

NSW enforcement agency activities: retail food service sector

Summary report 2023-24



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Table of Contents

Background and the Food Regulation Partnership	4
Support for retail food businesses	4
Support for enforcement agency authorised officers (AOs)	5
Compliance of retail food businesses	6
Retail food business inspection outcomes	7
Enforcement action.....	7
Complaints of retail food businesses.....	9
Foodborne illness reduction	9
Food Regulation Partnership Forum	10
More information.....	10

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 aims to ensure 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 NSW Department of Climate Change, Energy, the Environment and Water (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 almost 15,000 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 for example, 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 of 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 program in the 2023-24 period has remained the same as last year at 48% (62 areas). For this period the program captures 64% (25,713) of NSW retail food businesses.

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 91%
- 95% provided food safety information to retail food businesses, up from 91%

- 34% organised food handler training for retail food businesses, down from 35%

During the period 2023–24, the FRP hosted 3 Food Safety Information Sessions for the retail and food service businesses in partnership with Campbelltown City, Port Macquarie-Hasting and Northern Beaches Councils.

These events provided the opportunity for local retail food businesses to engage face-to-face with the hosting local council and the Food Authority and to learn about food safety and the resources available to them. There were 130 registrations for the session at Campbelltown, 58 registrations at Port Macquarie, and 180 for the Northern Beaches session.

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

These sessions were attended by food retail managers, food business owners and employees who predominantly worked in restaurants, takeaway shops, cafes and bakeries with less than 10 staff members. Feedback from attendees informed that the session had delivered an average increase of 58% in their food safety skills and knowledge.

Support for enforcement agency authorised officers (AOs)

The Food Authority supports enforcement agencies by ensuring AOs have access to the 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 to the 520 (176 full-time equivalent) enforcement agencies' AOs. Interestingly, although the number of AOs has increased from 503 (2022-23) the full-time equivalent has decreased from 182 in the same period.

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 Communiqués, 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.

The Food Authority conducts 3 rounds of Regional Food Group meetings at each of the 16 regions across NSW annually. Each meeting has 2 components:

1. A meeting that provides the opportunity for the Food Authority and enforcement agencies to engage on topical food safety issues and developments. It also provides the opportunity to problem-solve with colleagues from different local government areas and seek to develop regionally consistent approaches to local issues.
2. A professional development session. In 2023–24, the professional development focused on the new food safety standard 3.2.2A - Food Safety Management Tools, plus a 'Notices Workshop' to set the standards when officers issue formal notices as part of their food surveillance duties.

The new food standard (Food Standards Code Standard 3.2.2A) came into force in December 2023 and has introduced new food safety management tools in the retail and food service sector. The sessions provided AOs with insights on the requirements and promoted the suite of resources developed by the Food Authority to support the implementation of the legislation.

The Notices Workshop was developed from trend analysis and developments in caselaw surrounding the issuing of penalty infringement notices. The workshop was comprehensive and covered what information is necessary to successfully issue an improvement notice and penalty notice.

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. Up to 50 spaces are available each year for the online training course open to local government food

safety AOs. The course aims to educate and provide skills and knowledge to carry out food safety duties, as well as promote consistency between agencies, provide workforce continuity and build relationships between the Food Authority and local councils.

The program consists of 12 topics to capture the work of an AO 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. During the 2023-24 period, 24 participants achieved their certificate.

Compliance of retail food businesses

There were a total of 53,212 inspections and re-inspections conducted across the retail food services sector, including fixed, temporary and mobile food premises. This value has decreased from 53,582 in 2022-23 but higher than the 38,756 recorded in 2021-22.

A total of 91% of high and medium risk food premises (37,475) were inspected which is slightly above the 90% inspected in 2022-23, and the 69% inspected in the 2021-22 period.

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 the 2023-24 period the sector recorded a compliance rate of 97%, which is consistent with 2022-23, as shown in figure 1, but higher than the 10-year average compliance rate of 96%.

The number of fixed retail food businesses requiring additional re-inspections and intervention for non-compliance was calculated at 2.85% (917 of the 37,475 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 2013-2024



