



Managing consumer food safety in Queensland

Report 17: 2018–19



Your ref:
Our ref: PRJ01099

14 May 2019

The Honourable C Pitt MP
Speaker of the Legislative Assembly
Parliament House
BRISBANE QLD 4000

Dear Speaker

Report to parliament

This report is prepared under Part 3 Division 3 of the *Auditor-General Act 2009*, and is titled Managing consumer food safety in Queensland (Report 17: 2018–19).

In accordance with s.67 of the Act, would you please arrange for the report to be tabled in the Legislative Assembly.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Brendan Worrall".

Brendan Worrall
Auditor-General

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Audit objective and scope

The objective of this audit was to examine whether food safety is effectively managed for consumers of food in Queensland.

We audited local governments (councils), the Department of Health, and hospital and health services in three of the most densely populated or high-demand tourist locations along the state's coast.

In doing so, we examined whether entities:

- have a sound approach to managing food risks to the community
- are clear about their roles and responsibilities in ensuring consumers receive safe food
- are effectively administering and enforcing their duties as part of the *Food Act 2006* and its supporting regulation.

Entities in scope

The entities within scope of this audit included:

- Department of Health
- in the Brisbane region
 - Brisbane City Council
 - Metro North Hospital and Health Service
 - Metro South Hospital and Health Service
- in the Gold Coast region
 - Council of the City of Gold Coast
 - Gold Coast Hospital and Health Service
- in the Cairns region
 - Cairns Regional Council
 - Cairns and Hinterland Hospital and Health Service.

Scope exclusions

The audit excluded from scope:

- the *Food Production (Safety) Act 2000* and the Food Production (Safety) Regulation 2014 and their administering bodies, including the Department of Agriculture and Fisheries and Safe Food Production Queensland (a statutory body)
- aspects of the *Food Act 2006* and Food Regulation 2016 relating to food labelling, food composition, food packaging, and equipment
- food not covered in the *Food Act 2006*.

Appendix B provides more information about the audit scope, objective, and methods.



Performance engagement

This audit has been performed in accordance with the *Australian Standard on Assurance Engagements ASAE 3500 Performance Engagements*.

The conclusions in our report provide reasonable assurance that the objectives of our lines of inquiry have been achieved. Our objectives and lines of inquiry are set out in Figure B1 in Appendix B.

Assessment criteria was established to support each line of inquiry. We assessed each line of inquiry against the criteria. The performance auditor has assessed the evidence required (nature/timing/extent) after considering the characteristics of the expected activities.

Within any assurance engagement there is a risk that we will express an inappropriate conclusion. This will arise where conclusions are based on evidence that is not soundly based or that is improper or incomplete as a result of inadequacies in the evidence gathering process, misrepresentation or fraud. Queensland Audit Office staff make critical assessments, with a questioning mind, to support the representations of management. Our sample testing methodology includes judgemental sampling, meaning that the sample may not be representative of the entire population, but is sufficient to provide evidence of failures in procedures and practice.

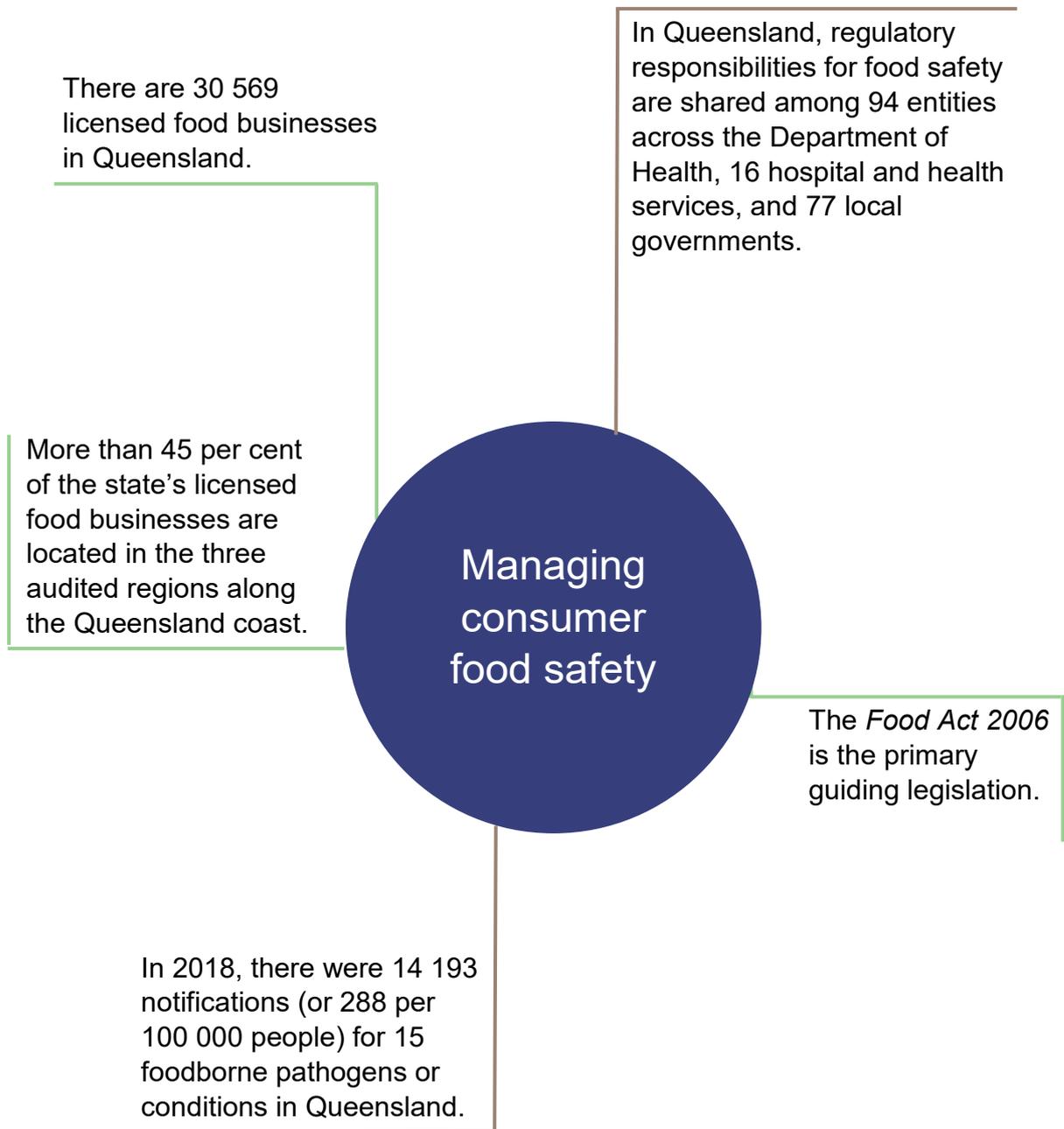
Variations can be considered material in nature, not necessarily in number. All variations that are material in nature and found in evidence will be included in our reports to management and parliament. Variations against required food safety procedures and practice are considered material due to the potential significant impact on the public health, safety and wellbeing of Queenslanders. Where procedures, guidance and practice (including management oversight) are insufficient to achieve expected outcomes, this is also considered material.

Reference to comments

In accordance with s. 64 of the *Auditor-General Act 2009*, we provided a copy of this report to relevant entities. In reaching our conclusions, we considered their views and represented them to the extent we deemed relevant and warranted. Any formal responses from the entities are at Appendix A.



Key facts



Note: 'Pathogen' refers to an infectious agent.

Source: Queensland Audit Office.



