



## Summary report of NSW enforcement agency activities in the retail food service sector for the period 1 July 2020 to 30 June 2021

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### Background and the Food Regulation Partnership

NSW continues to enjoy a strong food surveillance partnership model, the Food Regulation Partnership (FRP), aimed at ensuring that consumers have safe food in the retail and food service sector and that the NSW food industry continues to thrive.

The NSW Food Authority (Food Authority) appoints all NSW local councils and other bodies as enforcement agencies under the *Food Act 2003* (NSW).

They work together to ensure NSW retail food service businesses comply with food safety standards and regulations.

NSW has 132 areas regulated by 131 enforcement agencies; 128 councils (in respect of their own local government area), National Parks and Wildlife Service (in respect of Kosciusko National Park), Lord Howe Island Board (in respect of Lord Howe Island) and Food Authority (in respect of Sydney Harbour Federation Trust and the unincorporated far west areas).

Enforcement agencies are responsible for routine food safety inspections and enforcement of the retail food service sector in NSW. There are over 40,000 high and medium risk fixed retail food businesses that required regular inspection in the 1 July 2020 to 30 June 2021 reporting period, and almost 9,000 temporary and mobile food businesses.

The NSW retail food sector is one of the biggest contributors to the NSW food industry and the state's economy. It is an innovative and evolving sector and includes changes in the way food is sold, e.g. farmers markets, online and increasingly in the sharing economy.

Enforcement agencies are required to report annually to the Food Authority on their food surveillance activities and this report summarises the data submitted by these agencies.



## Support for retail food businesses

The Food Premises Assessment Report (FPAR) is a standardised inspection checklist which enables food safety authorised officers to generate a business inspection outcome score. It allows businesses to self-assess their food handling practices, and also for officers to be consistent when conducting their food safety inspections. The Food Authority distributes the FPAR to all enforcement agencies.

The voluntary *Scores on Doors* program allows food retail businesses to publicly display their inspection results. The score is determined from the business inspection outcome generated by an officer at an unannounced inspection using the FPAR checklist. The inspection results are displayed as five stars for 'excellent', four stars for 'very good', three stars for 'good'. If the result equates to less, the certificates are not displayed.

The display of scores at food outlets provides consumers with information about the food business's food safety practices at the time of the inspection and also encourages high standards.

The reported participation rate of enforcement agencies in the *Scores on Doors* food safety ratings program has slightly decreased from 47% last year to 46%, which captures 63% NSW retail food businesses in the program as at July 2021.

NSW enforcement agencies continue to provide a range of additional support services to retail businesses including:

- 92% provided technical advice to food businesses
- 93% provided food safety information to food businesses
- 32% organised food handler training for food businesses

During the period the Food Regulation Partnership hosted two Food Service Information Sessions with local retail and food service businesses. The first event was held in partnership with Bellingen Shire Council under strict COVID-19 rules in November 2020.



There were 26 people in attendance where they had the opportunity for face-to-face engagement with the local council and the Food Authority to learn about food safety and the resources available to them.

The second event was held in partnership with Maitland City Council in May 2021 which attracted 48 attendees.

Attendees heard presentations on a wide range of food safety topics, including mandatory food labelling and health claims, food allergens, foodborne illness, councils' food safety initiatives, display of nutritional information, updates on the Food Safety Supervisor and Scores on Doors programs.

The feedback from food businesses, Bellingen Shire Council and Maitland City Council was positive.

Due to the movement and gathering restrictions imposed by the COVID-19 pandemic two proposed sessions were postponed during 2021. The Food Authority will invite expressions of interest from NSW local councils to host 2022 sessions.

### **Support for enforcement agency authorised officers**

The Food Authority supports enforcement agencies by ensuring authorised officers have access to the very latest information and guidance they need to conduct their duties. The FRP Portal is the major source of information for this geographically dispersed inspectorate.

