcement action across councils**

In the *Survey of Multi-Outlet Food Businesses* (Social Research Centre, 2012), retail managers were asked about the level of consistency of severity of enforcement action<sup>16</sup> experienced by food businesses across councils.

Overall, managers reported mixed views. Almost one-third reported very or quite consistent severity of enforcement action, and another third reported quite or very inconsistent enforcement action severity (Social Research Centre, 2012, p. 21).

An interesting comment from one council was:

*Using the Council Activities Report as an indicator, there is inconsistency between councils particularly away from Sydney in terms of enforcement activities. The Authority should encourage the use of the standardised inspection form.*

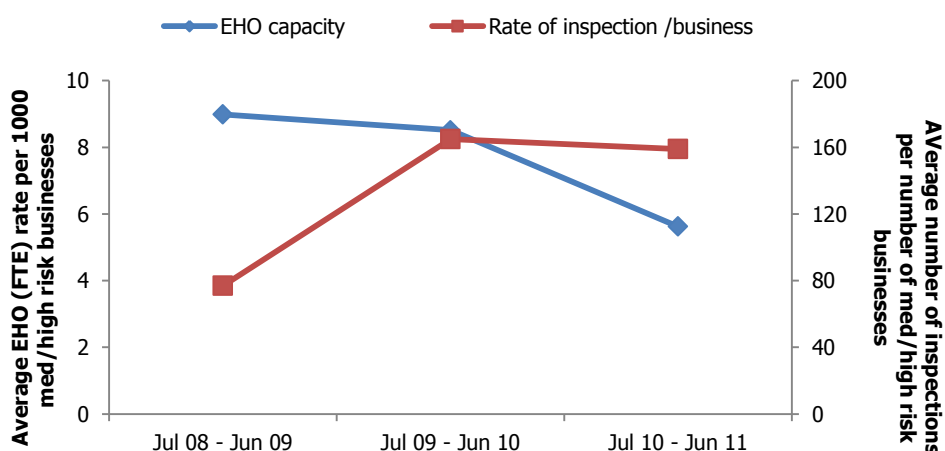
**Improved inspection efficiency by councils under the Partnership**

By 2010–11, there were more EHOs employed by councils but fewer full-time equivalent (FTE) Authorised Officers assigned to food regulatory activities, conducting increased numbers of food inspections.

The number of EHOs working for councils in food-related roles increased from 361 in 2008 to 426 in 2010–11. However, as calculated from Council Activities Report data (NSW Food Authority, 2008–2011), the number of Authorised Officers assigned to do regulatory work has actually decreased by 9.4% since the introduction of the Partnership.

Figure 12 below compares EHO capacity<sup>17</sup> with the average rate of council inspections from July 2008 to June 2011. Improvements in inspection efficiency are evident as EHO capacity decreased but, on average, council inspection rates almost doubled in that time.

**Figure 12: Change in average EHO capacity and inspection rates by councils since 2008**



<sup>16</sup> Enforcement action refers to issuing Warning Letters, Improvement Notices or Penalty Notices

<sup>17</sup> The number of FTE EHOs available to do food surveillance work relative to the total no. of med/high risk food businesses

Figure 13 below illustrates the change in average EHO capacity for different sized<sup>18</sup> councils since 2008. The graph shows that from June 2008 to June 2011, EHO capacity for large and medium councils has more than halved. This provides one explanation for the feedback received from councils where EHOs referred to increased resource stress over the past couple of years (NSW Food Authority, 2012).

As expected, higher EHO capacities for small and very small councils were calculated as compared with larger councils. In smaller councils, EHOs have fewer businesses to inspect but this is offset by the fact they are usually located in a much larger geographic area. Notably, a large decrease was observed in very small councils over the three-year period. Improvements in reporting accuracy could be one explanation for this large difference. Others include the fact that a number of councils have moved to outsource EHO labour or have entered into resource sharing arrangements with neighbouring councils.

