



## 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 <https://consultation.health.wa.gov.au/environmental-health-directorate/food-act-public-health-act-reporting> 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](mailto:foodsafety@health.wa.gov.au)

**Question 1:** What is your local government authority (LGA) name?

### 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:** What is the number of full-time equivalent Public Health Act authorised officers working in your LGA?

**Question 3:** What is the number of full-time equivalent persons that assist authorised officers with their duties in your LGA?

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 (LGAs) 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. 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:** Has your LGA experienced 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. an authorised officer

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:** Has your LGA had 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 full-time equivalent Food Act authorised officers?

**Question 7:** What is the number of full-time equivalent persons that assist with the discharge of duties of Food Act authorised officers?

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 these questions 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:** What are the primary qualifications of Food Act authorised officers that do not hold qualifications suitable to be appointed as an Environmental Health Officer, and the number of Food

Act authorised officers with this qualification? (list each qualification type, subject and number of officers)

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 WA 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. The frequency of onsite food safety assessments aids in the monitoring of this enforcement agency function.

**Question 10:** What is the total number of food businesses in the enforcement agency's jurisdiction?

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/notified (i.e. primarily located) with other enforcement agencies and operate temporarily within your enforcement agency district.

The response is numeric (whole number).

**Question 11:** Explain how the enforcement agency determines the frequency of routine onsite food safety assessments of food businesses (please advise if the WA risk priority classification tool is used)

Routine onsite food safety assessments are assessments performed at a food premises by authorised officers to assess food business' compliance with the food safety legislation. These food safety assessments are scheduled to be conducted at a frequency determined by the enforcement agency (for example according to risk prioritisation).

Please explain how you determine the frequency of routine onsite food safety assessments of the food businesses within your district, including whether you utilise the [Food Business Risk Profiling Tool](#) (PDF).

**Question 12:** 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 10), 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 13:** What was the total number of routine onsite food safety assessments that were conducted?

Routine onsite 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 onsite assessments to investigate complaints, or to follow-up from previous assessments or enforcement action.

The response is numeric (whole number).

**Question 14:** What is the number of food businesses by risk rating?

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 [WA Food Regulation: Food Business Risk Profiling \(PDF 777KB\)](#) 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 in to 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 10.

The response is numeric (whole number).

**Question 15:** What is the number of food businesses by principal type of activity?

Information on the type of food business activity is generally obtained by enforcement agencies during food business Food Act registration/notification. The categories used for these reporting purposes are based on the [Food Standards Australia New Zealand template food business notification/registration form \(PDF\)](#), published in Safe Food Australia 2<sup>nd</sup> edition. Some additional

categories have been included based on feedback from local governments and the need for data on certain industries for state-wide and national food regulatory activities.

- The total number of food businesses per category should be entered in the respective category.
- Where a food business undertakes more than one activity, only the principal activity should be reported.
- 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.
- Include the number 'not determined' if you have not determined categories for food businesses or are unable to extract the data.
- If you use other categories, please specify each category that you use and the number of food businesses in that category.
- 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 10.

## Food Act compliance and enforcement activities

**Question 17:** Does the enforcement agency have a compliance and enforcement policy in place?

If no, why?

Enforcement agencies are encouraged to implement a compliance and enforcement policy to guide decision making and achieve consistency, efficiency and transparency in enforcement activities. The Department of Health Compliance and Enforcement Policy and Compliance and Enforcement Guideline for Enforcement Agencies are available on the [Department of Health website](#) and are based on the Australia and New Zealand Food Regulation Enforcement Guideline.

The response to this question is a choice of yes or no. If you do not have a compliance and enforcement policy please provide the reason.

**Question 18:** Number of prosecutions instigated, number of successful prosecutions.

**Question 19:** Number of seizures performed.

**Question 20:** Number of improvement notices served.

**Question 21:** Number of infringement notices served.

**Question 22:** Number of prohibition orders served.

Questions 18 to 22 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.

## Regulatory food safety auditing

Questions 24 to 30 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. Industry specific data on private hospitals/nursing homes and childcare centres will be used by the Department of Health to inform projects on food-borne illness reduction in these food industry sectors.

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 24:** What is the total number of food businesses captured under Standard 3.3.1?

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. 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 25:** 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 (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 24) please provide the number that have a food safety program that has been verified to substantially comply with Standard 3.2.1 of the Code.