Along with valuable resources such as the revised FRP Protocols and Advisory Guidelines and Communiques, all the training and professional development materials delivered to authorised officers are available on the FRP Portal. Environmental health officers (EHOs) can access the material at a time that is convenient to them and their agencies.

The Food Authority continues its commitment to provide contemporary and pragmatic training, information and networking opportunities for the 479 enforcement agencies' EHOs.

Training is delivered to help maintain EHOs' skills and knowledge, promote consistency in inspection protocols and enforcement, and identify emerging risks.

The Food Authority conducts three rounds of meetings at each of the 16 regions across NSW each year. Each has two components; a meeting and a professional development session. Each meeting provides the opportunity for the Food Authority and enforcement agencies to engage on topical food safety issues and developments. Enforcement agencies also have opportunity to problem-solve with their colleagues from different local government areas and seek to develop regionally consistent approaches to local issues.

The training sessions delivered to EHOs in the 2020-21 period were:

- Allergen management in the retail sector

Appropriate allergen management is critical to protect allergic consumers in the retail food sector. This session was designed to ensure authorised officers had sufficient skills and knowledge to assess the risk posed by food allergens during routine inspections. It provided information about food allergens and the risk they pose to allergic consumers and introduced best practice for assessing allergen management controls in food businesses.

The training contributed towards both the NSW Government's and the national foodborne illness reduction strategies.

- Food labelling

Acting on feedback from EHOs a session was delivered on the food labelling requirements from the Australia New Zealand Food Standards Code. These requirements provide the information needed on packaged food labels or when food is sold loose, as well as exemptions. The session included scenario-based discussions to bolster skills and knowledge.

- Home-based food businesses, temporary events and mobile food vendors

The operation of these food businesses sometimes present their own challenges for enforcement agencies. The Food Authority has developed guidance in relation to regulating these food businesses and the session consolidated all background documents, inspection principles and food safety requirements for the sector. A discussion using scenarios permitted practical application of the materials to the EHOs' role.

## Compliance of retail food businesses

There were a total of 44,924 inspections and re-inspections conducted across the retail and food services sector, including fixed, temporary and mobile food premises. This value is slightly down from 45,987 in 2019-20.

A total of 80% of high and medium risk food premises (32,460 of the 40,547) were inspected. This value is more than the 77% from the last period (both of which are below the general trend of 93%) and is a direct consequence of the impact of COVID-19 and other events including bushfires, floods, drought and mouse plague.

The number of authorised officers is slightly down at 479 compared to 483 from the last period.

### Food business compliance

Compliance with food safety requirements across the retail food sector has improved since the commencement of the FRP in 2008 and remains fairly steady. In this period the sector recorded a compliance rate of 97% which is the same for 2019-20, as shown **Figure 1**.

The number of businesses requiring additional re-inspections and intervention for non-compliance was calculated at 3% (910 of the 32,460 businesses) and is the same as last period (1,057 of the 31,039 businesses).