**Figure 13: Change in average EHO capacity for council sizes since 2008**

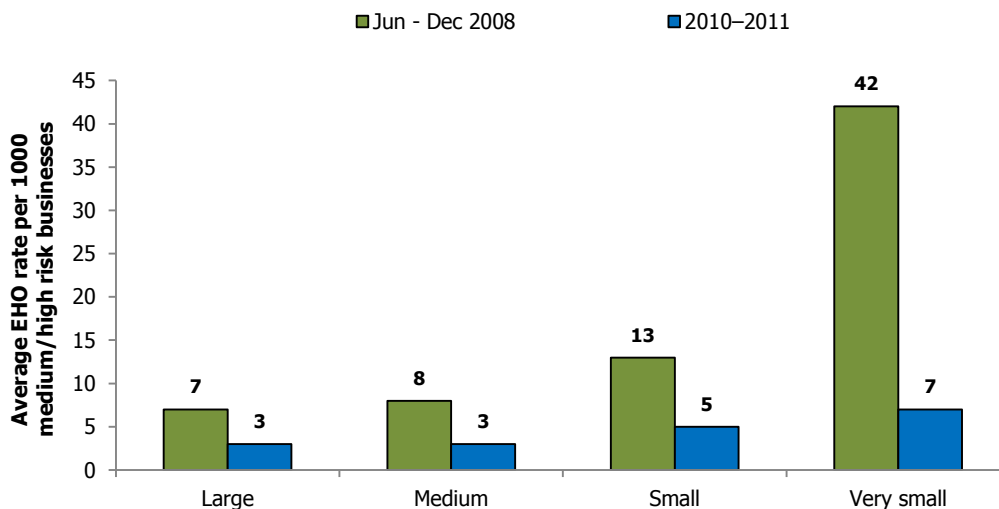


Figure 14 illustrates the change in inspection rates<sup>19</sup> for metro, regional and rural councils from 2008 to June 2011. Initially, large increases in inspection rates for all council categories were observed, followed by two years of comparable rates. The initial increase can be explained by the introduction of the Partnership where councils can implement a cost recovered inspections system, predicated on service delivery.

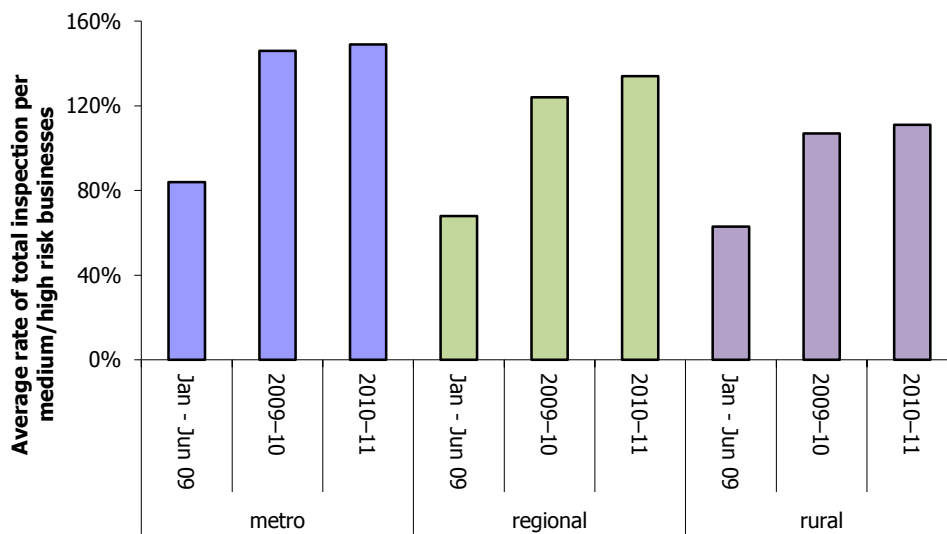
Rural councils demonstrated the lowest inspection rates compared with metro and regional based councils. However, it is important to note that rural inspection rates were within the expected range for meeting Partnership guidelines<sup>20</sup>. The fact that rural councils possess fewer residents in larger geographic areas is a logical explanation for this observed difference. Appendix 3 outlines the criteria for each category.