**Question 26:** 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.

Of the total number of food businesses captured by Standard 3.3.1 (response to question 24) please provide the number that are undergoing regulatory food safety auditing.

**Question 27:** How many regulatory food safety audits were conducted during the reporting year?

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.

Please provide the total number of regulatory food safety audits that were conducted of food businesses in your jurisdiction that are captured by Standard 3.3.1 of the Code, during the reporting year.

**Question 28:** 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.

**Question 29:** What is the total number of childcare centres and private hospitals/nursing homes captured by Standard 3.3.1 within your district?

**Question 30:** How many of these food businesses had at least one regulatory food safety audit during the reporting year?

Please provide the number of childcare centres and the number of private hospitals and nursing homes captured by Standard 3.3.1 that are within your district. These businesses are required to be audited under the Food Act at the frequency determined by the enforcement agency. Please provide the number of these businesses that have had at least one regulatory food safety audit during the reporting year.

## Primary production and processing

Questions 32 to 35 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 as, in accordance with Regulatory Guideline 4, the Department of Agriculture Water and the Environment is the appropriate enforcement agency.

The response to these questions are numeric, whole number.

**Question 32:** What is the total number of food businesses captured by the Standard/s?

**Question 33:** How many of these food businesses are registered?

Please 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.

Of these food business, please provide the number that you have registered under the Food Act.

**Question 34:** 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 as, in accordance with Regulatory Guideline 4, the Department of Agriculture Water and the Environment is the appropriate enforcement agency.

**Question 35:** 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.

## Regulatory Guideline 5

Questions 37 to 40 relate to the implementation of Food Act Regulatory Guideline 5 – The preparation of raw egg-based product – consistent approach to be adopted by enforcement agencies and food businesses, which can be viewed (along with associated documents – the “raw egg package”) on the [Department of Health website](#).

The data obtained from these questions enables the Department of Health to monitor implementation of Regulatory Guideline 5 and identify if additional support is required.

**Question 37:** Did the enforcement agency implement Regulatory Guideline 5 and the “raw egg package”?

Enforcement agencies in WA are required to adopt and implement Regulatory Guideline 5, which provides for a consistent approach by enforcement agencies in the application of the Food Act to food handling controls relating to eggs and raw egg-based products.

The response to this question is a choice between ‘yes’, ‘no’ and ‘N/A’ (not applicable). Respond “yes” if the enforcement agency undertook assessment and enforcement of egg food handling



controls as required by Regulatory Guideline 5. Respond 'N/A' if the enforcement agency does not have (or is not aware of) food businesses handling raw egg-based products in their jurisdiction.

If your response is no, please provide the reason why.

**Question 38:** Has the enforcement agency used the following "raw egg package" resources: egg inspection checklist (if yes how many assessments were conducted using the checklist?); advisory letter for Council; compliance strategy?

This question does not apply if you responded 'No' or 'N/A' to question 37, in which case please respond 'N/A'.

If you responded 'Yes' to question 37, please provide either a 'Yes' or 'No' response to indicate if you used the particular resource during the reporting year.

If you used the egg inspection checklist, please provide the total number of assessments that were conducted using it.

If no compliance issues were found during assessments, then respond 'N/A' to using the compliance strategy.

**Question 39:** How many improvement notices were served in relation to raw-egg based product handling assessments?

**Question 40:** How many prohibition orders were served in relation to raw-egg based product handling assessments?

If prohibition orders were served, was the template prohibition order used?

This question does not apply if you responded 'No' or 'N/A' to question 37, in which case please respond 0 or 'N/A'.

Please provide the total number of improvement notices and prohibition orders that you served in relation to raw-egg based product handling assessments, and whether you used the template prohibition order provided in the "raw egg package".

## Part C

The Food Act gives enforcement agencies autonomy to implement food related public health initiatives in addition to their core Food Act functions. This section provides you with the opportunity to share these initiatives and to suggest future policy considerations.

**Question 42:** What food safety education or training did your enforcement agency provide during the reporting year?

Please provide details of the food safety education or training that you provided during the reporting year, including the stakeholder, topic and format.

**Question 43:** Please provide your key highlights and issues over the last 12 months

This is an opportunity to share your highlights and bring any issues or suggestion to the attention of the Department of Health.

**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 Authority 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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