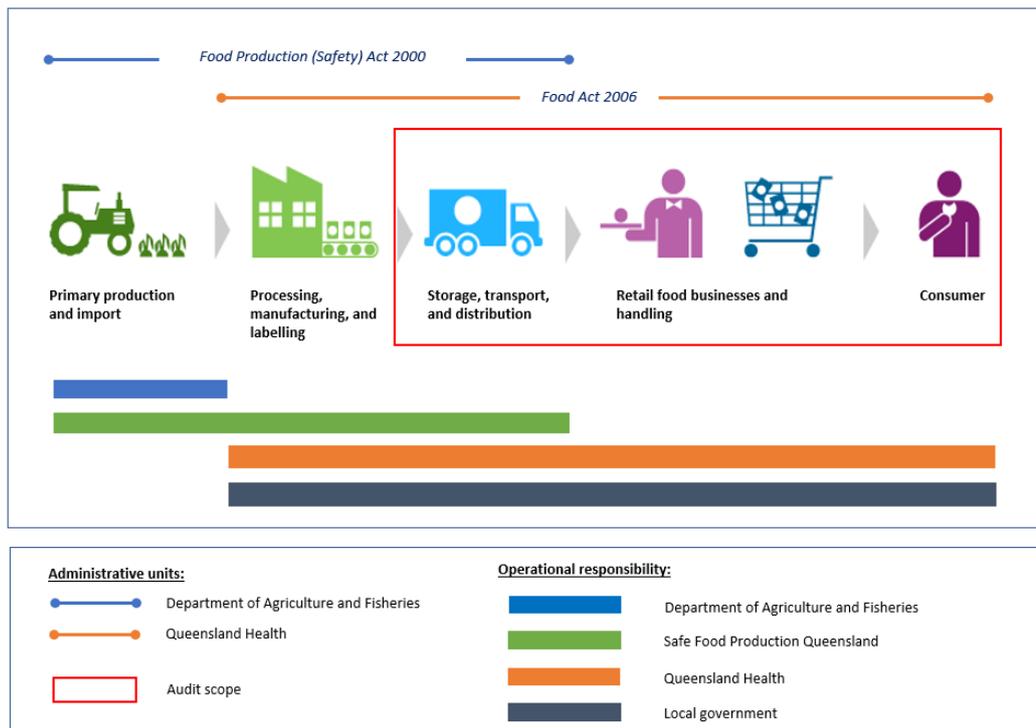
Introduction

Food safety is an important aspect of public health and wellbeing. Breaches in food safety can result in illnesses, hospitalisations, and in extreme cases, deaths. Worldwide, an estimated 600 million people fall ill each year as a result of consuming contaminated food. Of these, an estimated 420 000 die. In Australia, approximately 5.4 million cases of foodborne illness cost the community \$1.2 billion per annum.

Queensland’s food industry is rapidly growing. Since 2010, the number of licensed food businesses in Queensland has increased by 27 per cent, from 24 029 to 30 569. This, coupled with emerging food business innovations (such as market stalls, shared commercial kitchens, food trucks, and online delivery services), has placed huge demands on food regulators. Major events like the Commonwealth Games and local community events like agricultural shows contribute to the complexity.

Queensland has adopted a multi-agency approach to managing food safety along the food chain from primary producers to consumers (paddock to plate). Figure 1 illustrates the key legislation and entities involved.

Figure 1
Relevant food safety legislation and responsibilities



Source: Queensland Audit Office.

Food safety legislation

Queensland's paddock to plate food safety is governed primarily by two pieces of legislation:

- The *Food Act 2006* (the Act) is the primary consumer food safety legislation. It regulates food businesses to ensure the food they sell is safe and suitable for human consumption.
- The *Food Production (Safety) Act 2000* regulates the production of primary produce for which a food safety scheme applies.

Both adopt relevant parts of the national food standards (which are included in the Australia New Zealand Food Standards Code).

Responsible entities

Queensland administers and enforces the Act through Queensland Health and local governments (councils). In all, 94 organisations have responsibilities for food safety regulation across the state. They include the Department of Health, 16 hospital and health services (HHSs), and 77 councils.

There are 190 council environmental health officers working to administer and enforce the Act across the state, along with HHS environmental health officers (who also manage other public health responsibilities such as pest control and water quality).

The effectiveness of the food safety system is dependent on the ability of the members of this regulatory community to understand their own and each other's roles and to monitor, prioritise, and communicate effectively.

Food safety activities

Some key activities involved in managing food safety include:

- issuing food businesses with licences
- accrediting food safety programs (which specify how applicable food businesses intend to control safety hazards associated with food handling)
- conducting compliance inspections of food businesses
- investigating food safety-related complaints or potential foodborne illness outbreaks
- taking enforcement action (for example, issuing improvement notices) for non-compliance
- educating food businesses to improve awareness of food safety.



Glossary

Term	Definition
Authorised person or officer	A person who is empowered to enforce the <i>Food Act 2006</i> (the Act) and can monitor compliance with the Act by inspecting food businesses. They work for either Queensland Health or a council and are appointed by the respective chief executives or their delegates in accordance with the Act.
Check audit	An audit of an accredited food safety program conducted by a food safety auditor employed by Queensland Health, for the purpose of assessing the appropriateness of an earlier audit conducted on the same program.
Dark kitchen	A commercial kitchen facility, operated by online food delivery businesses, for the purpose of cooking food purely for delivery rather than for eat-in customers.
Food business	A business, enterprise, or activity that involves the handling of food intended for sale, or the sale of food, regardless of its commercial, charitable, or community nature.
Food business suitability assessment	An assessment conducted by a local council to determine the suitability of a person to hold a licence and the suitability of premises for carrying on a licensable food business.
Food safety auditor	A person approved by Queensland Health to conduct audits of an accredited food safety program for the purposes of the Act.
Food safety program	A program that specifies how a food business intends to control food safety hazards associated with food handling.
Food safety standards	The food safety standards are contained in Chapter 3 of the Australia New Zealand Food Standards Code.
Food safety supervisor	A person with skills and knowledge in food safety who knows how to recognise, prevent, and alleviate food safety hazards and has the authority to supervise and give directions about food safety to food handlers in a food business.
Inspection	The examination of food or systems for control of food, raw materials, processing, and distribution (including in-process and finished product testing) to verify they conform with regulatory requirements.
Licensable food business	A food business that is required by the Act to hold a council-issued licence to operate.
Potentially hazardous food	Food that has to be kept at certain temperatures to minimise the growth of any pathogenic microorganisms that may be present in the food or to prevent the formation of toxins in the food. ('Pathogenic microorganism' refers to any microorganism capable of damaging its host and includes viruses and bacteria.)



Term	Definition
Prescribed infringement notice (PIN)	An enforcement option that authorised persons may issue without starting a prosecution through the court system. PINs may only be issued for offences prescribed in the State Penalties Enforcement Regulation 2000.
Queensland Health	The Department of Health and the 16 hospital and health services (HHSs) established across the state are collectively referred to as Queensland Health.
Shared kitchen	A fully equipped commercial kitchen facility for use by individuals or small groups as renters or members.
Syndromic surveillance	An investigational approach where health department staff monitor disease indicators in real time or near real time to detect outbreaks of disease earlier than would be possible with traditional public health methods. They are assisted by automated data collection and system-generated alerts.
Third-party auditor	A food safety auditor who does not work for Queensland Health or local government.



Summary of audit findings

Governing legislation and frameworks

Legislation exemptions and challenges

The *Food Act 2006* (the Act) regulates Queensland food businesses based on the food safety risks they present to the community. However, since the Act does not apply to all food businesses, large sources of food safety risks are not covered.