**Figure 1: Overall compliance rate of the retail food services sector 2008-2021**



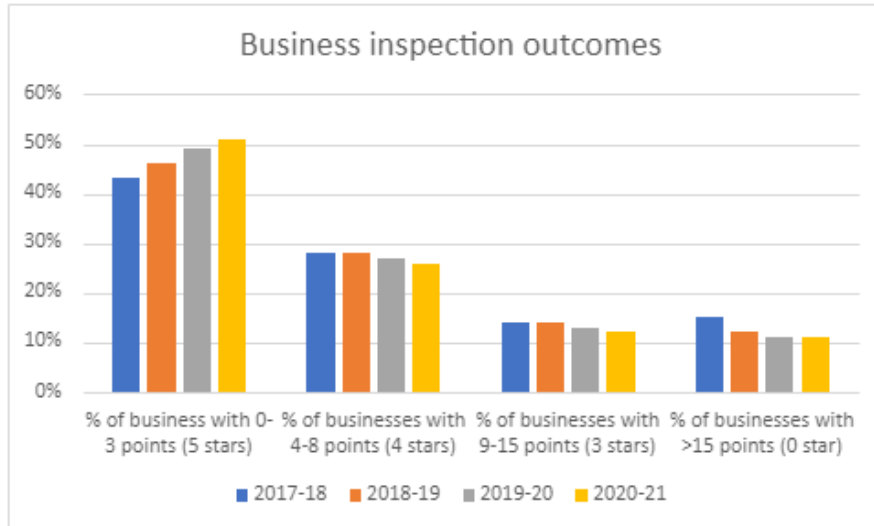
### Food business inspection outcomes

Food businesses in NSW continue to have high food safety standards and 89% of businesses achieved an inspection outcome of 15 demerit points or less, which equates to a Score on Doors star rating of at least three or more stars. 89% was achieved in 2019-20 also.

Enforcement agencies provided business inspection outcomes for some inspections (63% of all high and medium risk fixed, temporary and mobile food premises) and the results are shown in **Figure 2** below.

The distribution of scores remains consistent with previous periods although the proportion of business scoring 0-3 points (5 stars equivalent) has risen from 41% in 2016-17 to 51% during this reporting period. The proportion of businesses scoring greater than 15 points (no Scores on Doors stars-equivalent) has dropped from 15% in 2016-17 to 11% this period. Both these trends indicate retail food businesses are achieving stronger inspection results which will enhance overall food safety in NSW.

**Figure 2: Business inspection outcome scores reported for 2020-21**



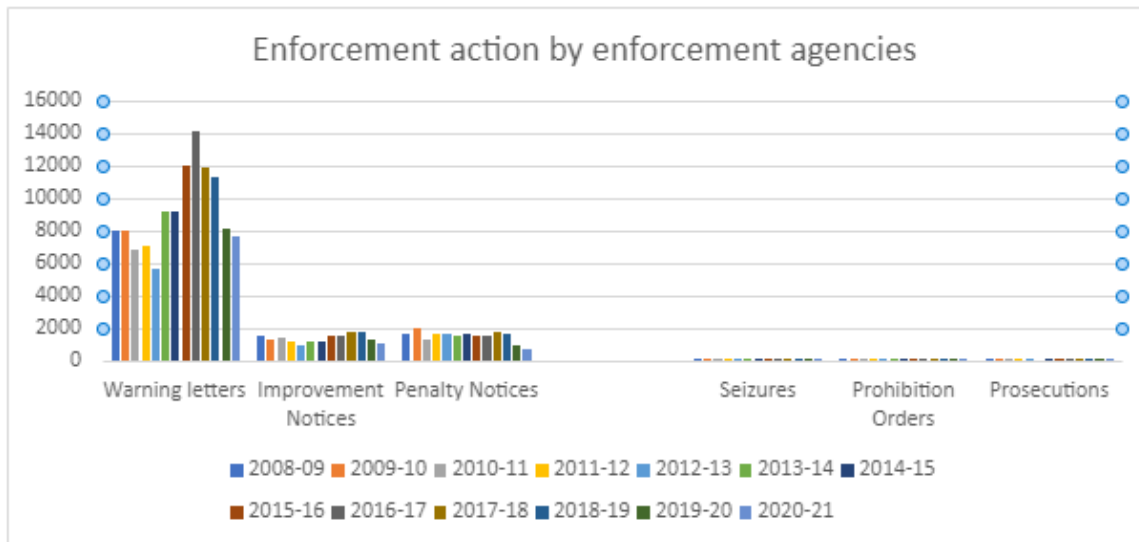
Another positive trend is the number of fixed premises requiring re-inspection. The value reported in 2017-18 was 23%, falling to 20% (2018-19), 16% (2019-20) and for the current period down to 13%. This further indicates stronger food safety performance by the sector.

Enforcement action

To ensure food safety standards are being met authorised officers may use a range of enforcement tools depending on the nature and severity of the food safety risks. An escalatory approach is encouraged with warnings issued as a first step to encourage improvements in safe food handling processes. For more severe breaches improvement notices and penalty notices may be issued, as well as seizure of product/equipment, prohibition orders and then prosecution.

