



Summary report of NSW enforcement agency activities in the retail food service sector for the period 1 July 2021 to 30 June 2022

Background and the Food Regulation Partnership

The Food Regulation Partnership (FRP) is a robust and proven food surveillance partnership model between the state and local governments in NSW. It is aimed at ensuring that consumers have safe food in the retail 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 NSW *Food Act 2003* (the Act). 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 under the Department of Planning and Environment (in respect of Kosciusko National Park), Lord Howe Island Board (in respect of Lord Howe Island) and the Food Authority (in respect of Sydney Harbour Federation Trust and the unincorporated far west areas).

Enforcement agencies are responsible for food safety surveillance of the retail food service sector in NSW which includes routine inspections, enforcement when non-compliance is identified, and complaint investigation. There are over 41,000 high and medium risk fixed retail food businesses, and over 9,000 temporary and mobile food businesses that require regular inspection.

The NSW retail food service 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, mobile food vending vehicles, home-based, 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. Enforcement agencies appoint authorised officers (AOs) under the Act to conduct food safety inspections. All AOs use the FPAR in a consistent manner to determine a business inspection outcome score. The score is based on demerit points for non-compliance matters identified during the inspection. Retail food businesses can also use the FPAR to self-assess their food handling practices. The FPAR is available in several languages on the Food Authority's website and the Food Authority provides the standard FPAR free of charge to all enforcement agencies.

The *Scores on Doors* program is a voluntary program in which enforcement agencies may participate. It allows for retail food businesses in their area, to publicly display the score of their food safety inspection. The score is represented as five stars for 'excellent', four stars for 'very good', three stars for 'good', or if the result equates to less, a certificate is not issued. The score is determined from the business inspection outcome generated by an officer at an unannounced inspection using the FPAR checklist.

The benefit the display of scores at food outlets is that it provides consumers with information about the retail food business's food safety practices at the time of the inspection. It also encourages retail food businesses to strive for a higher score and thereby improve food safety.

The reported participation rate of enforcement agencies in the *Scores on Doors* food safety ratings program in the 2021-22 period has increased from 46% (61 areas) last year to 52% (69 areas). This potentially captures 65% (26,835) of NSW retail food businesses in the program, up from 63%.

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



- 95% provided technical advice to retail food businesses, up from 92%
- 92% provided food safety information to retail food businesses, down from 93%
- 33% organised food handler training for retail food businesses, up from 32%

During the 2021-22 period the Food Authority partnered with enforcement agencies to host two Retail Food Safety Information Sessions for their local retail food businesses. The first event was held in partnership with Mosman Council on 22 February 2022 and attracted 37 people. The second event was held on 18 May 2022 in partnership with Snowy Valleys in Tumut and attracted 33 people.

These events provided opportunity for local retail food businesses to engage face-to-face engagement with the local council and the Food Authority to learn about food safety and the resources available to them.

Attendees heard presentations on a wide range of food safety topics including an overview of the food safety regulatory system in NSW, foodborne illness, food allergens, food labelling requirements, councils' food safety programs, and updates on the Food Safety Supervisor, display of nutritional information and Scores on Doors programs.

These events were well received, especially after a couple of challenging years due to COVID-19 restrictions and other natural disasters where sessions were postponed during 2020-2021. The Food Authority is committed in continuing to provide support to retail food businesses in partnership with enforcement agencies.

Support for enforcement agency authorised officers

The Food Authority supports enforcement agencies by ensuring AOs have access to the very latest information and guidance they need to conduct their duties.

The Food Authority continues its commitment to provide contemporary and pragmatic training, information, and networking opportunities for the 482 (167 full time equivalents) enforcement agencies' AOs. Interestingly, the number of AOs has increased from the previous period of 479, however the full-time equivalent is down from 184.



The FRP Portal is the major source of information for this geographically dispersed inspectorate. Along with valuable resources such as the FRP Protocols, Advisory Guidelines, and Communiques, all the training and professional development materials delivered to AOs are available on the FRP Portal. All AOs can access the material at a time that is convenient to them and their agencies.

Training is delivered to help maintain AOs' skills and knowledge, promote consistency in inspection protocols and enforcement, and identify emerging risks. Similar to previous period, most meetings and training were held online due to COVID-19 restrictions.

The Food Authority conducts three rounds of Regional Food Group meetings at each of the 16 regions across NSW each year. Each meeting has two components. The first is a meeting which provides opportunity for the Food Authority and enforcement agencies to engage on topical food safety issues and developments. It also provides opportunity to problem-solving with colleagues from different local government areas and seek to develop regionally consistent approaches to local issues.