<sup>18</sup> Councils were categorised according to the number of med/high risk food businesses located within their boundaries (see Appendix 4)

<sup>19</sup> Includes follow-up inspections

<sup>20</sup> Annual food safety inspections of medium/high risk business

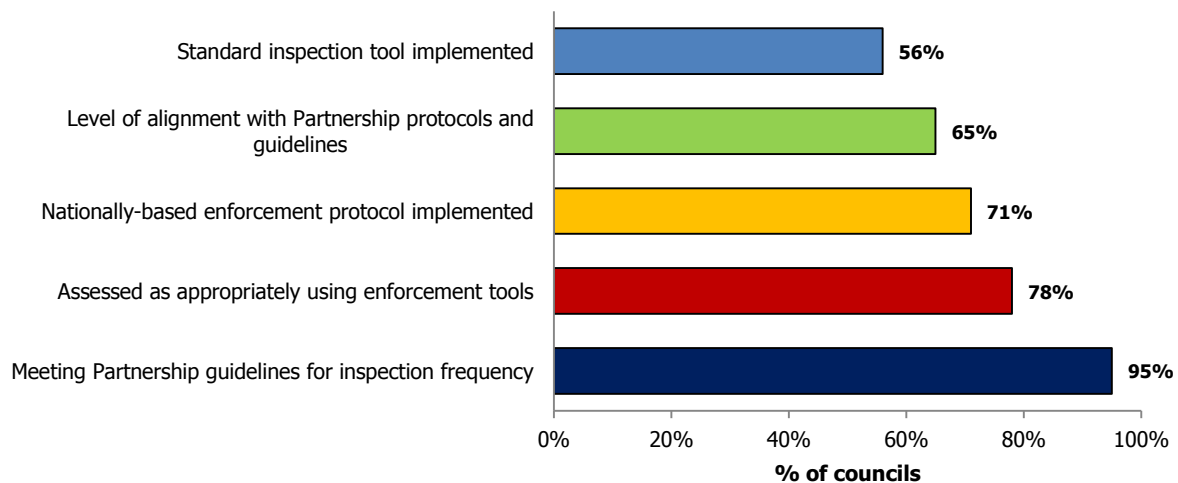
**Figure 14: Changes in inspection rates for metro, regional and rural councils since 2008**



**Partnership protocols, guidelines and inspection tools implemented by many councils**

In general, a high proportion of councils have implemented Partnership protocols and guidelines. However, the evaluation findings highlight the need for the Authority to address the level of implementation of the standard inspection tool and the national enforcement protocol across councils in NSW.

**Figure 15: Level of implementation of Partnership protocols and guidelines in 2011**



**Standard inspection tool used by half the councils**

One of the key issues facing the Partnership is the consistency of inspections across councils and by individual officers. To address this issue, the Authority, in conjunction with councils, developed a standard inspection tool (Food Premises Assessment Report, FPAR) and interpretive guidelines. Using the tool in accordance with the guideline, Authorised Officers are better equipped to conduct standardised inspections producing outcomes that are consistent across councils.

As seen in Figure 15, just over half of the councils (85/152) indicated they use the agreed standard inspection tool. The *Survey of Council Environmental Health Officers and General Managers* (NSW Food Authority, 2012) revealed that at least four different types of inspection tool were in use in NSW during 2011. Recommendations arising from the evaluation findings include the LGU working with councils to improve the level of adoption of the standard inspection tool.

### ***Level of alignment with Partnership protocols and guidelines***

Figure 15 outlines survey results where councils reported a high level of alignment with many Partnership protocols and guidelines (NSW Food Authority, 2012). Almost two-thirds of councils indicated their practices and procedures were extremely to very well in alignment with Partnership protocols and guidelines. Even so, a number of councils requested that the LGU continue to offer training on protocols and guidelines. In particular, there were requests for more training sessions on foodborne illness investigation.

### ***Nationally based enforcement protocol implemented***

In general, councils are committed to taking a risk-based, but graduated, enforcement approach when managing food safety noncompliance, but further improvements are needed (NSW Food Authority, 2012).