The enforcement tools used and their frequency of use in each period is shown in **Figure 3** below. This data also confirms that enforcement agencies are in general implementing the graduated enforcement approach recommended by the Food Authority.

**Figure 3: Types of enforcement action in the retail sector for 2008-2021**



The use of most statutory enforcement tools has decreased from the previous year. The number of warning letters issued by enforcement agencies has dropped 6% (from 8,212 to 7,720), the number of improvement notices fell 10% (from 1,297 to 1,164), prohibition orders served fell 18% (from 137 to 112), and penalty notices 28% (from 1,034 to 748). The number of seizures has risen 82% (from 11 to 20).

For context, the most recent pre-COVID-19 data, taken from 2018-19, shows warning letters issued by enforcement agencies is less by 32% in 2020-21, improvement notices less by 37%, penalty infringement notices 55%, seizures 31%, prohibition orders 42% and prosecutions 38%. The figures reveal the impact of the COVID-19 Public Health Orders had on food surveillance activities in the retail and food service sector during 2020-21.

The most common food safety breaches under the Food Act 2003 for which penalty notices were issued during the period were: unclean food premises (15%), improper food storage (13%), poor handwashing facilities (12%), poor pest control (11%) and unclean fixtures and fittings and equipment (9%)



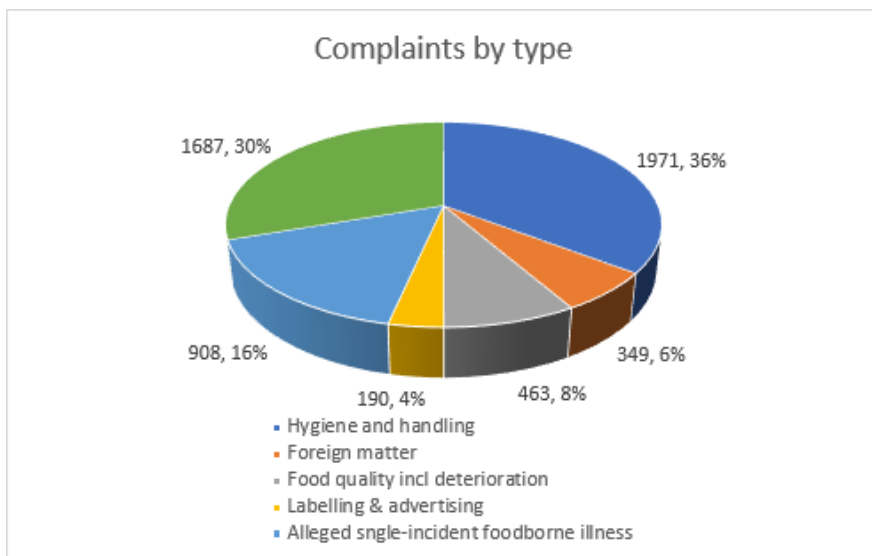
Food businesses who have been issued with penalty notices or prosecuted for food safety breaches are displayed on the *Name and Shame* register of offences<sup>1</sup> on the Food Authority's website.

### Food complaints

Enforcement agencies are responsible for investigating food related complaints. The total number of food complaints for the 2020-21 period increased slightly from 5,505 in 2019-20 to 5,568. The distribution of complaint types remains relatively unchanged from the previous year and is shown in **Figure 4**.

The most common complaint type investigated related to hygiene and handling which is consistent with previous reporting periods.

**Figure 4: Complaint types investigated 2020-21**



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<sup>1</sup> <https://www.foodauthority.nsw.gov.au/offences>

## **Foodborne illness reduction**

All enforcement agencies continued to strive to meet the NSW target of a 30% reduction in salmonellosis, campylobacteriosis, listeriosis and fatal anaphylaxis cases caused by allergen contamination across the food chain by 2021 (NSW Government Food Safety Strategy 2015-2021<sup>2</sup>). The Food Authority continues to provide latest advice, best practice guidance and additional support to enforcement agency officers to assist them with this goal.

