



## Summary report of NSW enforcement agency activities in the retail food service sector for the period 1 July 2022 to 30 June 2023

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### 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 government. 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 40,000 high and medium risk fixed retail food businesses, and over 14,000 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 2022-23 period has increased from 46% (59 areas) last year to 48% (62 areas). For this period the program captures 61% (25,337) of NSW retail food businesses.

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

- 91% provided technical advice to retail food businesses, down from 95%
- 91% provided food safety information to retail food businesses, down from 92%
- 35% organised food handler training for retail food businesses, up from 33%

During the period 2022–2023, the Food Regulation Partnership hosted five Food Safety Information Sessions for the retail and food service businesses in partnership with Lake Macquarie City, Port Stephens, Cessnock, Tweed Shire and Wagga Wagga City Councils.

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. There were 77 attendees at the Lake Macquarie City session, 33 attendees at the Cessnock event and 34 attended at Port Stephens. In Tweed Heads, there were 106 attendees and at Wagga Wagga 72 attendees. Attendees had the opportunity for face-to-face engagement with the hosting local council and Food Authority to learn about food safety and the resources available to them.

Presentations were provided on a wide range of food safety topics including food safety laws, cleaning and sanitising, food labelling, preventing foodborne illness, Council's food safety initiatives, and retail programs such as Scores on Doors and Food Safety Supervisor.

In the reporting period there was also a multi-operators outlets food safety session held in Sydney in May 2023. This session was developed to engage with chain food businesses to provide food safety information relevant to larger chains that operate multiple premises. The session provided information on the FRP, Food Safety Supervisor, fast choices, foodborne illness reduction and the new requirements for the Food Standards Code.

In all, there were 24 food businesses represented.

### **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 503 (182 full time equivalents)



enforcement agencies' AOs. Interestingly, the number of AOs has increased from the previous period of 481.

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. Most of these meetings have returned to face-to-face engagement after temporarily being held online during the COVID-19 pandemic period.

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 2022-23 period were food safety culture, the new incoming food safety standard 3.2.2A 'food safety management tools' plus 'cleaning and sanitising with the focus specifically on the use of dishwashers'.

The food safety culture work was a contribution towards the national foodborne illness reduction strategy. It was a collaborative effort with participating local councils observing allergen management handling practices at relevant food businesses and interpreting their food safety culture.

The new food standard (Standard 3.2.2A) will introduce new food safety management tools in the retail and food service sector. This session was designed to provide authorised officers with insights on the requirements that will come into effect in December 2023.

The cleaning and sanitising session was developed to explore the effectiveness of dishwashers in retail food businesses. A collaborative survey was implemented with strong uptake in participation across NSW. The findings will be assessed to inform future work in this area.

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 has been developed into an online training program with the Biosecurity and Food Safety Team and DPI's TOCAL College and this version was rolled out in December 2022 with the first 35 participants. The program consists of 12 topics to capture the work of an authorised officer and is delivered with a mix of interactive materials such as presentations, videos and assessments. Participants who complete the course receive a certificate of completion. So far, 15 participants have achieved their certificate.

### **Compliance of retail food businesses**

There were a total of 53,582 inspections and re-inspections conducted across the retail food services sector, including fixed, temporary and mobile food premises. This value has increased from 38,756 in 2021-22 and 44,924 in 2020-21. A total of 90% of high and medium risk food premises (40,377) were inspected which is more than the 69% inspected in 2021-22, and the 77% inspected in 2019-20 period. The general trend pre-COVID-19 was an inspection rate of 93% meaning local councils are returning to inspections levels observed before the pandemic.

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 97%, which is slightly down from 98% in 2021-22, as shown

#### **Figure 1.**

The number of fixed retail food businesses requiring additional re-inspections and intervention for non-compliance was calculated at 2.79% (1,116 of the 36,361 high and

medium risk, fixed retail food businesses inspected), which yields in an overall compliance rate of 97% for this sector.

**Figure 1: Overall compliance rate of the retail food services sector 2008-2023**



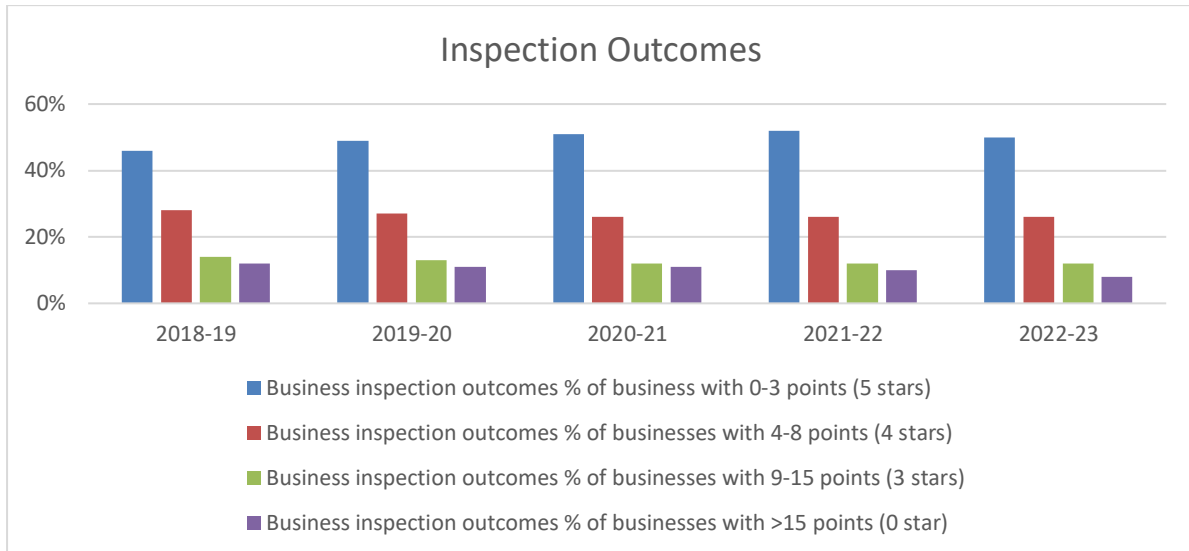
Retail food business inspection outcomes

