



Guideline on *Food Act 2008* and *Public Health Act 2016* Enforcement Agency Reporting

Local government enforcement agencies are required to report to the Department of Health on their performance of functions under the *Food Act 2008* (Food Act) (as required by section 121) and the *Public Health Act 2016* (Public Health Act) (as required by section 22).

This document provides guidance on the questions and should be read when compiling your responses. Your response must be submitted to the Department of Health online at [2023-2024 Food Act 2008 and Public Health Act 2016 Reporting - Western Australia Department of Health - Citizen Space](#) by **31 August**.

If you require any further assistance with these reporting requirements, please contact the Food Team, Environmental Health Directorate on (08) 9222 2000 or email foodsafety@health.wa.gov.au

Part A – Public Health Act functions

The information gathered in this part relates to your functions under the Public Health Act.

Public Health Act authorised officers

Question 2: How many Full Time Equivalent (FTE) Public Health Act authorised officers worked in your LG?

Question 3: How many FTE persons that assist authorised officers with their duties in your LG worked in your LG?

Authorised officers are persons who are designated the authority to administer and enforce provisions of the Public Health Act on behalf of the enforcement agency. They are designated by the enforcement agency (LG) under section 24 of the Public Health Act. It is the responsibility of the enforcement agency under section 27 to keep a list of all authorised officers.

Persons that assist authorised officers with their duties may be involved in a range of activities such as collection of public health data, drafting of correspondence, or reviewing and verifying compliance of public health activities. The specific role of this class of person may vary from local government to local government. For example, administration/customer service, finance, legal, rangers, and Environmental Health officers. Question 3 enables the Department of Health to monitor the total numbers of personnel involved with legislative functions under the Act. It is suggested that each local government keeps a record of the specific roles and job descriptions of persons that assist authorised officers with their duties so that a full-time equivalent estimate can be maintained consistently for all future reporting.

Further information about Public Health Act authorised officers can be found on the [Department of Health website](#). The response to these questions should be on a full-time equivalent basis, which is a calculation of the total time that all authorised officers in your local government perform Public Health Act functions, where one day per week is 0.2 full-time equivalent. The response is numeric (decimals accepted).

Question 4: Did your LG experience difficulties recruiting appropriately qualified persons to be designated as authorised officers under the Public Health Act during the reporting period? If yes, please specify.

An enforcement agency may designate as an authorised officer:

- environmental health officers, as appointed under the Act, or
- persons who are not appointed environmental health officers, but who possess other appropriate qualifications and experience to perform particular functions under the Act.

Further information about qualifications of Public Health Act authorised officers is on the [Department of Health website](#).

Please advise if you have experienced difficulties recruiting appropriately qualified persons to be designated as authorised officers under the Public Health Act during the reporting period. The response is a choice of 'Yes' or 'No'. If your response is 'Yes' please provide further information about your recruiting difficulties.

Questions 5: Did any authorised officers return their certificate of authority (i.e. cease to be authorised officers) during the reporting period? If yes, how many?

The response to this question is a choice of 'Yes' or 'No'. If your response is 'Yes' please advise how many (this response is numeric, whole numbers only).

Part B – Food Act functions

The information gathered in this section relates to your core functions under the Food Act.

Food Act authorised officers

Question 6: What is the number of FTE Food Act authorised officers? (as at 30 June 2024)

Question 7: What is the number of FTE authorised officers - persons to assist with the discharge of duties of an authorised officer? (as at 30 June 2024)

Food Act authorised officers are persons appointed by enforcement agencies under Part 10 Division 3 of the Food Act or designated by a local government as an authorised officer under section 24(1) of the Public Health Act for the purposes of the Food Act.

Persons to assist with the discharge of duties of Food Act authorised officers have some but not all of the powers and functions under the Food Act of authorised officers, in accordance with the [CEO Guideline on the appointment of persons to assist with the discharge of duties of an authorised officer \(PDF 244KB\)](#).

The response to this question should include Food Act authorised officers that are local government employees as well as contractors. The response should be on a full-time equivalent basis, which is a calculation of the total time that all Food Act authorised officers in your enforcement agency perform Food Act/food safety activities, where one day per week is 0.2 full-time equivalent. The response must be numeric (decimals accepted).