The second component is a professional development session. The three training sessions delivered to AOs in the 2021-22 period were:

- The food notification project - This was a collaborative project in response to concerns raised by AOs that un-notified low-visibility retail food businesses are not being regulated, are significantly increasing in numbers and may pose a food safety risk. These businesses predominantly sell online via social media and operate from residential premises or commercial premises after hours. The training sought to raise awareness, outline the proposed survey and seek volunteer councils to participate in the project.
- Pest control - This training was developed and delivered toward the end of 2021 in response to the mouse plague in NSW. It provided AOs with an update on pests, compliance requirements, pest management and enforcement options.
- Food Act investigation tips - This training provided AOs information on their powers, issuing cautions and collecting evidence. Participants considered various scenarios to

enhance their understanding and promote consistent application of enforcement action.

The Food Authority also provides a comprehensive 'Authorised Officer (Local Government) Food Surveillance Training' program for new officers, trainees or officers wanting refresher training to gain the appropriate skills and knowledge to conduct food surveillance activities in the retail food service sector. This program was conducted online via a series of webinars, again due to the impact of COVID-19. An AO online training program is being developed collaboratively with the Biosecurity and Food Safety Team and DPI's TOCAL College and is planned to be made available in the 2022-23 period.

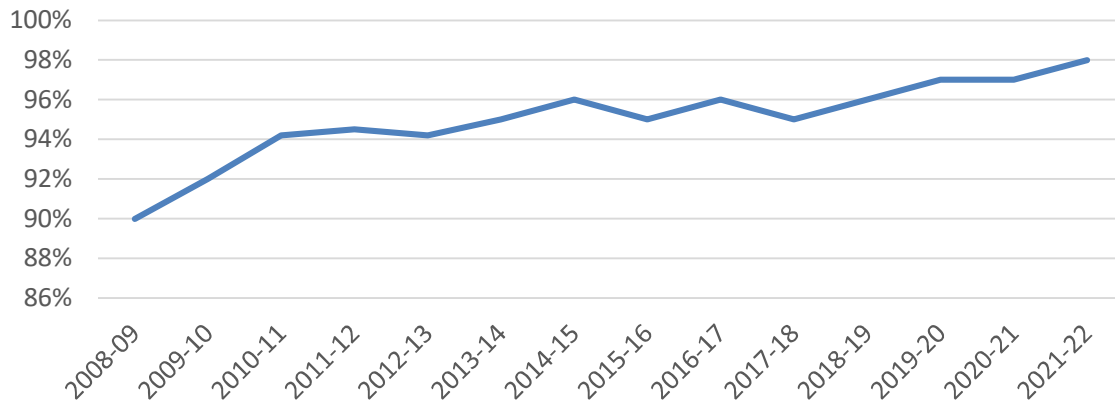
Compliance of retail food businesses

There were a total of 38,751 inspections and re-inspections conducted across the retail food services sector, including fixed, temporary and mobile food premises. This value continues to decline from 44,924 in 2020-21 and 45,987 in 2019-20. A total of 69% of high and medium risk food premises were inspected which is less than the 80% inspected in 2020-21, and the 77% inspected in 2019-20 periods. The general trend pre-COVID-19 was an inspection rate of 93%. This reduction in inspection rates is a direct consequence of the impact of COVID-19 and other events including bushfires, floods, drought, and mouse plague.

Compliance with food safety requirements across the retail food service sector has improved since the commencement of the FRP in 2008 and remains steady. In this period the sector recorded a compliance rate of 98% as shown **Figure 1**.

The number of fixed retail food businesses requiring additional re-inspections and intervention for non-compliance was calculated at 2.3% (645 of the 28,351 fixed retail food businesses), which yields in a compliance rate of 98% for this sector.