Figure 15 indicates that just over 70% of the councils (90/126) in the survey indicated they have implemented an enforcement policy that is partially or entirely based on the *Australian & New Zealand Food Regulation Enforcement Guideline*<sup>21</sup> (NSW Food Authority, 2012). The guideline recommends a graduated escalation approach to enforcement allowing Authorised Officers to exercise discretion in applying a proportionate and risk-based response to food safety issues.

A further eighteen councils (14%) in the survey stated they had implemented their own unique enforcement protocol that includes a graduated enforcement response. The remaining eighteen councils surveyed had not implemented a protocol or the respondent was unsure.

### ***Assessed as practising an escalation approach to enforcement***

As shown in Figure 15, a further analysis of council activity data found that 78% of councils (118/152) practice a graduated approach when using enforcement tools in 2010–11 (NSW Food Authority, 2010–11). This graduated approach involves Authorised Officers issuing higher numbers of warning letters, followed by decreasing numbers of improvement notices and then penalty notices.

It is worthwhile noting that this improvement translates to an increase of only 4% (6 councils) since 2008, from 74% (2008) to 78% (2010–11).

### ***A steady increase in councils meeting inspection targets since 2008***

After reviewing the Partnership's mandatory reporting data, evaluation findings revealed that all but four councils met Partnership guidelines for inspection frequency<sup>20</sup> in 2010–11. Since 2008, this number has more than doubled (from 43% to 95%, respectively) (See Figure 15 and Figure 16).

In accordance with Partnership requirements, acceptable minimum annual inspection targets for Category B councils are set at 80% of medium-risk/high-risk businesses. Unacceptable annual inspection rates are less than 65% of businesses<sup>22</sup>.

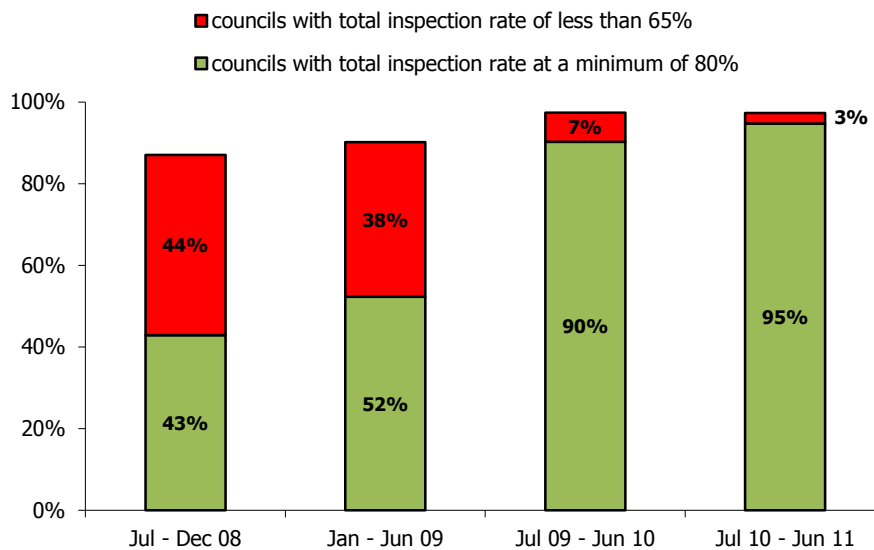
Figure 16 indicates that 43% of councils (63/152) had inspection rates of greater than 80% from July to December 2008, and this increased to 95% of councils (143/152) from July 2010 to June 2011. The number of councils conducting inspections at unacceptable rates (lower than 65%) decreased from 44% (65/152) in July to December 2008 to 3% (4/152) in 2010–11.

Furthermore, retail managers participating in the *Survey of Multi-Outlet Retail Food Businesses* (Social Research Centre, 2012 p15) confirmed the appropriateness of annual inspections. Three-quarters of retail food business managers thought the frequency of yearly food safety inspections was about right, and slightly less than one-quarter thought they were not frequent enough. For one regional manager, annual inspections were too frequent.