Question 8: If you had Food Act authorised officers who are not Environmental Health Officers, what were their primary qualification?

Food Act authorised officers are persons appointed by enforcement agencies under Part 10 Division 3 of the Food Act or designated by a local government as an authorised officer under the *Public Health Act 2016* section 24(1), for the purposes of the Food Act.

Food Act enforcement agencies may appoint a Food Act authorised officer if they are an environmental health officer, or if the enforcement agency, having regard to guidelines issued by the CEO, considers the person has appropriate qualifications and experience to perform the functions of an authorised officer.

Qualifications suitable to be appointed as an Environmental Health Officer can be found on the [Department of Health website](#).

The response to this question should include each qualification type and subject, and the number of Food Act authorised officers that hold the qualification (the total number of officers, not full-time equivalent). This is the primary qualification for appointment of authorised officers who are not environmental health officers. Please do not include ancillary qualifications.

The response to this question enables the Department of Health to monitor the types of qualifications (other than environmental health officer qualifications) that enforcement agencies consider are appropriate for appointment as Food Act authorised officers.

Food businesses

Data obtained from the following questions enables the Department of Health to monitor the size and composition of the food industry that is regulated by Western Australian (WA) enforcement agencies, as well as the food safety assessment activities of enforcement agencies. Data on the type of food businesses is used to inform state and national food regulatory activities, where specific food industry sector data is required.

Question 9: What is the total number of food businesses in the enforcement agency's jurisdiction? (as at 30 June 2024)

The total number of food businesses includes all food businesses (as defined in section 10 of the Food Act) within an enforcement agency's district. This includes both food businesses that are registered under Part 9 the Food Act with the enforcement agency, and those that have notified only (exempted food businesses (section 109 (2) of the Food Act)).

Do not include temporary and mobile food businesses that are registered (i.e. primarily located) with other enforcement agencies and operate temporarily within your enforcement agency district.

The response is numeric (whole number).

Question 10: How many food businesses were assessed at the frequency that was determined by the enforcement agency?

Of the total number of food businesses within your jurisdiction (response to question 9), please advise how many of these were assessed at the assessment frequency that was determined by the enforcement agency. Also include those that were assessed at a higher frequency than determined.

The response is numeric (whole number).

Question 11: How many routine food safety assessments were conducted?

Routine food safety assessments are assessments performed at a food premises by authorised officers to assess food business' compliance with the food safety legislation. This does not include assessments to investigate complaints, or to follow-up from previous assessments or enforcement action. See food act compliance and enforcement activities to answer these questions.

The response is numeric (whole number).

Question 12: What is the number of food businesses by risk rating? (as at 30 June 2024)

The Department of Health encourages enforcement agencies to undertake risk profiling of food businesses to assist with determining an appropriate frequency and scope of food safety assessments. The Department of Health [Food business risk classification system \(PDF 257KB\)](#) guidance on the classification of food businesses is provided to assist enforcement agencies with risk profiling, which is based on the Food Standards Australia New Zealand priority classification system for food businesses.

The total number of food businesses per risk rating should be entered into the respective category. The response must be numeric and a whole number.

Please include all food businesses in your jurisdiction including those that are registered under the Food Act with your enforcement agency, and food businesses exempted from registration (notified only). Do not include temporary and mobile food businesses from other local government enforcement agency districts.

If food businesses have not been risk classified, or if you have used other risk classifications, include the number of food businesses in 'not determined/other risk categorises used'.

Please check that the total number of food businesses in response to this question is equal to the total number of food businesses in Question 9.

The response is numeric (whole number).

Food Act compliance and enforcement activities

Question 13: Number of prosecutions instigated

Question 14: Number of successful prosecutions.

Question 15: Number of improvement notices served.

Question 16: Number of infringement notices served.

Question 17: Number of prohibition orders served.

Question 18: Number of seizures performed.

Questions 13 to 18 relate to the number of enforcement actions taken. The response must be numeric (whole number). Please provide the following data for enforcement activities:

- The number of prosecutions instigated under the Food Act, and the number of prosecutions that were successful during the reporting year. Note that some of the successful prosecutions may have been instigated prior to the reporting period.