Figure 1: Overall compliance rate of the retail food services sector 2008-2022



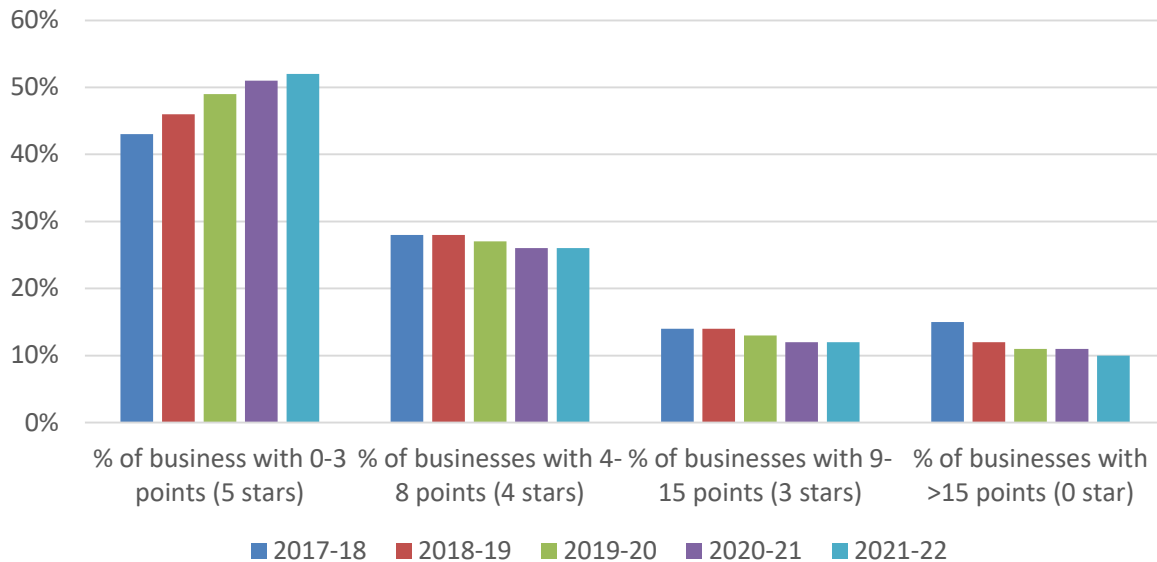
Retail food business inspection outcomes

NSW retail food businesses continue to have high food safety standards; 90% of retail food 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. In the period 2020-21 this figure was 89%.

Enforcement agencies provided business inspection outcomes for 47% of all high and medium risk fixed, temporary and mobile food premises inspected, 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 52% 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 10% this period. Both these trends indicate retail food businesses are continuing to achieve strong inspection results which will enhance overall food safety in NSW.

Figure 2: Business inspection outcome scores reported for 2020-22



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), 13% (2020-21) and for the current period down to 11%. This further indicates a strong food safety performance by the sector.

Enforcement action

There are a range of enforcement tools that AOs can use, depending on the nature and severity of the food safety risks, to ensure food safety standards are being met. 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 prosecution.

The enforcement tools used and their frequency of use in each period is shown in **Figure 3** and **Figure 4** below. This data also confirms that enforcement agencies are in general implementing the graduated enforcement approach recommended by the Food Authority.

Figure 3: Numbers of warning letters, improvement notices and penalty notices issued in the retail food sector for 2008-2022



Figure 4: Numbers of seizures, prohibition orders and prosecutions in the retail food sector for 2008-2022



The use of all statutory enforcement tools has significantly decreased from the pre-COVID-19 reporting years, predominantly due to AOs' ability to conduct inspections.

The most common food safety breaches under the Act for which penalty notices were issued during the 2021-22 period were:

- unclean food premises (17%)
- improper food storage (14%)

- poor handwashing facilities (15%)
- poor pest control (9%)
- unclean fixtures, fittings and equipment (9%)
- poor display conditions (7%)
- poor cleaning and sanitising (6%)

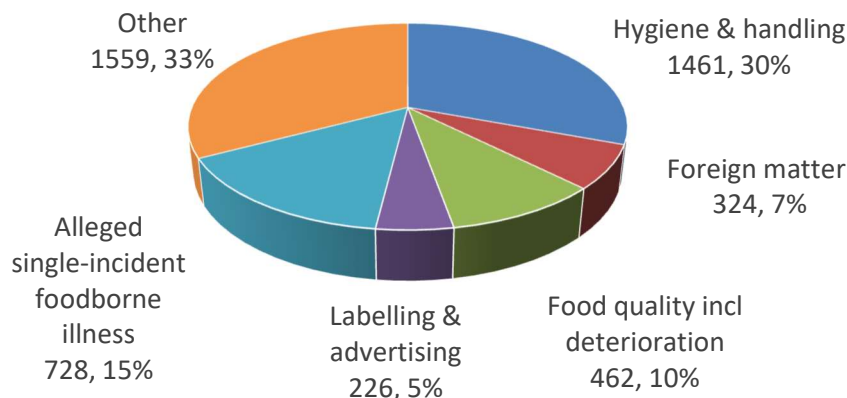
Food businesses who have been issued with penalty notices or prosecuted for food safety breaches under the Act are displayed on the *Name and Shame* register of offences¹ on the Food Authority’s website. There are Penalty notices are published for no longer than 12 months and prosecutions for no longer than 24 months.