The NSW *Salmonella* reduction strategy, which focuses on the safe preparation of raw egg products, has successfully contributed to a reduction in the number of *Salmonella*-related outbreaks in restaurants and cafes in NSW.

The NSW *Campylobacter* retail survey also seeks to contribute to an overall reduction in foodborne illness notifications. The recommendations from the 2019-20 *Campylobacter* retail survey have been implemented during 2020-21 to continue with this aim.

## **Impact of COVID-19 and other events on food surveillance activities**

Food businesses and enforcement agencies have been significantly impacted during 2020-21. Many communities experienced a combination of drought, floods, bushfires and other events.

The retail and food service sector was particularly affected with a succession of COVID-19 Public Health Orders placing restrictions on those businesses and consequently this limited enforcement agencies ability to implement their routine food surveillance activities.

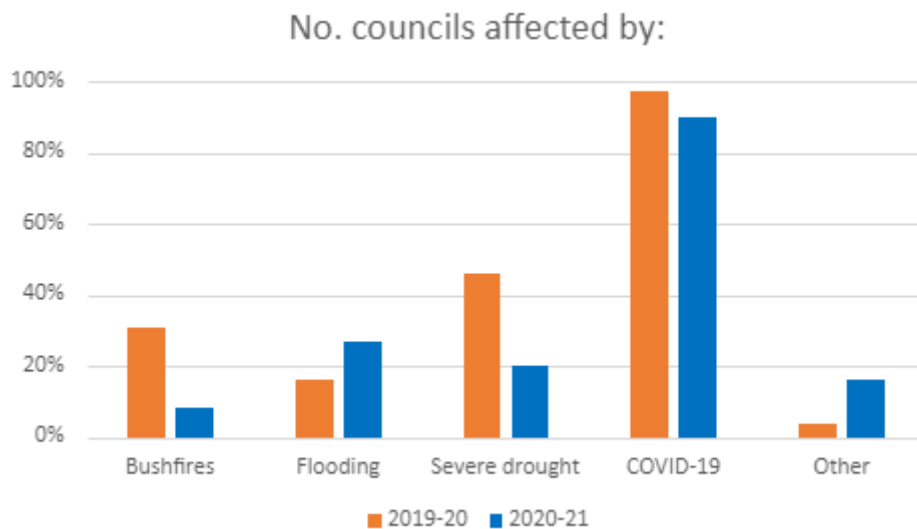
Enforcement agencies report 90% of food businesses were affected by COVID-19, 27% by flooding, 20% by severe drought and 8% by bushfires.

**Figure 5** shows the comparison of these values with 2019-20.

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<sup>2</sup> [http://www.foodauthority.nsw.gov.au/Documents/corporate/Food\\_Safety\\_Strategy.pdf](http://www.foodauthority.nsw.gov.au/Documents/corporate/Food_Safety_Strategy.pdf)