- The number of seizures performed, which is the number of occasions that seizure powers were utilised (in accordance with Part 5 of the Food Act), not the number of individual items seized.
- The number of improvement notices served in accordance with Part 6, Division 1 of the Food Act.
- The number of infringement notices served in accordance with section 126 of the Food Act.
- The number of prohibition orders served under Part 6, Division 2 of the Food Act.

The data obtained from these questions allows for the monitoring of frequency and trends in the use of Food Act enforcement provisions.

Part C The information gathered in this section relates to a focus area for the reporting period.

Regulatory food safety auditing

Questions 19 to 24 relate to implementation of Part 8 – Auditing of the Food Act and the WA regulatory food safety auditing system. Information about the WA regulatory food safety auditing system including guidelines and forms is available on the [Department of Health website](#).

This data is used by the Department of Health to monitor the implementation of key regulatory functions for food safety auditing, as well as the size of this food industry sector.

Note that for local government, the responses do not include public hospitals as they are enforced by the WA Department of Health.

The response to these questions are numeric, whole number.

Question 19: What is the total number of food businesses captured under Standard 3.3.1? (as at 30 June 2024)

Standard 3.3.1 (Food safety programs for food service to vulnerable persons) of the Australia New Zealand Food Standards Code (the Code) requires certain food businesses involved in food service where potentially hazardous food is served to vulnerable people to implement a documented and audited Food Safety Program (FSP). The response to this question is the total number of food businesses in your jurisdiction that are required to comply with Standard 3.3.1 e.g. aged care facilities, childcare facilities, delivered meals to vulnerable persons, private hospitals etc. Note that this does not include public hospitals as they are enforced by the WA Department of Health.

Question 20: Does your LG conduct routine inspections of these premises in addition to reviewing regulatory food safety auditor reports?

The Department is seeking confirmation that these food businesses are being routinely inspected by local government authorised officers in addition to having regulatory food safety audits required under Standard 3.3.1.

Question 21: How many of these food businesses have a food safety program that is verified?

In accordance with [Food Act 2008 Regulatory Guideline 6 – Regulatory Food Safety Auditing in Western Australia \(PDF 95KB\)](#) (previously Regulatory Guideline 1: Introduction of Regulatory Food Safety Auditing in Western Australia), enforcement agencies are required to verify that a food safety program substantially complies with the requirements of Standard 3.2.1 – Food Safety Programs, of the Code.

Of the total number of food businesses captured by Standard 3.3.1 (response to question 21) please provide the number that have a food safety program that has been verified by your local government enforcement agency to substantially comply with Standard 3.2.1 of the Code.

Question 22: How many of these food businesses are undergoing regulatory food safety auditing?

In accordance with Part 8 of the Food Act and the WA regulatory food safety auditing system, food businesses captured by Standard 3.3.1 of the Code must commence regulatory food safety auditing within 6 months of the date of verification (refer to [Food Act 2008 Regulatory Guideline 6 – Regulatory Food Safety Auditing in Western Australia \(PDF 95KB\)](#)).

Of the total number of food businesses captured by Standard 3.3.1 (response to question 19) please provide the number that are undergoing regulatory food safety auditing.

Question 23: How many businesses were not audited at their required frequency?

Food businesses captured by Standard 3.3.1 of the Code are required to be audited under the Food Act at the frequency determined by the enforcement agency using the [WA Priority Classification System \(PDF 73KB\)](#).

Please provide the total number of food businesses that were not audited at their required frequency during the reporting year.

Question 24: How many regulatory food safety audits led to compliance and enforcement action during the reporting year?

Enforcement agencies are responsible for responding to audit findings where they require a compliance and/or enforcement response (i.e. where issues have been identified that relate to non-compliance with the Code or offences against the Food Act). Please provide the number of audits that resulted in the enforcement agency taking compliance and enforcement action during the reporting year.

This includes the issuing of improvement notices, infringement notices, prohibition orders or prosecution through the courts.

Primary production and processing

Questions 25 to 28 relate to food regulatory activities for businesses captured by the Chapter 4 Standards of the Code, and meat producers/processors that are required to comply with the Australian Standards related to meat. This data is used by the Department of Health to monitor the implementation of these Standards in WA, identify areas that may require additional support, and to inform work on state-wide food-borne illness reduction.