<sup>21</sup> The agreed national Enforcement Guideline

<sup>22</sup> Councils that do not meet Partnership guidelines were followed up by the Authority.

**Figure 16: Councils meeting Partnership inspection frequency guidelines since 2008**



### Effective communication networks established under the Partnership

As directed by stakeholders, program developers considered that effective state and regional communication networks between councils, businesses and the Authority were integral to the success of the Partnership. A key LGU task was, therefore, organising regional and state level network meetings.

#### Effective Regional Food Group networks

Fifteen Regional Food Groups comprised of EHOs within a local region meet three times a year. Typically, meetings include discussion of national, state and local issues as well as a training session presented and facilitated by the Authority.

As shown in Figure 17, about 70% of EHOs and General Managers in *The Survey of Council Environmental Health Officers and General Managers* (NSW Food Authority, 2012) perceived the Regional Food Group network as very effective in improving communication between councils in the area. A further 21% of EHOs (24/112) and 11% of General Managers (2/112) rated it as quite effective.

For some councils, the Regional Food Group was regarded as one of the most essential forms of communication between councils and the Authority. Some groups indicated they met more regularly than three times a year to work on special projects. One council stated that the Regional Food Group in their area also used the network for non-food-related issues.

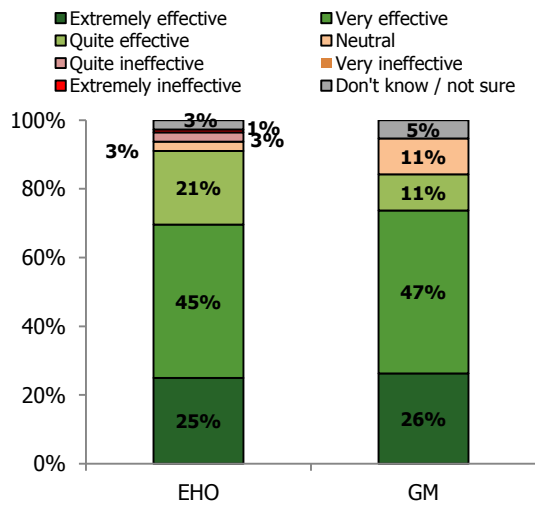
A small number of councils (4/112) believed the network was quite ineffective or extremely ineffective. Reasons for their lack of participation in the network included resource constraints or difficulties attending meetings due to large distances between councils in some regions.

#### Effective communication networks established via State Liaison Group meetings

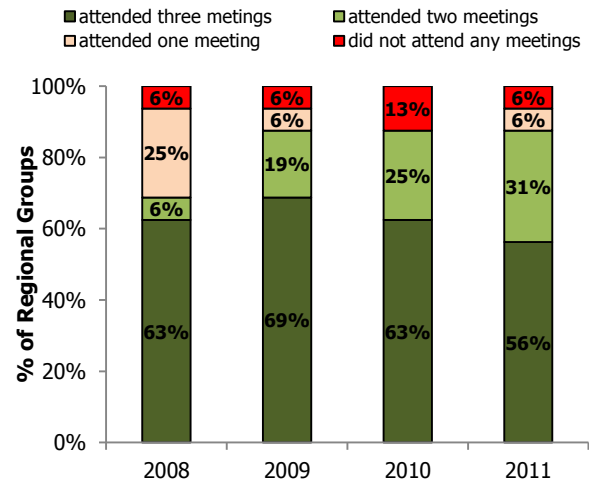
For councils, the LGU organises three State Liaison Group meetings every year and representatives from each of the sixteen Regional Food Groups are encouraged to attend in person or via teleconference.

From 2008 to 2012 there were twelve State Liaison Group meetings. On average, representatives from thirteen out of sixteen regional groups attended. Based on attendance data, representatives from each Regional Food Group attended at least two out of three State Liaison Group meetings almost 90% of the time. A representative from almost all (94%) Regional Food Groups attended at least one meeting per year (Figure 18).