For example, the Act does not apply to state entities, such as public hospitals, public aged care facilities, and correctional centres, and it specifically exempts tuckshops run by state schools. Equivalent private sector organisations are subject to regulatory scrutiny.

Equivalent legislation in other Australian jurisdictions has taken a different approach. In these jurisdictions, the legislation ‘binds’ the state or the territory entities delivering food services, which means they are not exempt.

The Queensland exemptions are not based on food safety risks, as these public organisations face the same risks as their private counterparts when serving food. In addition, they serve it to the people most vulnerable to foodborne illnesses, such as hospital patients, children, and the elderly. The communities to which they provide food rely on them choosing to implement sound food safety practices and initiatives.

The Act’s definition of licensable businesses is complex, making it difficult for prospective food businesses and councils to understand and apply. The definition excludes certain businesses from licensing requirements based on a complicated matrix of factors, many of which are not directly relevant to food risks.

Examples include the number of people catered for, how many times a year food is served, or whether it is served with a knife and fork. As a result, parts of the food and food service community are not required to be licensed or overseen under the Act. Sometimes, this can limit the ability of regulators to manage genuine food risks.

Even the simplest of foods can cause a challenge for regulators under the current system of rules. Each new innovation poses a new set of questions to test the application of the Act. For example, are cronuts a snack food or a bread? How do the regulators locate dark kitchens, which don’t advertise their street presence, and which cook food purely for delivery rather than for eat-in customers? How do the regulators license commercial kitchen premises rather than the food manufacturers who rent them?

The Act incorporates the national food safety standards, which are part of the Australia New Zealand Food Standards Code (the Code) adopted by all Australian states and territories. While the Code applies to all food businesses covered under the Act, those businesses not subject to licensing requirements rarely attract any scrutiny from regulators.

Risk-based framework

Queensland Health has created guidelines to assist with implementing the Act and its subordinate regulation, but it hasn’t developed a statewide risk-based framework to guide consistent practices. As a result, there isn’t a common approach to classifying food businesses, monitoring compliance, and taking enforcement action.



The three councils we audited have adopted their own risk-based regimes to classify food businesses, plan inspections, and decide on enforcement action. Two councils assess the risk of a food business based on the adequacy of their food safety controls and management practices (for example, an excellent performer is given a five-star rating). The other council assesses other risk factors such as the type of food and intended use, activity of the food business and customer base (for example, a child care centre is high risk). The resulting inconsistencies are apparent. Across the three councils, similar types of food businesses are inspected at different frequencies, ranging from every year to every three years, and similar offences attract different enforcement actions. Queensland risks delivering inconsistent food safety outcomes to consumers across the state.

Other Australian jurisdictions have statewide risk-based frameworks to drive greater consistency. For example, the legislation in Victoria prescribes a food business classification system based on food safety risks and sets out food safety requirements for each class. (Appendix E provides a summary of Victoria's food regulatory system, including risk-based classification and compliance checks.)

Governance and reporting

Queensland Health is made up of the Department of Health (the department) and the HHSs. While Queensland Health and councils are jointly responsible for administering the Act, the councils are not represented on state-level interagency committees. In addition, while the department represents the Queensland Health system on those committees, HHSs are not always asked to provide input, despite their active regulatory responsibilities. Other entities on the committees include the Department of Agriculture and Fisheries and Safe Food Production Queensland.

Although Queensland Health has overall accountability for administering the Act, it has no statutory power to oversee the effectiveness of council responsibilities under the Act. Despite this, councils are required to meet their reporting obligations under the Act. Each council provides data to Queensland Health annually, but Queensland Health's annual reporting on food safety activities is not timely.

The three councils use different systems, including multiple systems within the same council, to maintain licensing, compliance monitoring, and enforcement activities. As a result, there is no consistent way for Queensland Health to collate or collect data across the councils. Their collation of data for annual reporting purposes is manual and time consuming.

Queensland Health has not established effective performance measures to assess food safety outcomes and compliance across the state. The current reporting focuses on activity levels such as the number of inspections conducted and the number of complaints received. It does not focus on awareness of food risks or the compliance rate of food businesses.

All HHSs use the Queensland Health Monitoring, Applications, Permits and Licensing Events (MAPLE) data record system. The usability of the system is limited by lack of functionality and by inconsistent adherence to rules when entering data. Data capture is poor and untimely, with limited quality checking across HHSs, resulting in unusable information at an aggregated level to identify trends, patterns, and emerging food risks.

An innovative technology tool implemented by the Gold Coast HHS for the Commonwealth Games 2018 has the potential to be improved and deployed more widely. It monitors near real-time data and enables more rapid detection of potential foodborne illness outbreaks.



Queensland Health does collect data on notifiable conditions. The *Public Health Act 2005* and the Public Health Regulation 2018 define a number of infections as notifiable conditions. Not all of these infections are caused through foodborne transmission. The data does not differentiate notifiable conditions acquired at licensed food businesses from those acquired elsewhere, such as a private residence, due to the complexity of accurately determining where the cause of the illness originated. Also, not all pathogens that cause food poisoning in the community are notifiable to Queensland Health. Therefore, this data is not a reliable indicator of food safety outcomes or the effectiveness of councils regulation of licensed food businesses. Appendix G provides further details about notifiable conditions.

Managing and enforcing food safety

Queensland Health

The department (through its Health Protection Branch) and the 16 HHSs (through 11 public health units) work together to administer their responsibilities under the Act. They manage an annual compliance plan for food safety risks as well as other public health risks such as communicable diseases and water quality.

Under the compliance plan, Queensland Health instigates surveys and sampling projects for specific food risks. For example, it set up a project to survey eggs for sale, which analysed samples from retailers across the state for salmonella (which causes gastrointestinal disease). However, when competing priorities arise, Queensland Health can experience difficulties. This can lead to projects being delayed, scopes being changed, and outcomes not being reported on.

Local government

As the primary regulators of licensable food businesses, local governments decide what processes, practices, resources, and systems they implement to meet the requirements of the Act. This audit involved assessing how effectively each council applied its chosen approach to its food safety responsibilities. We assessed a small sample of transactions at each council to identify opportunities for improvement to the effectiveness of their processes and procedures. It should be noted that we did not select a sample that was representative of the total population of all councils' regulatory activities. The exceptions we have identified are generally significant in nature, not necessarily in the number of them.

The three councils have adopted different regulatory approaches but experience similar challenges and all need to reduce their licensing backlogs (to varying degrees). They also lack the resources and tools to proactively detect food businesses operating without a licence, particularly for those that are located away from areas where council inspectors regularly visit.

The three councils have also experienced issues with managing the legislative requirement for licensable food businesses to have food safety supervisors. At present, the supervisors do not need to satisfy any competency standards. They are not required to be present or employed in the food business—merely to be 'reasonably available'. Staff turnover in these positions can be high, which creates an administrative burden on food businesses and councils in updating details of supervisors. These limitations are at odds with the supervisors' intended roles as important controls to ensure everyday safe food handling in licensable food businesses.

Brisbane City Council

The Brisbane City Council developed and implemented a risk-based 'Eat Safe' program in 2010 for managing food licensing and inspections.

The program aims to promote proactive business engagement in the food safety agenda and to educate consumers through a star rating system. The council allocates food businesses a 'star rating' based on their compliance results with food safety standards and any established good management practices. The rating guides the frequency of inspections (for example, a five-star rated business is inspected once every three years).

The council has designed its policies and procedures to effectively manage food risks. Importantly, the procedures specify when planned inspections should occur and provide guidance on the appropriate use of enforcement tools.

The council has demonstrated that it is managing its licensing, inspection, and enforcement processes. It has adequate operating procedures and regular performance monitoring. While the council has a routine quality checking process, it no longer maintains a register to easily demonstrate quality assurance coverage.