NSW retail food businesses continue to have high food safety standards; 92% 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. This is the same as in 2021-22, but an increase from 91% in the period 2020-21.

Enforcement agencies provided business inspection outcomes for 40% 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 increased from 46% in 2018-19 to 50% during this reporting period, although slightly down from 52% in 2021-22. The proportion of businesses scoring greater than 15 points (no Scores on Doors stars-equivalent) has dropped from 15% in 2016-17 to 8% this period. Both these trends indicate retail food businesses are continuing to achieve strong inspection results.

**Figure 2: Business inspection outcome scores reported for 2018-23**



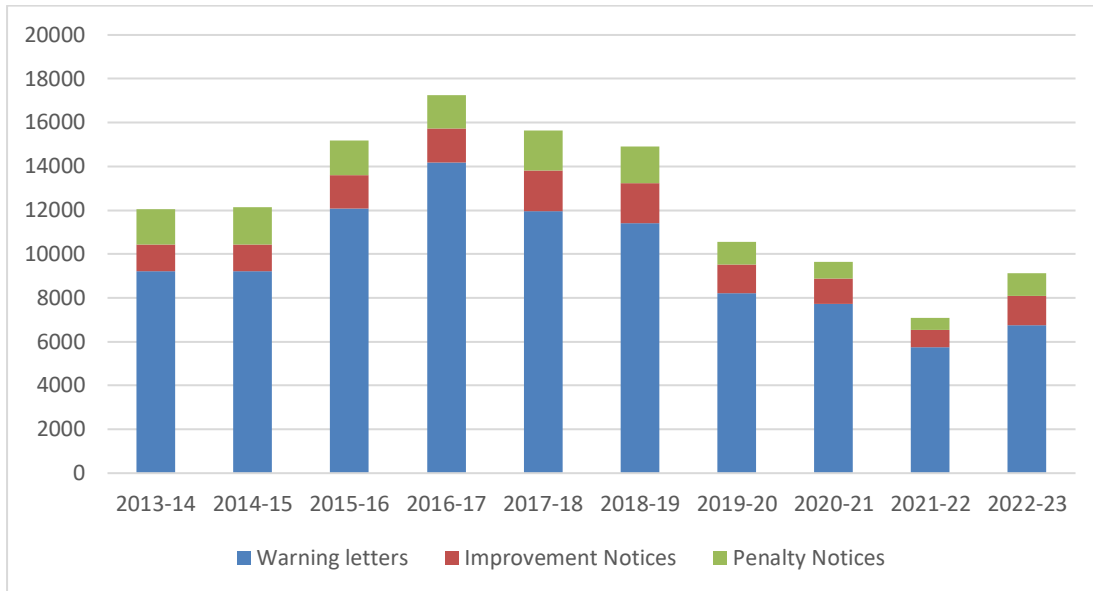
Another notable trend is the number of fixed premises requiring re-inspection. The value for 2022-23 is 15%, which is up from 11% in 2021-22. Despite the increase, it remains below the value of 23% reported in 2017-18.