Complaints of retail food businesses

Enforcement agencies are responsible for investigating complaints in relation to retail food businesses within their area. The total number of food complaints for the 2021-22 period decreased 5,568 in 2020-21 to 4,760. The distribution of complaint types remains relatively steady from the previous year and is shown in **Figure 5**.

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

Figure 5: Complaint types investigated 2021-22



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

Foodborne illness reduction

All enforcement agencies continued to strive to reduce the incidence of foodborne illness through robust inspection programs and timely responses to complaints. The Food Authority continued to work in partnership with enforcement agencies to provide latest advice, best practice guidance and additional support to assist them with this goal.

The number of *Salmonella*-related outbreaks in the retail food service sector in NSW continues to decrease in NSW, primarily due to the *Salmonella* reduction strategy, which focuses on the safe preparation of raw egg products. NSW has also made efforts in reducing *Campylobacter* foodborne illness in the retail food service sector, by shining a light on risks of *Campylobacter* in retail food businesses via a collaborative project. A project exploring allergen management and food safety culture is planned for the 2022-23 period.

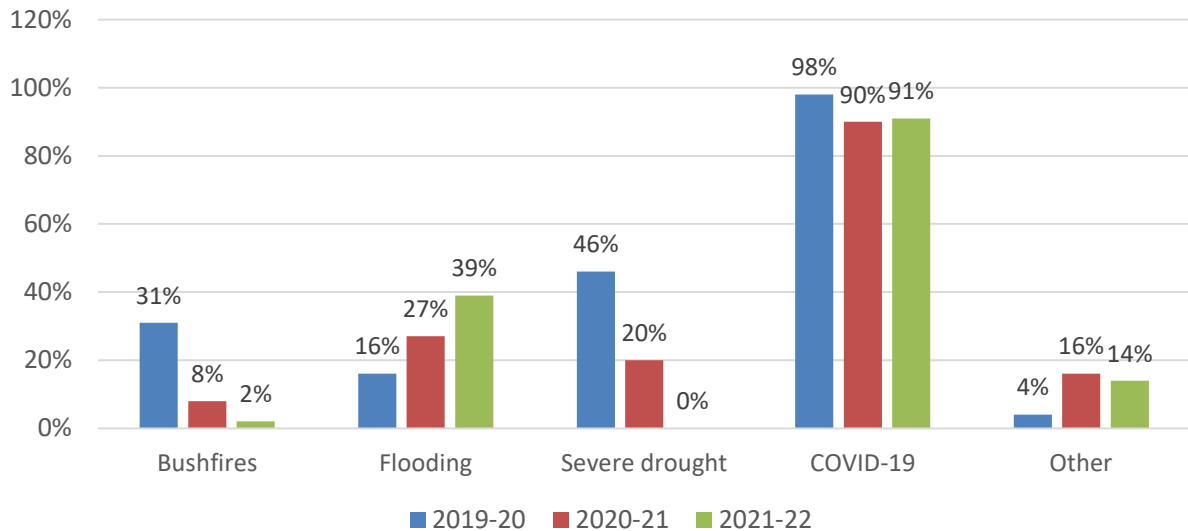
Impact of COVID-19 and other events on food surveillance activities

During 2021-22, retail food businesses, enforcement agencies and communities have again been significantly impacted by COVID-19, floods, bushfires, mouse plague and other events. Some areas have been impacted by a combination or recurrence of some of these events.

Over the last three periods, enforcement agencies were asked to respond to voluntary questions regarding the impact of recent events. Of the 128 responses in the period 2021-22, 91% said that their area was affected by COVID-19 (up from 90% in previous period), 39% by flooding (up from 27%), none by severe drought (down from 20%), and 2% by bushfires (down from 8%) as shown in **Figure 6**.

In addition, 14% of enforcement agencies reported that their area was affected by other matters. In 2021-22 this includes 3% were affected by the mouse plague, and 11% from staff issues including shortages and illness.