The council needs to improve its practice relating to follow-up inspections of four- to five-star rated new food businesses. The council also needs to improve how consistently it applies its procedural requirements for accrediting food safety programs and following up non-compliances in a timely manner.

Council of the City of Gold Coast

In November 2017, the Council of the City of Gold Coast adopted the Eat Safe program, which replaced its previous risk-based Food Standards Australia New Zealand (FSANZ) priority classification system. The council's Eat Safe program has a more frequent inspection schedule than the Brisbane City Council's program does.

The Gold Coast council has established adequate policies and procedures for managing licensing, inspection, and enforcement processes. Its management monitors timeliness of response to food safety complaints but not timeliness of licensing processing. The food safety teams also have regular internal quality checking processes in place. However, the council needs to improve both the timeliness of its licence application processing and the configuration of its new system to better track and manage its licensing backlogs. The council also needs to improve how consistently it applies its procedural requirements for accrediting food safety programs and following up non-compliances.

Cairns Regional Council

The Cairns Regional Council has applied a risk-based approach to its food safety responsibilities. Its approach is based on FSANZ and results in the council having a more frequent schedule than the other two councils for conducting routine inspections. For example, high- and medium-risk food businesses are scheduled to be inspected once every year. The council initiated an internal review of its licensing team operations in 2016 to improve customer service and efficiencies.

In the absence of council's own policies and procedures, council staff place reliance on the Queensland Health guidelines to assist in fulfilling council's regulatory responsibilities. Due to the high-level nature of Queensland Health guidelines, this creates a risk of inconsistent interpretation by council staff in making decisions, and insufficient documentation to support decisions.

At the time of the audit council's food safety teams reported that they were not keeping up with the current food safety activities. A number of areas for improvement were noted.



The council needs to improve:

- its backlog of licence applications and renewals so food businesses don't run the risk of operating without a licence
- the consistency of inspections and the completeness of inspection reports prior to issuing licenses
- the timeliness of routine inspections according to the council's inspection schedule
- the apparent inconsistency at times between inspection report conclusions compared with the food safety issues raised in the inspection reports.

The council could also have taken further enforcement actions on some occasions—based on Queensland Health enforcement guidance. The council reported to us that it prefers to take an education and awareness-based approach rather than simply an enforcement approach. However, council was unable to provide evidence of its education approach, policies and procedures beyond the inspection reports themselves.

In November 2018, council management developed improvement action plans to address the issues identified by this audit. Council has provided us with several updates regarding their progress in implementing these plans.

Joint responsibilities

The Act allocates responsibility for different elements of food safety to different entities. However, four sections of the Act allocate joint responsibility for preventing and responding to the handling and sale of unsafe and unsuitable food.

Queensland Health has issued guidelines for investigating foodborne illness outbreaks. The guidelines outline the roles and responsibilities of entities during joint investigations.

HHSs and councils in Brisbane and Gold Coast have well-established local working protocols, for example, for how to refer a complaint to another entity and for which entity takes a lead role during investigation and subsequent enforcement.

In Cairns, environmental health officers (EHOs) of the council and the local HHS have expressed different views on the council's roles and responsibilities for taking part in joint investigations.

Entities have demonstrated they can work well together to effectively manage food risks for major events and during foodborne illness outbreaks when those occur. For example, during the Gold Coast 2018 Commonwealth Games, the Council of the City of Gold Coast and Queensland Health entities (including the department and the Gold Coast HHS) collaborated strongly.

Also, through lessons learned during foodborne illness outbreaks, a joint taskforce (called an outbreak control team) is now established as standard procedure to ensure lines of communication are clear and effective.

Food safety program audits and the mobile food register

Some higher-risk licensable food businesses are required to have food safety programs. Examples include businesses serving or processing food off-site or for vulnerable people, and certain on-site catering businesses. The programs are intended to reflect the food risks of each business and drive proactive risk management.

Businesses that require a food safety program must have an independent audit of their program at defined intervals. Councils are supposed to review the results of the independent audit reports and follow up at the next inspection or sooner. We found that not all councils maintain documentary evidence of follow-up actions taken on non-compliance issues identified in the audit reports.

Independent food safety auditors must be formally approved by Queensland Health. While food safety auditors can be EHOs of Queensland Health, local governments or third-party, none of the three audited councils choose to have their EHOs registered as food safety auditors, primarily due to resourcing and independence considerations. As a result, the food safety audits of applicable licensed food businesses in the three councils are entirely carried out by third-party auditors. Under the Act, they are subject to check audits—audits by approved staff auditors within Queensland Health. We found the sampling and design of the check audit process by Queensland Health is not sufficient to place reliance on the food safety programs as a strong control mechanism.

Mobile food business licensing is administered and enforced by local councils. A mobile food business is licensed in its 'home' council but can operate anywhere in the state. Inspections and enforcement of mobile food vendors operating outside their council boundaries rely on the existence of an up-to-date statewide mobile food register. Queensland Health manages the register, which has not been updated since February 2017. As a result, it is unusable for efficient cross-council communication.

Education and communication

Consumers have limited awareness of the compliance status of the state's food businesses. There is no disclosure of convictions of food safety offences due to concerns over privacy and currency of information. Queensland Health tried to establish a conviction register in 2007, but not all councils actively participated. Four other Australian states maintain publicly available registers for convicted offences under their legislation.

The Brisbane City and City of Gold Coast councils have voluntary disclosure schemes through their food business rating programs, which encourage food businesses to display their star ratings.

Queensland Health and councils independently publish numerous educational materials through their portals and websites. These materials are not always consistent with each other or complete, and there is a lot of duplication of effort.

While Queensland Health publishes a wide range of food safety material online, some of it is lengthy and not user-friendly, particularly for smaller food businesses that lack the internal resources to improve awareness and practices. Limited non-English information is available to assist food businesses and consumers from culturally and linguistically diverse backgrounds.



Audit conclusions

Australia has high standards for food safety compared to most countries. These high standards rely on effective delivery of food safety practices across the country.

Queensland has established food safety legislation that incorporates the national food safety code. However, consumers in Queensland cannot be confident of a consistent experience with respect to food safety across the state. There are gaps in the legislative coverage of food risks, there is no statewide risk-based framework to guide councils in consistently classifying and inspecting food businesses, and all the entities we audited could improve some aspects of how they apply the legislation and manage food safety standards.

Queensland is the only state or territory that doesn't require its government entities to comply with its food safety legislation. In effect, the Queensland legislation does not cover a large source of potential food safety risks. Also, while the legislation excludes certain businesses or food types in order to reduce the regulatory burden, at an operational level these exclusions are perceived as arbitrary and confusing. Much time is wasted trying to interpret rules and question regulatory boundaries.

Effectively managing food safety requires 94 entities to work together across the state. We acknowledge the effective collaboration demonstrated during some major events and foodborne illness outbreaks. However, without the support of a consistent statewide risk-based framework for monitoring and managing food businesses and making enforcement decisions, councils are left to establish and apply processes and tools individually. As a result, they duplicate each other's efforts and at times make inconsistent decisions.

It is important that councils retain the autonomy to manage council business in a manner that works for their region; however, their role as regulators must also prioritise the effective administration and enforcement of the statewide legislation on a consistent basis across Queensland. Consumers expect to enjoy the same level of protection against food safety risks regardless of where they are in Queensland, and food businesses want to have certainty over regulatory rules regardless of council boundaries.