### Enforcement action

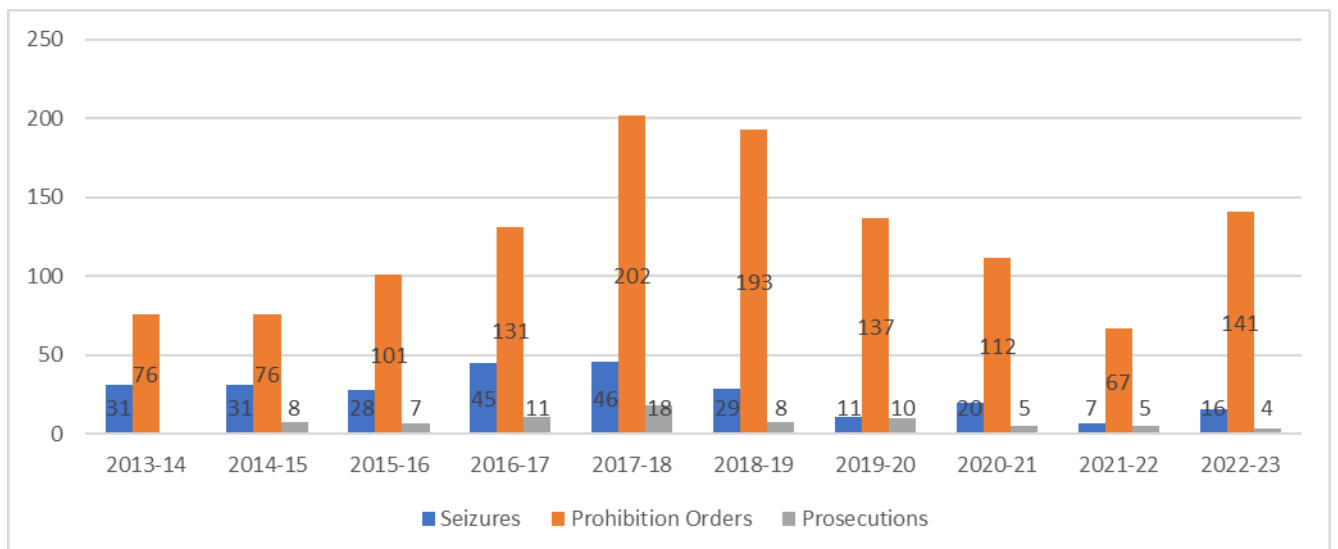
There are a range of enforcement tools that AOs can use, depending on the nature and severity of the food safety risks, to ensure food safety standards are being met. An escalatory approach is encouraged with warnings issued as a first step to encourage improvements in safe food handling processes. For 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 2013-2023**



**Figure 4: Numbers of seizures, prohibition orders and prosecutions in the retail food sector for 2013-2023**



The use of all statutory enforcement tools has significantly increased from 2021-22. For example, 1,045 penalty infringement notices were issued, compared to 550 for 2021-22. 141 Prohibition Orders were issued in 2022-23 compared to 67 from the last period. There



were 16 seizures, up from 7 in 2021-22. Prosecution number remains steady with 4 reported in 2022-23.

The most common food safety breaches under the Act for which penalty notices were issued during the 2022-23 period were:

- unclean food premises (19%)
- improper food storage (16%)
- poor handwashing facilities (13%)
- unclean fixtures and fittings and equipment (11%)
- poor pest control (9%)
- poor display conditions (6%)
- Poor facility, construction and maintenance (6%)
- poor cleaning and sanitising (5%)

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 offences<sup>1</sup> 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

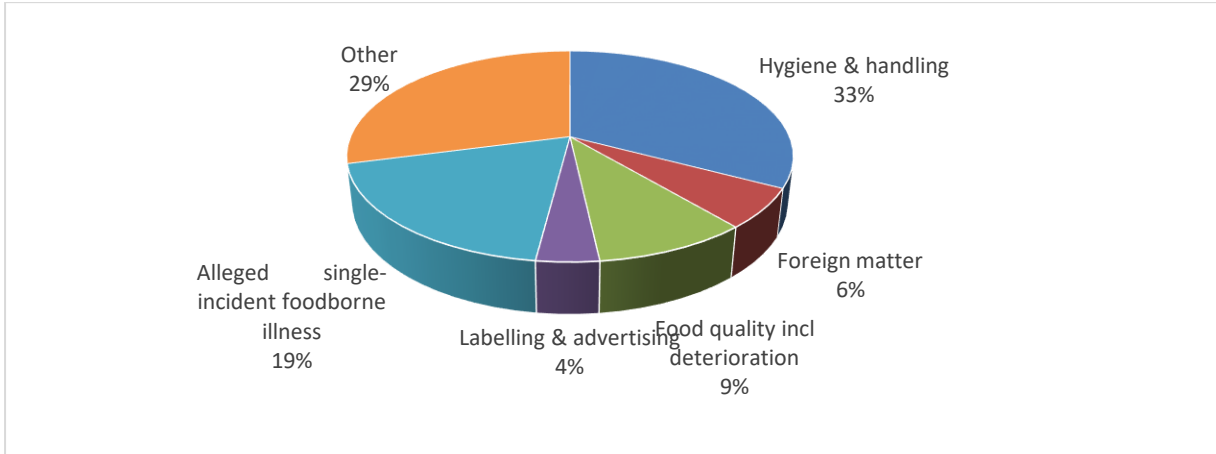
Enforcement agencies are responsible for investigating complaints in relation to retail food businesses within their area. The total number of food complaints for the 2022-23 period was 5,727. For comparison, this value has increased from 4,760 in 2021-22 and 5,568 in 2020-21. The distribution of complaint 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.

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

**Figure 5: Complaint types investigated 2022-23**



### **Foodborne illness reduction**

All enforcement agencies continued to focus on reducing 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 recent *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 educating authorised officers on the risks of *Campylobacter* in retail food businesses. A collaborative project exploring allergen management in retail food businesses was also completed in 2022-23 where food businesses understanding and management of allergens was assessed. The key findings of this work will inform more targeted future initiatives.

### **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 once during the 2022-23 period.



Food  
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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 Helen Tickle, Local Government NSW
- 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