**Figure 17: Effectiveness of Regional Food Group networks**



**Figure 18: Regional group attendance at State Liaison Group meetings**



***Established forum for resolving cross council regulatory issues***

Since 2009, the LGU has organised Retail Food Service Advisory Group<sup>5</sup> meetings. The meeting serves as a forum for retail businesses, councils and the Authority to raise and resolve food regulatory issues that transcend council boundaries.

The *Survey of Multi-Outlet Retail Food Businesses* (Social Research Centre, 2012) highlighted that the majority (60%) of managers surveyed considered the Authority to be at least quite effective in providing support and advice to retailers in disputes with councils about food safety. However, the survey found that almost half of the Regional/Local Managers surveyed were not able to give a view, as they did not know (Social Research Centre 2012, p.13). In response, this was identified as a priority area for improvement.

***Improvements in councils meeting Partnership reporting requirements***

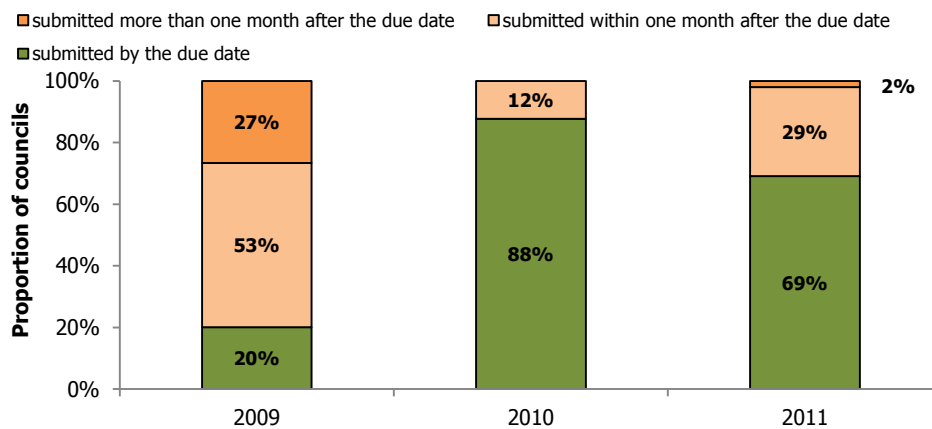
In accordance with Partnership arrangements, appointed enforcement agencies are required to submit information about their food regulation activities to the Authority every year by a certain date.

As illustrated in Figure 19, there has been a large improvement in council mandatory reporting practices since 2009. The proportion of councils submitting their Council Activities Report data by the due date increased from 20% in 2009 to almost 90% in 2010, but decreased to 70% in 2011. Most notably, the proportion of councils submitting their data within one month of the due date decreased from 27% in 2009 to 2% in 2011.

As seen in 2011, almost one-third of councils were unable to supply their data on time. This prompted the LGU, with assistance from councils, to undertake a review of the activities reporting process to identify possible improvements.



**Figure 19: Proportion of councils submitting reporting data on time**



### Local Government Unit effectively supports councils and delivers well regarded activities and outputs

In light of the evaluation findings, it is clear the LGU effectively implemented foundation program requirements. Under the Partnership, effective regional communication networks were established and the quality of EHO training sessions and many LGU services and materials were highly rated by councils. Even though EHOs provided generally positive comments about the LGU, Authority staff and the way in which the LGU operates, feedback from both councils and retail managers suggests that some aspects of the program need fine tuning.

The *Survey of Council Environmental Health Officers and General Managers* (NSW Food Authority, 2012) found that almost all General Managers (95%, 20/21) and 90% of council EHOs (113/125) considered the services and materials provided by the LGU were quite to extremely effective in supporting council’s food surveillance responsibilities.

Approximately 85% of the council EHOs in the survey rated the LGUs services and materials as quite good to excellent. This included regulatory support materials, mass communication through email/newsletters, regional/state level meetings and training sessions. The quality of the web portal service received the lowest rating (NSW Food Authority, 2012). The Authority has therefore identified improving this service as a priority.