Although controls such as requirements for food safety supervisors and food safety programs are embedded within the legislation, their effectiveness needs to be improved. Processes for assessing applications, conducting inspections, and making enforcement decisions need to be applied more consistently. Inconsistent practices in these areas can lead to elevated risks in food businesses.

Equally, an inability (perceived or actual) to use the more punitive tools in the legislation (such as prescribed infringement notices and licence suspensions) for repeated offences may weaken the regulatory framework.

Technology is not being used effectively to support the management of food safety. The regulatory entities all implement different systems without consistent data standards, which makes data aggregation challenging. Reporting at the state level is highly manual, which contributes to published information being significantly out of date. Better performance data is needed to adequately measure statewide food safety outcomes such as reduction in foodborne illnesses over time, results of enforcement actions, and quality of compliance activities.



It is essential that Queensland implements a coordinated framework of legislation, regulations, policies, and procedures that support agile, risk-based food safety management. The framework needs to be supported by more complete reporting of food businesses, food safety incidents, and regulatory activity. With this in place, it will be possible to analyse trends and provide insights to manage food safety risks proactively rather than reactively.



Recommendations

Queensland Health

We recommend that the Department of Health, in collaboration with hospital and health services:

Legislation, governance and frameworks

1. conducts a legislative review of the *Food Act 2006* (the Act) to ensure the Act enables effective responses to food safety risks (Chapters 2 and 3)

This should include:

- clarifying Queensland Health's overall administration role of the Act and enforcement powers
- evaluating the food safety risks, costs, and benefits of the current exemptions to the Act
- making the definition of licensable food businesses clearer and aligning it more to food safety risks
- establishing competency standards and availability requirements for food safety supervisors
- considering public reporting of poor food safety practices or offences.

2. ensures existing governance committees include representatives from local government and hospital and health services, in addition to the Department of Agriculture and Fisheries and Safe Food Production Queensland (Chapter 2)

3. in consultation with the Department of Local Government, Racing and Multicultural Affairs, implements a consistent statewide risk-based framework and standards for classifying and inspecting food businesses and for making enforcement decisions (Chapter 2)

This should include:

- minimum standards for inspecting food businesses, investigating complaints, assessing inspection results, and making enforcement decisions, including documentation standards
- redesigning the check audit regime including sampling methodology, timeframes, and capability of check auditors.

Monitoring, data and reporting

4. designs and implements a set of performance measures for statewide food safety outcomes such as reduction in foodborne illnesses over time, results of enforcement actions, and quality of compliance activities (Chapter 2)

5. rectifies its data collection and reporting issues, including:

- providing local governments with better access to update the statewide mobile food business register
- publishing annual reporting of local government food safety activities within a reasonable timeframe



- improving the functionality and the timeliness, quality, and consistency of data capture of the Monitoring, Applications, Permits and Licensing Events (MAPLE) system
 - improving project governance and reporting for statewide compliance plan projects (Chapter 3).
6. investigates long-term technology solutions that can support a consistent statewide approach to detecting and managing foodborne illness outbreaks (Chapter 3)

Training

7. identifies training requirements for authorised people to promote consistent regulatory outcomes. The requirements should include skills in gathering evidence, managing a prosecution event, and conducting a check audit (Chapter 3).

We also made the following recommendations to local government.

Brisbane City Council

We recommend that the Brisbane City Council:

8. reviews the risks associated with its licensing inspection processes for new food premises. It should consider whether additional procedures such as follow-up inspections are required within a reasonable timeframe after the food business becomes operational (Chapter 3)
9. ensures consistent adherence to its operating procedures on food safety programs (Chapter 3).

Council of the City of Gold Coast

We recommend that the Council of the City of Gold Coast:

10. improves the configuration of its systems to ensure they can adequately capture extensions granted in accordance with the legislation, effectively manage the backlog of licensing applications, and report on the council's food safety activities (Chapter 3)
11. ensures consistent adherence to its operating procedures on food safety programs (Chapter 3).

Cairns Regional Council

We recommend that the Cairns Regional Council:

12. continues to improve its food safety licensing and compliance processes and systems to effectively manage the backlog of overdue licensing applications and routine inspections, and ensure service levels can be maintained for local food businesses (Chapter 3)
13. implements detailed council specific operating procedures to complement Queensland Health guidance for, and monitoring and analysis of:
- processing licence applications, including conducting assessments and accrediting food safety programs
 - following up on non-compliance issues identified in food safety program audits
 - inspecting food premises—including assessment standards
 - taking enforcement action (Chapter 3)
14. improves the configuration of the data management system to enable applications to be extended where appropriate in accordance with the legislation (Chapter 3).



1. Context

Food safety standards in Australia are high compared to those in most countries. The 2017 Global Food Security Index ranked Australia fourth out of 113 countries in food quality and security.

Australia has obligations under international conventions and agreements that set out the standards, guidelines, and codes of practice for foods, food safety and hygiene, contaminants, and residues (of plant protection products and veterinary drugs) in food.

Australia's food regulation framework

Working within the national framework

Australia and New Zealand

The Australia and New Zealand Ministerial Forum on Food Regulation (the Forum) oversees the development of regulation policy for domestic food. The Forum is supported by the Food Regulation Standing Committee, which coordinates policy advice and ensures a nationally consistent approach to the implementation and enforcement of food standards.

Food Standards Australia New Zealand (FSANZ) is a statutory authority in the Australian Government Health portfolio. It is responsible for developing, reviewing, and changing food standards.

The food safety standards, which are contained in Chapter 3 of the Australia New Zealand Food Standards Code (the Code), are given effect under the legislation of each state and territory. They place obligations on Australian food businesses to produce food that is safe and suitable to eat. They also aim to lower the incidence of foodborne illness.

The Code is enforced by state and territory agencies in Australia. There are five food safety standards:

- 3.1.1 Interpretation and application
- 3.2.1 Food safety programs
- 3.2.2 Food safety practices and general requirements
- 3.2.3 Food premises and equipment
- 3.3.1 Food safety programs for food service to vulnerable persons.

Queensland's approach

Each state and territory operates under a national Intergovernmental Agreement on Food Regulation (Intergovernmental Agreement) in aiming to deliver food safety outcomes. Appendix C summarises the approaches of four other Australia states.

Regulatory framework

The *Food Act 2006* (the Act) is the primary food safety legislation in Queensland and applies to all food businesses, unless exempt. It integrates the national Intergovernmental Agreement and adopts the Code. It aims to:

- ensure food for sale is safe and suitable for human consumption
- prevent misleading conduct (for example, false description of food on labels) in relation to the sale of food
- apply national food standards.

The Food Regulation 2016 (the Regulation) is the Act's subordinate legislation. It prescribes details in relation to menu board labelling, display of licence details by mobile premises, isolation of contaminants in food, and charging of fees for auditor applications.

The Code is given effect by state-based legislation, which includes standards for food safety and hygiene; fit-out of food premises; and labelling, composition, and advertising of food.

In addition, the *Food Safety (Production) Act 2000*, supported by its subordinate Food Production (Safety) Regulation 2014, regulates the production of primary goods. There are four food safety schemes for primary produce, covering egg and egg products, dairy products, meat and meat products (including pet meat), and seafood.

In investigating and managing suspected foodborne illness outbreaks, Queensland Health is also required to comply with relevant provisions of the *Public Health Act 2005* and Public Health Regulation 2005.

While not directly related to managing food safety, the *Local Government Act 2009* is the legislation that governs local governments in Queensland, other than the Brisbane City Council, which has the *City of Brisbane Act 2010*. This legislation provides the principles that local governments are required to follow in conducting their functions and activities.

Roles and responsibilities

Queensland Health and local governments (councils) work together with food businesses to ensure the safe supply of food to Queensland consumers. The Act allocates some specific and joint responsibilities, as outlined in the following paragraphs.