Retail food business inspection outcomes

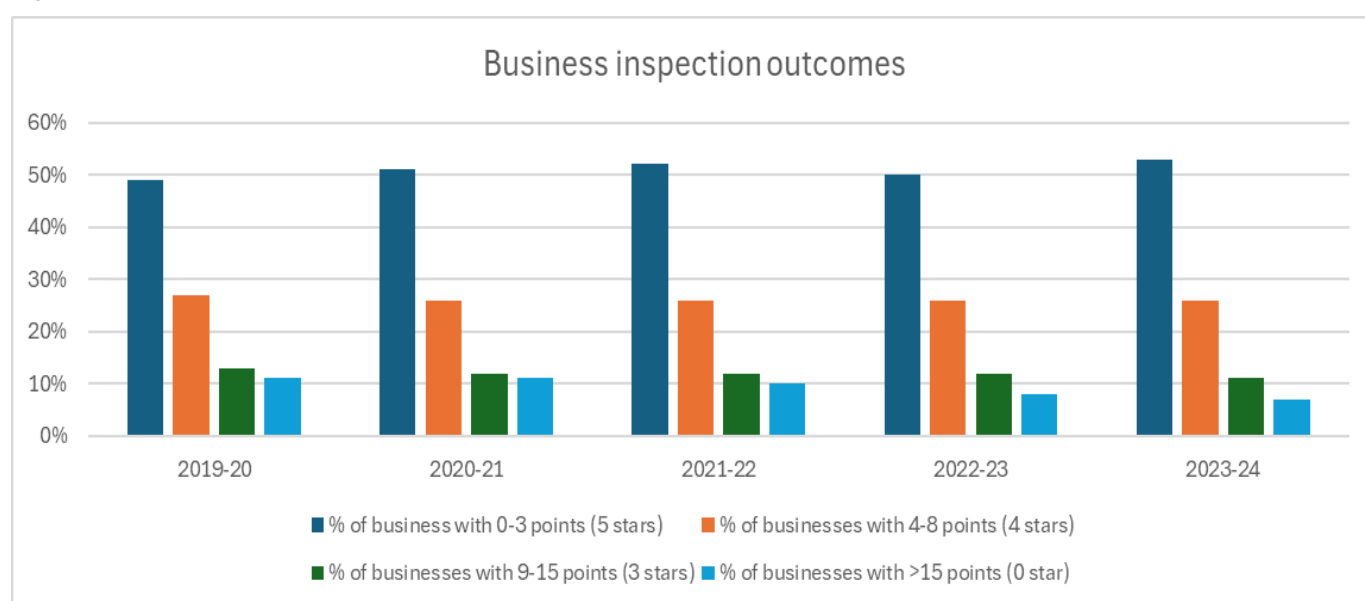
NSW retail food businesses continue to have high food safety standards; with 93% achieving an inspection outcome of 15 demerit points or less, which equates to a Scores on Doors 'star rating' of at least three or more stars. This outcome is slightly above the 92% achieved in both 2022-23 and 2021-22.

Enforcement agencies provided business inspection outcomes for 84% of all high and medium risk fixed, temporary and mobile food premises inspected, and the results are shown in Figure 2.

The distribution of scores remains consistent with previous periods although the proportion of business scoring 0-3 points (5 stars equivalent) has increased steadily from 49% in 2019-20 to 53% during 2023-24 period. The proportion of businesses scoring greater than 15 points (no Scores on Doors stars equivalent) has dropped from 11% in 2019-20 to 7% in 2023-24. Both these trends indicate retail food businesses are continuing to achieve stronger inspection results.

Another notable trend is the number of fixed premises requiring re-inspection. The value for 2023-24 is 14%, which is a fall from 15% in 2022-23.

Figure 2: Business inspection outcome scores reported for 2019-2024



Enforcement action

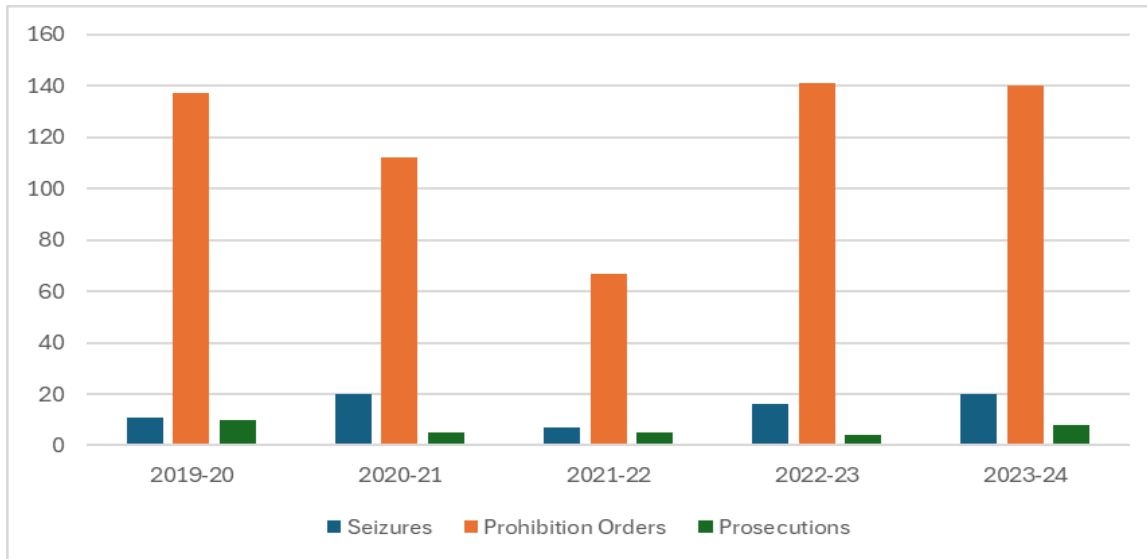
There are a range of enforcement tools that AOs can use, depending on the nature and severity of the food safety risks, to ensure food safety standards are being met. An escalatory approach is encouraged with warnings issued as a first step to encourage improvements in safe food handling processes. For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

The enforcement tools used and their frequency of use in each period are shown in Figure 3 and 4. 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 2019-2024



Figure 4: Numbers of seizures, prohibition orders and prosecutions in the retail food sector for 2019-2024



The use of most statutory enforcement tools has increased from 2022-23. For example:

- 1,367 Improvement Notices, up from 1,342 in 2022-23
- 20 seizures, up from 16 in 2022-23
- 8 Prosecutions, up from 4 reported in 2022-23.