Every year, the LGU offers training on relevant topics at convenient locations. On average, 97% of EHOs positively rated the quality, effectiveness and applicability of the courses on their training feedback forms.

Separately, almost 85% of EHOs participated in the survey rated the training sessions conducted by LGU to be quite good to excellent. Furthermore, over 60% of EHOs participated in the survey requested more training on enforcement activities, as well as in other areas such as labelling, handling of ready-to-eat food and temperature control (NSW Food Authority, 2012).

### Conclusion: Recommendations for fine tuning the Partnership

Evaluation findings have informed the development of a second phase of program initiatives focused on improving regulatory consistency across councils, the regulatory issues resolution process and communication between retail food businesses, councils and the Authority. In addition, the evaluation measures developed for the evaluation and presented in this report will serve as a benchmark against which to assess the impact of the Partnership in the future.

In consultation with Partnership stakeholders, five recommendations have been put forward for the Authority’s LGU to consider along with proposed projects to fulfill these recommendations. These are outlined in Table 2. It also outlines key LGU projects currently being considered for fine tuning the Partnership program.

**Table 2: Proposed projects under each recommendation**

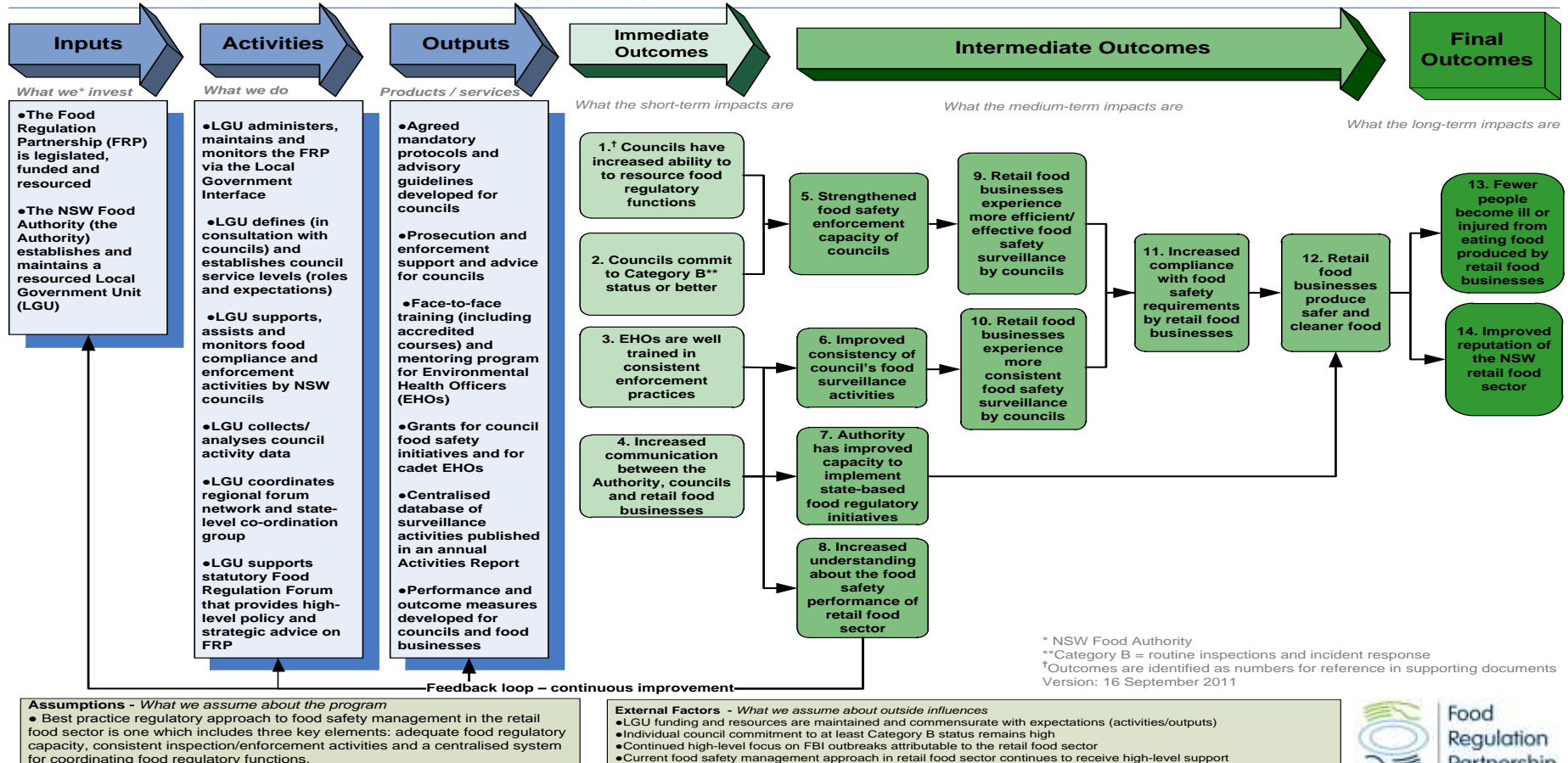
Recommendations	Proposed projects
<p>1. The Authority takes a renewed focus on regulatory consistency</p>	<p>1.1 Align EHO training with the Food Premises Assessment Report (FPAR)</p> <p>1.2 Initiate a joint project with councils to produce a field inspection manual based on the FPAR</p> <p>1.3 Explore policy options for the universal adoption of the FPAR</p> <p>1.4 Explore ways to encourage graduated enforcement practices consistent with the national guideline</p> <p>1.5 Permit additional training formats for teaching <i>Certificate IV Food Surveillance</i></p> <p>1.6 Increase food business access to FPAR with advice on using it as a self-assessment tool</p>