Queensland Health

Queensland Health administers the Act and is responsible for:

- enforcing certain offence provisions
- enforcing elements of the Code relating to food labelling and composition
- investigating foodborne illness, food recalls, foreign matter in food, food composition, labelling of food products, and misleading conduct
- regulating food safety auditors.

Within Queensland Health, the Department of Health (the department) is responsible for the overall management of the system, including monitoring the performance of 16 hospital and health services (HHSs).

The department has a service agreement in place with each HHS. The service agreement specifies the services the department will purchase from the HHS (including food safety) and the funding arrangement. The current service agreements cover the period from 1 July 2016 to 30 June 2019.



The department leads strategy and policy initiatives relating to food safety and standards, provides guidance and advice, and oversees compliance plan projects targeting public health risks across program areas.

HHSs manage food safety in accordance with service agreements with the department. The service agreements include the delivery of public health programs and services, as outlined in the *Public Health Practice Manual*. HHSs respond to foodborne illness complaints and suspected intentional contamination of food incidents, undertake related enforcement actions, facilitate and monitor food recalls, and maintain relevant records.

Local government

Councils administer those parts of the Act relating to licensed food businesses and are responsible for:

- licensing food businesses
- accrediting food safety programs
- enforcing certain offence provisions
- enforcing the food safety standards.

Joint responsibilities

Queensland Health and councils have joint responsibilities for preventing and responding to the sale and handling of unsafe or unsuitable food.

They often work jointly during investigations of suspected foodborne illness outbreaks or major local events. The application of joint responsibilities may vary across the state, depending on locally agreed working protocols between HHSs and councils. The various entities' responsibilities are described in more detail in Chapter 3, Figure 3A.

Food businesses and compliance requirements

The Act covers food safety risks associated with three tiers of food businesses. The higher the level of risk a food business presents to the community, the higher the level of food safety regulation. Figure 1A illustrates how the Act regulates the three tiers of food businesses based on risk.



Figure 1A
Tiers of food businesses and compliance requirements

	Tiers of food businesses	Examples of food business	Food safety standards	Licensing requirements	Accredited food safety programs
Lower  Food safety risk Higher	All food businesses (other than exempted)	Certain food services provided by non-profit organisations	✓	-	-
	Licensable food businesses	Restaurants Cafes Takeaways Food vans	✓	✓	-
	Higher-risk food businesses	Private childcare centres Private residential aged care facilities	✓	✓	✓

Source: Queensland Audit Office.

Queensland Health and councils have implemented compliance monitoring processes to manage the three tiers of food businesses, as illustrated in Figure 1B.

Figure 1B
Common compliance monitoring activities by tiers of food business

Common compliance monitoring activities implemented in practice	All food businesses, other than exempted	Licensable food businesses	Certain higher-risk licensed food businesses
Inspections by councils:			
• pre-licensing	N/A	✓	✓
• ownership change	N/A	✓	✓
• routine	N/A	✓	✓
• ad hoc (e.g. complaints)	✓	✓	✓
Queensland Health:			
• ad hoc inspections in response to complaints of foodborne illness, contamination, or foreign subject	✓	✓	✓
• food samples	✓	✓	✓
Regular audits by approved food safety auditors	N/A	N/A	✓

Source: Queensland Audit Office.



Food safety programs

The Act requires certain higher-risk food businesses to develop and implement food safety programs (FSPs), which specify how they intend to control safety hazards associated with food handling. Examples of higher-risk food businesses include those serving food to vulnerable people, such as in nursing homes and childcare centres. The Act specifies several control measures to ensure the effectiveness of FSPs, including:

- local councils assessing and accrediting FSPs prior to issuing licences
- local councils monitoring and enforcing compliance with accredited FSPs
- Queensland Health maintaining an approved FSP auditor scheme, ensuring auditors satisfy necessary expertise or experience and suitability requirements
- approved auditors conducting compliance audits of FSPs at the required frequency and providing the audit reports to the food businesses and relevant councils
- Queensland Health conducting check audits (in which they check FSP compliance audits) to ensure quality.

Queensland Health has also issued guidelines to assist councils and auditors in understanding their responsibilities relating to FSPs.

The most recent auditor register (August 2018) lists 132 approved auditors, including 25 local government staff, 54 Queensland Health staff, and 53 third-party auditors (who do not work for councils or for Queensland Health).

While third-party auditors conduct FSP compliance audits in the three audited councils, Queensland Health staff auditors are responsible for check audits.

Enforcement tools

The Act provides a hierarchy of enforcement tools to ensure food businesses comply with relevant requirements. The key enforcement tools, in escalating order, are:

- improvement notices
- prescribed infringement notices
- show cause notices
- suspension of licence
- immediate suspension of licence
- cancellation of licence
- injunction
- prosecution.

Appendix F provides a summary of the enforcement entities and of the enforcement tools and grounds for applying them.



2. Governing legislation and frameworks

Introduction

In Queensland, 94 entities have regulatory responsibility for ensuring safe food for consumers. To make sure standards are maintained, the state must have a sound approach, clear accountabilities, and effective governance arrangements.

We expected to find:

- a statewide framework covering key food safety risks to ensure compliance requirements are met consistently across Queensland
- clear compliance requirements and guidance that consider food business innovations and developments
- entities with a clear understanding of their responsibilities and accountabilities
- governance structures set up to promote effective and efficient performance and coordination of food safety regulators.

Has Queensland established an appropriate framework for managing food safety?

The entities are guided by the *Food Act 2006* (the Act) in managing and regulating food businesses. While the Act substantially supports the administration of food safety, it doesn't apply to all food businesses. This means it does not cover large sources of food safety risk.

The Act contains high-level requirements for managing food safety. Queensland Health, as the primary accountable agency for the legislation, has created guidelines for applying the Act. But it has not yet established an overarching risk-based framework for local governments (councils) to support consistent and effective application of the legislation.

Legislation exemptions and challenges

Exemptions in the Act

In contrast to their private sector counterparts, public hospitals, public residential aged care facilities, and state school tuckshops do not need to comply with the Act. Other state-owned entities, such as Queensland Rail and correctional facilities, are also excluded from the application of the Act. In all, the number of exempted state entities equates to 4.5 per cent of the state's licensed food businesses, but the proportion of consumers they serve food to may be much higher.



Food safety risks do not differentiate between public and private sector entities. The reason for the exemption is that the state cannot prosecute itself. However, equivalent legislation in other Australian jurisdictions has taken a different approach, binding the state or territory entities delivering food services (which means they must comply with the legislation). Appendix C summarises the main elements of the equivalent legislation in four other Australian states.

In the absence of legislative requirements, consumers rely on the voluntary initiative of exempted entities to ensure food safety standards are met. Some state entities, such as public hospitals and residential aged cared facilities, serve food to vulnerable people. If they were not exempted in the Act, they would have to implement food safety programs that would show how they control the safety hazards associated with food handling. As it stands, there are no checks required under the legislation to ensure they have food safety programs in place.

Exempted organisations can refer to guidelines issued by Queensland Health or Food Standards Australia New Zealand (FSANZ) to establish standards and expectations. For example, FSANZ publishes guidelines on food safety programs for food service to vulnerable people. However, there is no third party oversight to ensure that the exempted organisations follow these guidelines.

The Act also exempts on-site catering food businesses from the requirement to have food safety programs if they cater for less than 200 people, on 11 or less occasions, in any 12-month period.

The exemptions in the Act need to be reviewed to ensure they are in the best interests of consumers of food in Queensland.