The number of penalty infringement notices and Prohibition Orders were down from the last period.

The most common food safety breaches under the Act for which penalty notices were issued during the 2023-24 period were:

- unclean food premises (19%)
- improper food storage (16%)
- poor handwashing facilities (12%)
- unclean fixtures and fittings and equipment (9%)
- poor pest control (7%)

- poor facility, construction and maintenance (7%)
- poor display conditions (5%)
- poor cleaning and sanitising (4%)

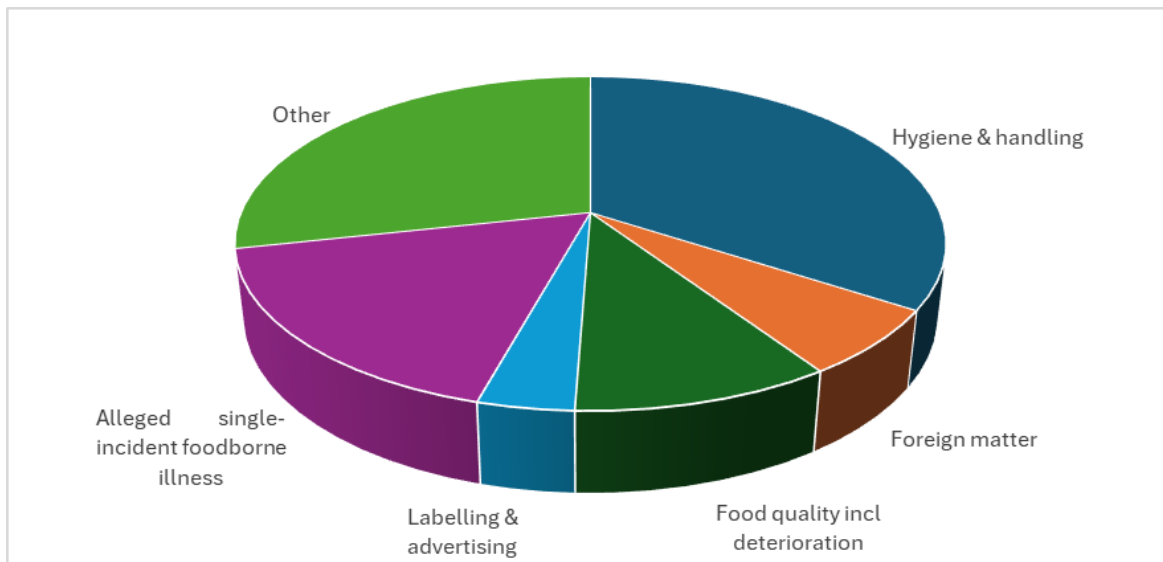
Food businesses who have been issued with penalty notices or prosecuted for food safety breaches under the Act are displayed on the Name and Shame register of offences¹ on the Food Authority website. Penalty notices are published for no longer than 12 months and prosecutions for no longer than 24 months.

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 2023-24 period is reported as 6,093 which is an increase from 5,727 for 2022-23. 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 2023-24



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 professional development and training programs offered to enforcement agencies continued to focus on food safety measures to reduce the risk of foodborne illness. Education was delivered to enforcement agencies’ authorised officers on the new food standard ‘Food Safety Management Tools’, which was introduced in December 2023 and seeks to raise food handlers’ skills and knowledge and strengthen food businesses food safety practices.

Also, a ‘Notices Workshop’ was delivered to reinforce the procedures for officers when completing statutory notices under the *Food Act 2003*.

¹ foodauthority.nsw.gov.au/offences

Both sessions combined result in raising standards in the food retail sector and contributing towards the goal of reducing foodborne illness in NSW.

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 2023-24 period.

The Forum is chaired independently by Cr Claire Pontin, 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:

- Chair: Cr Claire Pontin
- Dr Lisa Szabo (NSW Food Authority)
- Mr Greg Vakaci (NSW Food Authority)
- Cr Phyllis Miller (Local Government NSW)
- Cr Dr Elizabeth Adamczyk (Local Government NSW)
- Cr Jay Suuval (Local Government NSW)
- Mr Hugh Waters (Environmental Health Australia)
- Ms Erin Hogan (Environmental Health Australia)
- Mrs Fiona Stalgis (Development and Environmental Professionals' Association)
- Ms Sally-Anne Donahue (Development and Environmental Professionals' Association)
- Mr Peter Fitzgerald (Local Government Professionals Australia)
- Ms Genevieve Taylor (Local Government Professionals Australia)

The Summary of outcomes for each meeting are available on the Food Authority website.

More information

- Visit foodauthority.nsw.gov.au
- Email food.contact@dpiird.nsw.gov.au
- Phone 1300 552 406

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