<p>2. The Authority strengthens its role in assisting councils in resolving food regulatory issues</p>	<p>2.1 Formalise protocols and procedures with councils on issue resolution (with a particular focus on issues experienced across multiple council areas)</p> <p>2.2 Formalise the resolution process by preparing a document describing the process and communicating it to food businesses</p> <p>2.3 Increase the ways in which businesses can raise issues needing resolution (eg website, letter, advisory group meetings)</p>
<p>3. The Authority provides targeted communication material for improving retail food business compliance</p>	<p>3.1 Prepare a regular newsletter for retail food businesses for distribution by councils and industry associations</p> <p>3.2 Build dedicated webpages to host information for retail food businesses (including an area dedicated to food safety for beginners)</p> <p>3.3 Initiate a joint project with councils looking at developing co-branded translated materials for distribution by EHOs</p>
<p>4. The Authority's LGU fine tunes its activities and outputs</p>	<p>4.1 Initiate a joint project with councils looking at developing co-branded translated materials for distribution by EHOs</p> <p>4.2 Develop the 2012–2013 EHO training program so it is closely aligned with the areas of food safety compliance in the FPAR (see 1.2 above)</p> <p>4.2 Update communication processes between councils and the LGU</p>
<p>5. The Authority further examines 'duplication' of regulatory services</p>	<p>5.1 Initiate an internal project analysing the examples provided to form a view on the extent of the problem (if any) and if/how it should be addressed</p>

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## Appendix 1. Program Logic Model

### NSW Food Regulation Partnership – Program Logic Model



## Appendix 2. Number of councils providing activity data for each report

Period	Number of councils
June to December 2008	147
January to June 2009	154
July 2009 to June 2010	155
July 2010 to June 2011	152

## Appendix 3. Criteria and number of councils in each category

Category	Criteria	Number of councils
Metro	Sydney region or population density of more than 1000 people/sq km	42
Regional	Population density of more than 50 people/sq km and fewer than 1000 people/sq km	31
Rural	Population density of fewer than 50 people/sq km	80

## Appendix 4. Councils in NSW categorised by the number of retail food businesses

Size	Total number of businesses in the LGA	Number of councils
Large	More than 700	8
Medium	Between 400 and 699	22
Small	Between 100 to 399	55
Very small	Less than 100	70

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