**Figure 5: Enforcement agencies affected by events**

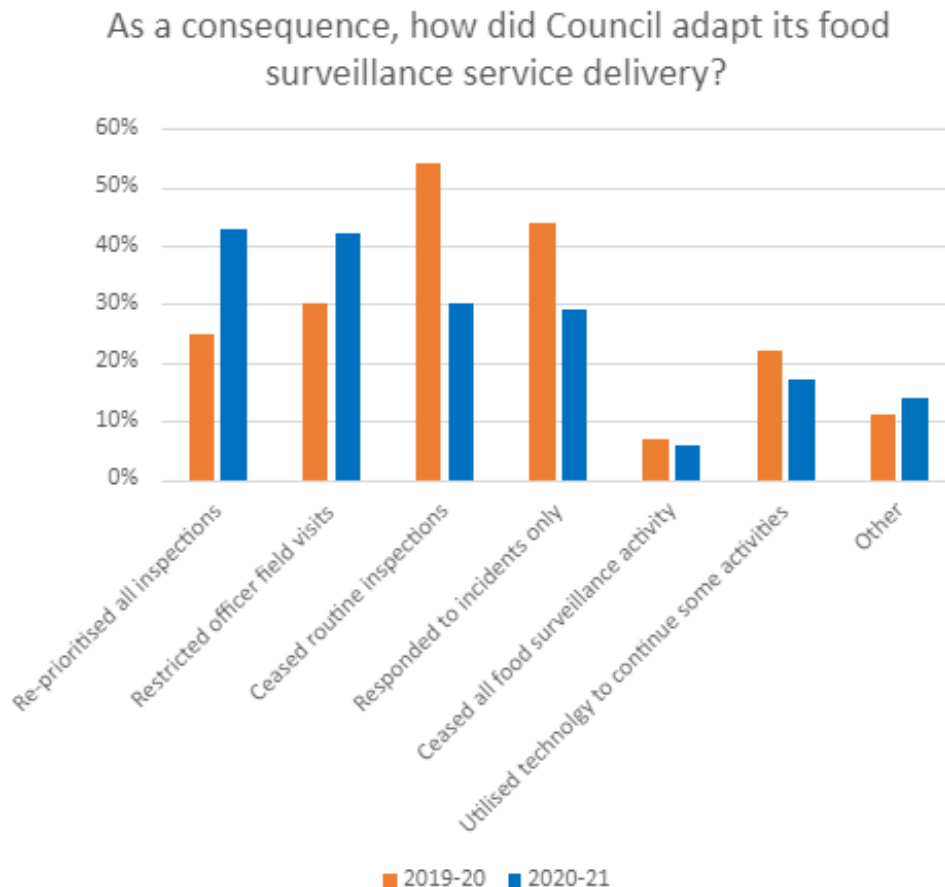


**Figure 6** reveals how enforcement agencies adapted their food surveillance activity as a result of these impacts to service delivery. These values indicate a high level of responsiveness by enforcement agencies to events. For example, 30% ceased their routine inspection program but 43% re-prioritised all inspections. 42% restricted officer field visits but 17% utilised technology in an attempt to proceed with some activities.

This responsiveness was dictated by a number of reasons: restrictions on staff movements, environmental conditions, re-deployment of food surveillance resources and implementing the duty of care to the community.

Despite the impact to enforcement agencies' programs, the food surveillance data for 2020-21 reveals strong performance nonetheless. Despite many enforcement agencies ceasing or re-prioritising their routine food inspections throughout the period, 80% of all high and medium risk food premises have been inspected. The overall compliance rate (97%) was the same as 2019-20 which is higher than the longer-term trend of 94%.

**Figure 6: Enforcement agencies adapted their activities as a consequence of an event 2019-20 and 2020-21**



The figures demonstrate enforcement agencies have enhanced their food surveillance programs by adopting flexibility and resilience into their risk-based approach.

### Food Regulation Partnership Forum

The NSW Food Regulation Forum (the Forum) is a group of representatives from government and industry who provide strategic focus and advice on local government matters. The Forum met three times during the 2020-21 period.

The Forum is chaired independently by Paul Braybrooks OAM, and organisations represented on the Forum are NSW Food Authority, Local Government NSW, Development and



Food  
Authority

Environmental Professionals' Association, Environmental Health Australia and Local Government Professionals Australia.

Members include:

1. Mr Paul Braybrooks OAM, Chair
2. Dr Lisa Szabo CEO, NSW Food Authority
3. Mr Peter Day, NSW Food Authority
4. Cr Phyllis Miller, Local Government NSW
5. Cr Ruth Fagan, Local Government NSW
6. Cr Marianne Saliba, Local Government NSW
7. Mr Angus Crichton, Environmental Health Australia
8. Ms Erin Hogan, Environmental Health Australia
9. Mrs Lisa Hughes, Environmental Health Australia
10. Mrs Fiona Stalgis, Development and Environmental Professionals' Association
11. Ms Yael Lang, Development and Environmental Professionals' Association