Note that whilst the Department of Health is the controlling authority for meat food businesses, it is the enforcement agency (local government) that is required to report this data. These questions do not apply to export food businesses.

From 12 February 2025, Standards 4.2.7 (Berries), 4.2.8 (Leafy Vegetables) and 4.2.9 (Melons) come into effect. Local governments will be asked to report activities relating to these horticultural food businesses, some of which will require to be registered under the Act.

The response to these questions are numeric, whole number.

Question 25: How many food businesses captured by the Standard/s?

Question 26: How many of these food businesses are registered?

Provide the total number of food businesses that are captured by each of the Standards that are in your jurisdiction. Note that dairy and bivalve mollusc food businesses are enforced by the WA Department of Health and therefore data should not be provided for these businesses by local governments.

Under these standards, “processors” generally exclude manufacturing and retail sale activities. Manufacturers and retailers are captured by Chapter 3 of the Food Standards Code.

Of these food businesses, provide the number that you have registered under the Food Act. This would exclude export registered establishments exempted from registration under Section 109 / Regulation 13.

Question 27: How many of these food businesses have a food safety program/ management system/ statement/ approved arrangement that has been verified or approved or recognised?

The food businesses captured by the Chapter 4 Standards of the Code and the Australian Standards related to meat are required to implement some form of food safety management system, as required by the relevant standard. Depending on the requirements of the standard, this includes food safety programs, food safety management systems, food safety management statements or approved arrangements. These systems must be verified, or approve or recognise, in accordance with the relevant standard.

Please provide the total number of food businesses that have a food safety program/ management system/ statement/ approved arrangement that has been verified or approved or recognised.

Note that this question does not apply to Division 2 – general seafood safety requirements of Standard 4.2.1, and only bivalve molluscs (which are enforced by the WA Department of Health). Therefore, the response to this question for Standard 4.2.1 by local governments should be 0.

This question does not apply to export food businesses.

Question 28: How many of these food businesses were assessed or audited in relation to the standard/s during the reporting year?

Food businesses required to comply with these standards should be assessed or audited (depending on the specific regulatory requirements) against the standard. Please provide the total number of food businesses that were assessed or audited in relation to the standard/s during the reporting year.

Depending on the requirements of each standard, the assessments or audits may be conducted by the appropriate enforcement agency, the controlling authority (WA Department of Health), or an approved regulatory food safety auditor (part 8 of the Food Act).

Where the audits are conducted by the WA Department of Health as the controlling authority (for meat) the local government enforcement agency is required to report this data.

Part D The information gathered in this section relates to new questions for this reporting period.

This section has been introduced to highlight specific focus areas and these questions may change year to year. Please note, if you have not collected the information requested at Q29 to Q33, these will be repeated in the 2024/25 reporting year.

Question 29: How many food businesses considered allergen management as part of their food operations?

What level of consideration food businesses are applying to allergen awareness in their food operations. Answer using one of the following options.

- only a few, or
- around a quarter, or
- around half, or
- nearly all of the food businesses

Question 30: What is the number of Food businesses captured by standard 3.2.2A?

Question 31: How many of these have appointed a Food Safety Supervisor?

Question 32: Number of re-inspections

The number of re-inspections conducted of food businesses following routine inspections.

Question 33: Number of complaints investigated.

The number of complaints received that were investigated by the local government. This includes all allegations investigated (whether confirmed or not if a breach of the Food Act has occurred).

Question 34: Is there any other feedback or suggestions you would like to provide?

Signed declaration by enforcement agency.

The report must be authorised by the Chief Executive Officer of the enforcement agency. This signed form is not required to be sent to the Department of Health, please keep it for your records. When submitting the report online, the person submitting the report will need to check the following declaration:

“By checking this box, I declare that this is a true and accurate report on the performance of the functions during the <year> financial year and that I have the authorisation to submit this report on behalf of the Chief Executive Officer of the Local Government stated above. I understand that this declaration and the information I have provided will be retained according to the government record keeping laws.”

Submitting the report

The report must be submitted to the Department of Health online at <https://consultation.health.wa.gov.au> by **31 August**.

This document can be made available in alternative formats on request for a person with disability.

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