Licensable food business

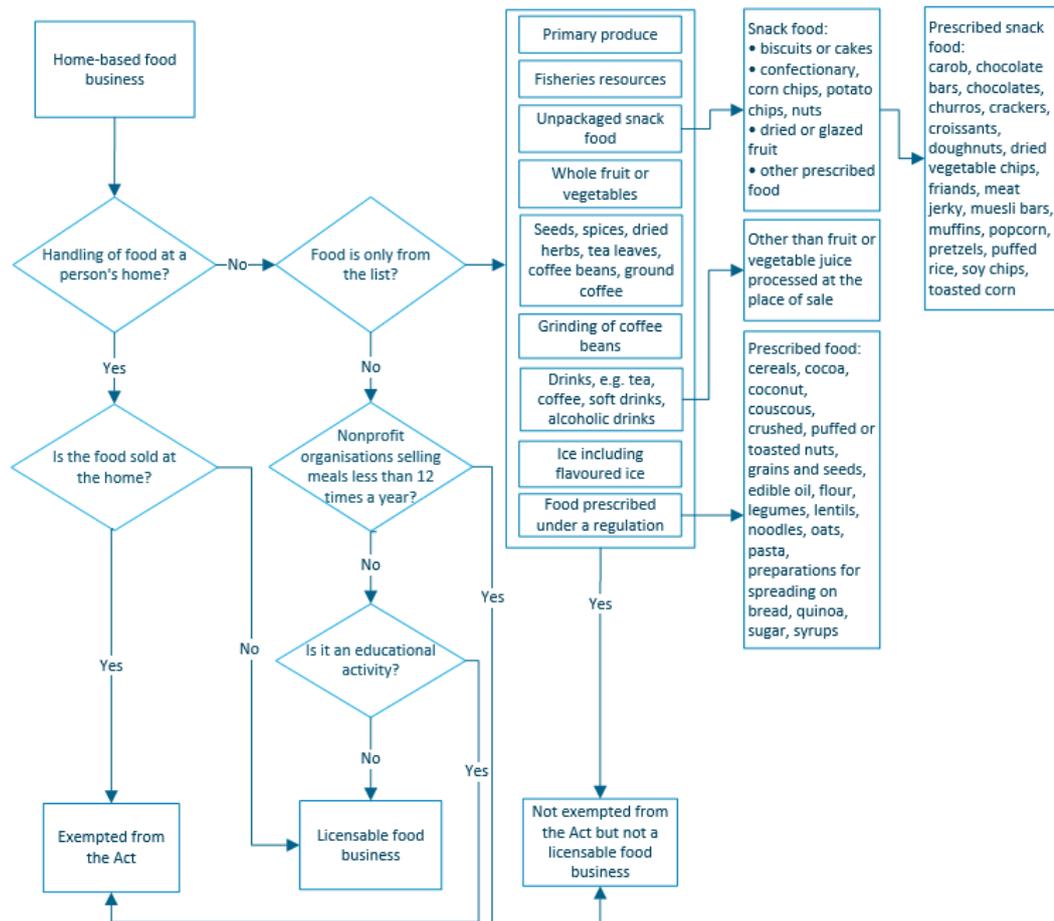
'Licensable food business' is an important concept in the Act, but often not a straightforward one. To understand the term, users of the Act must interpret several other definitions, such as sale or sell, snack food, manufacture, meal, and non-profit organisations. These can be complex in their own right.

While the Act has been in effect for over 12 years, determining whether a business is a licensable food business continues to cause confusion among councils and prospective food businesses. Consequently, there is a risk that food businesses are not correctly classified and not licensed when they should be.

It also creates work for Queensland Health, which provides assistance to councils in interpreting the legislation. Queensland Health reports that a lot of time and effort is devoted to advising councils on what a licensable business is. Over the last three years, councils submitted 108 queries to Queensland Health relating to this—representing 63.5 per cent of the total (170) queries for which Queensland Health provided written advice.

Figure 2A demonstrates the difficulty of defining where a business is licensable using the definitions within the Act.

Figure 2A
Home-based food business: exempted or licensable?



Source: Queensland Audit Office analysis of Food Act 2006 provisions.

Any future review of the legislation should make it simpler to interpret what a licensable food business is. It should also make it easier for food businesses, especially small businesses (that lack internal resources to improve awareness and practices) to understand what they need to do to obtain a licence and to maintain good food safety standards.

Establishing a statewide risk-based framework

Queensland Health has created guidelines to assist with implementing the Act and its subordinate regulation. It publishes these on the internet, including guidance on:

- appointing authorised officers
- monitoring and enforcing the Act
- assessing applications for a license
- food safety supervisors
- food safety programs
- reporting requirements.

In addition to guidance of this nature, we expected to find a statewide framework to drive consistent food safety compliance approaches across the state. This is particularly important given that accountabilities under the Act are allocated to 94 separate entities.



Other Australian jurisdictions have statewide frameworks. For example, the legislation in Victoria prescribes a food business classification system based on food safety risks. It also sets out food safety requirements for each class. (Appendix E provides a summary of its food regulatory system, including its risk-based classification and compliance checks.)

Appendix C summarises the approaches in New South Wales, Western Australia, and South Australia, where they have also adopted risk-based profiling frameworks to determine compliance activities.

The absence of a statewide framework in Queensland means councils have the autonomy to implement processes, practices, resources, and systems as they see fit.

The three audited councils (Brisbane City Council, Council of the City of Gold Coast, and Cairns Regional Council) have adopted their own risk-based regimes to classify food businesses and plan inspections. These are shown in Figure 2B.

The Cairns Regional Council has, for the purpose of scheduling routine inspections, implemented the national FSANZ classification system recommended by Queensland Health. The Brisbane City Council has developed its own food business rating program (known as Eat Safe) and the Council of the City of Gold Coast adopted this program in November 2017, making small variations to the frequency of inspections.

While the FSANZ system centres on food risks, Eat Safe focuses on the extent of controls and management practices in place within food businesses.

Figure 2B
Food business classification approaches

	Brisbane	Gold Coast	Cairns
Licence classification framework	Eat Safe Brisbane	Eat Safe Gold Coast (prior to November 2017, FSANZ priority classification system)	FSANZ: The priority classification system for food businesses (for the purpose of scheduling routine inspections)
Classification	5 star—Excellent performer 4 star—Very good performer 3 star—Good performer 2 star—Poor performer No star—Non-compliant performer	5 star—Excellent performer 4 star—Very good performer 3 star—Good performer 2 star—Poor performer No star—Non-compliant performer (prior to November 2017: high, medium, and low risk)	High, medium, and low risk



	Brisbane	Gold Coast	Cairns
Classification factors	Food handling controls Health and hygiene Cleaning, sanitising, and maintenance Good management practice	Food handling controls Health and hygiene Cleaning, sanitising, and maintenance Good management practice	Food type and intended use Activity of food business Method of processing Customer base
Routine inspection frequency	5 star—once every three years 4 star—once every two years 3 star—once every year 0–2 star—once every six months	3–5 star—once every year 0–2 star—once every six months (prior to November 2017: high risk—once every year, medium risk—once every two years, low risk—once every three years)	High/medium risk—once every year Low risk—once every 18 months (initial inspection within six months for new food businesses)
Standard inspection template	Eat Safe audit proforma	Eat Safe audit proforma	iAuditor inspection template

Source: Queensland Audit Office analysis of information provided by councils.

The three councils also follow different procedures when deciding on enforcement action. The Cairns Regional Council has opted to follow Queensland Health guidelines. The Brisbane City and City of Gold Coast councils have implemented their own enforcement procedures building on the Queensland Health guidelines.