Figure 6: Types of events that affected enforcement agencies over last three years 2019-22



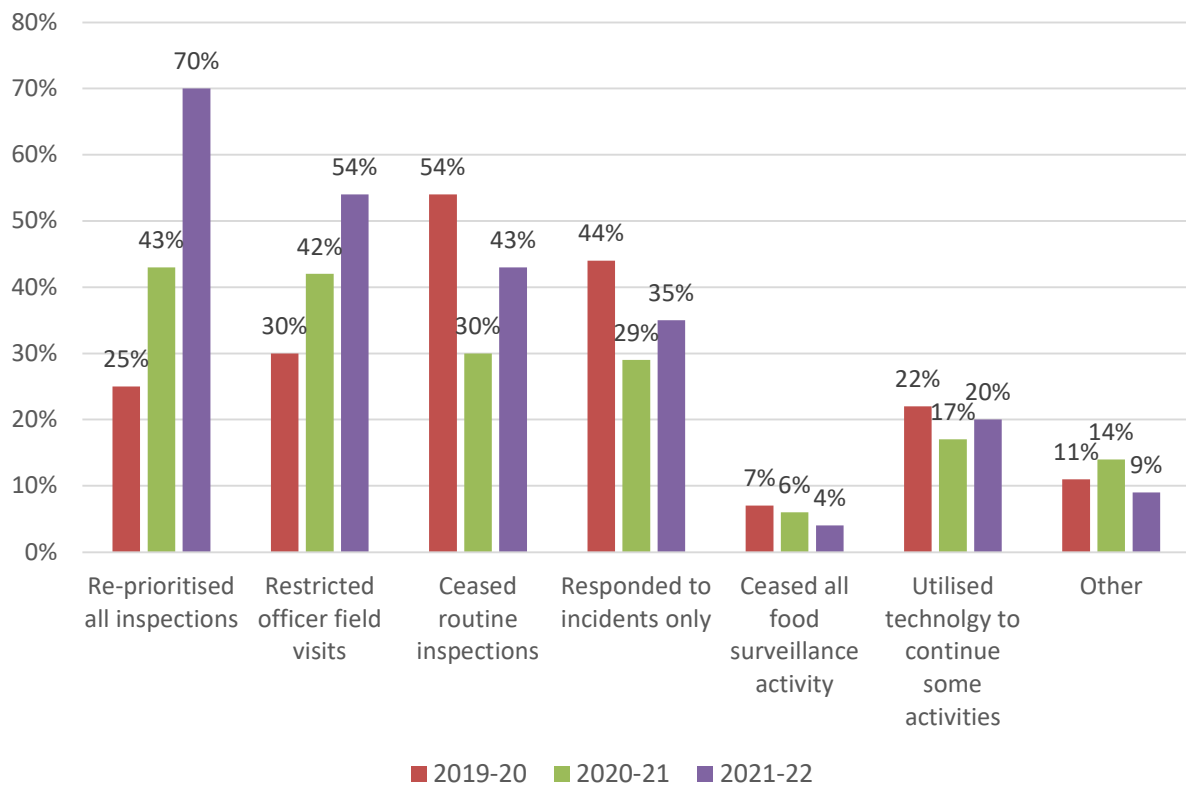
All but two enforcement agencies responded to the question about whether they implemented changes to the normal surveillance program. Of these, 57% responded that they made changes. **Figure 7** reveals how these enforcement agencies adapted their food surveillance activity as a result of these impacts to service delivery. This indicates a high level of responsiveness by enforcement agencies to events.

As in the previous two years, the level and type of responsiveness was dependent on restrictions on staff movements (eg via Public Health Orders), environmental conditions, re-deployment of food surveillance resources and implementing the duty of care to the community.

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

Despite the impact to enforcement agencies' programs, the food surveillance data for 2021-22 again reveals strong performance. Despite many enforcement agencies ceasing or re-prioritising their routine food inspections throughout the period, 69% of all high and medium risk fixed retail food premises were inspected. The overall compliance rate of 98% is higher than the average over the 14 periods since the FRP began of 95%.

Figure 7: Ways in which enforcement agencies adapted their activities as a consequence of events over last three years 2019-22



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 twice during the 2020-21 period via teleconference.

The Forum is chaired independently by Paul Braybrooks OAM, and organisations represented on the Forum are NSW Food Authority, Local Government NSW, Development and Environmental Professionals’ Association, Environmental Health Australia, and Local Government Professionals Australia.

Members include:

- Mr Paul Braybrooks OAM, Chair
- Dr Lisa Szabo CEO, NSW Food Authority



- Mr Peter Day/Mr Greg Vakaci, NSW Food Authority
- Cr Phyllis Miller, Local Government NSW
- Cr Ruth Fagan, Local Government NSW
- Cr Marianne Saliba, Local Government NSW
- Mr Angus Crichton, Environmental Health Australia
- Ms Erin Hogan, Environmental Health Australia
- Mrs Lisa Hughes, Environmental Health Australia
- Mrs Fiona Stalgis, Development and Environmental Professionals' Association
- Ms Yael Lang, Development and Environmental Professionals' Association