This means businesses are not being treated consistently when it comes to requirements for food safety across the state. While a food business processing and serving high-risk hazardous unpackaged foods is subject to a routine inspection annually in Cairns, a similar business may only be inspected every three years in Brisbane.

A food business with repeated cleaning and hygiene offences may only receive an improvement notice in one council, while a similar non-compliance may attract immediate licence suspension in another.

Inconsistency of this nature means that consumers cannot expect the same levels of inspection and compliance requirements applied to food across the state.

Are food safety governance arrangements effective?

While Queensland Health and councils are joint regulators of the Act, the Queensland Government’s Administrative Arrangements Order assigns administrative responsibility for the Act to Queensland Health.

We found that while entities are clear about their responsibilities under the Act, the division of responsibilities does not always assist in the efficient exercise of those responsibilities.



Some other governance elements also need to be improved. These include:

- strengthening monitoring and reporting of compliance and outcomes
- re-invigorating some of the governing forums established to promote better coordination and information sharing across the state.

Allocating responsibilities

Division of regulator responsibilities

In order to fulfil the requirements of the Act in terms of effectively regulating businesses, multiple entities in Queensland need to cooperate with each other.

As mentioned, all audited entities have demonstrated good understanding of the Act's division of roles and responsibilities, but this division can hinder operational efficiency at times.

For example, Queensland Health cannot suspend licensed businesses for breach of the Act. It needs to refer the matter to the relevant council to take enforcement action. On the other hand, councils need to refer issues to Queensland Health that are within its responsibilities (for example, food labelling).

The Act provides some exceptions to the division of responsibilities, allowing one regulator to exercise another's responsibilities under the following circumstances:

- Entities can enter into an agreement to administer the Act in partnership. For example, the Cairns and Hinterland Hospital and Health Service currently has partnership agreements to assist two regional councils with their responsibilities.
- In the event of an imminent risk of death or serious illness, an authorised person of any regulator can exercise an emergency power to direct food businesses to take reasonable steps to avoid the risk. The Department of Health (the department) has drafted procedures for Queensland Health to undertake emergency powers, but it is a time-consuming process.
- Queensland Health can exercise councils' responsibilities to reduce or prevent significant risks to public health or safety, if councils fail to adequately administer or enforce the Act on a specific matter. This is known as step-in power. It requires a formal consultation process between chief executives of Queensland Health and councils.

These three exception mechanisms are not suitable for addressing operational efficiency as they are either time consuming to engage or must meet a high threshold of imminent risk.

Any review of the Act should include an examination of the powers allocated to the responsible entities and an assessment of whether some changes are required.

Governing arrangements

Statewide governing forums

Queensland Health has established three state-level committees to facilitate collaborative approaches across food regulators (see Figure 2C). However, these committees do not currently include councils, which have a significant regulatory role.

In addition, while the department represents the Queensland Health system on those committees, hospital and health services (HHSs) are not always consulted to provide input, despite their critical role in food safety.

Figure 2C
Membership and purposes of the various food safety committees

Committee	Purpose	Approach	Membership
Queensland Food Regulation Senior Officers' Working Group	To promote the smooth operation of regulatory controls across food safety regulatory agencies to ensure public health and safety.	It develops strategies and approaches to reduce potential agency overlap and introduce practical reforms to improve the delivery of best practice regulation.	Senior executives from Queensland Health, Department of Agriculture and Fisheries (DAF), and Safe Food Production Queensland (SFPQ)
Queensland Food Interdepartmental Group	To coordinate and develop a cross-government position on food regulatory matters.	It meets prior to each Australia and New Zealand Ministerial Forum on Food Regulation meeting and each Food Regulation Standing Committee meeting to ensure a whole-of-government approach on relevant issues.	Representatives from the Department of Health, Department of the Premier and Cabinet, DAF, and SFPQ
Inter-Departmental Science Group	To oversee collaborative cross-agency research and to support inter-agency research, information sharing, and the identification of significant food safety risks.	As directed by the Queensland Food Regulation Senior Officers' Working Group	SFPQ DAF: Biosecurity Queensland, and Department of Health: <ul style="list-style-type: none"> • Forensic and Scientific Services • OzFoodNet, Communicable Diseases Branch • Food Safety Standards and Regulation, Health Protection Branch

Source: Queensland Audit Office analysis of information provided by the Department of Health.

The state's governance structure needs to reflect the coordinated working relationships of food safety regulators. By including representatives from councils and HHSs, the governance forums should improve communication and knowledge sharing, have more consistent implementation of food safety standards, minimise duplication of effort, and have better-informed policy development.

Regional forums

Regional forums make it easier for regulators to share information. Within the three audited regions, these forums include representatives from local government and HHSs. Historically, there has been a North Queensland forum and a South East Queensland forum, but the North Queensland forum stopped meeting due to resource pressures.



The South East Queensland Food Safety and Public Health Working Group remains active. It is made up of food policy and operational staff from councils, Queensland Health, and Safe Food Production Queensland. The group addresses the consistent application of food hygiene laws and public health issues.

In a regulatory system where responsibilities are spread across multiple entities, it is critical that forums such as these exist and are regularly attended. The Cairns and Hinterland HHS has recognised this important gap and recently taken action to reinstate the forum in North Queensland. It hosted the first meeting of the recommenced forum on 14 February 2019, with participants from six councils within the region. The success of the forum relies on the ongoing active participation of the councils.

Monitoring and reporting

Performance indicators

Queensland Health is responsible for collecting data from councils and publishing annual reports on their food safety activities. Queensland Health's own annual reports cover the whole of its operations, capturing some elements of its food safety activities.

The state's current annual reporting on food safety (see Figure 2D) is disjointed and narrowly focused on activity levels such as the number of inspections conducted. These measures are insufficient to assess the performance of Queensland Health (including HHSs) and councils in terms of food safety.

Queensland Health has not established effective performance indicators for measuring the quality of activities and outcomes, including:

- consistency and quality of regulatory activities
- compliance outcomes of food businesses
- reductions in foodborne illness across the state
- trends of any improvement over time.

In addition, Queensland Health's annual reporting of council activities is untimely. It did not publish the 2016–17 annual report on council activities until December 2018.



Figure 2D
Food safety annual reporting datasets

Key annual report datasets	Queensland Health	Local governments
Licensed food businesses	Not applicable	Number of licensed food businesses Number of licensed food businesses with a food safety supervisor Number of food businesses requiring an accredited food safety program
Activity levels	Number of prescribed contaminants investigated Number of food recalls involving Queensland Sampling and analysis completed Number of written advices and warnings issued Number of improvement notices Number of seizures Number of prescribed infringement notices Number of prosecutions	Average number of inspections per licensed food business Number of seizures Number of improvement notices issued Number of prescribed infringement notices Number of licence suspensions and cancellations Number of prosecutions
Staff and training	Number of completed training courses by environmental health officers of HHSs in specific areas	Number of full-time equivalent (FTE) employees committed to food regulation
Data by region	Not by region or HHS	All data is by region and council

Source: Queensland Audit Office analysis of Queensland Health and local government food safety annual reporting information.

Queensland Health and councils across the state use different information technology systems, which have different data standards. This creates barriers to timely monitoring of food safety outcomes and information sharing across regulators.

For example, HHSs often need to access councils' records on food business inspections and compliance results during foodborne illness investigations. Councils may also want to obtain evidence gathered by HHSs to inform their decision-making on enforcement.

In Victoria, the Department of Health and Human Services and the councils use the same system to manage food safety, enabling better information sharing across the state.

Foodborne illness data

The current sources of data relating to foodborne illness outbreaks are not an effective indicator for measuring food safety outcomes. Various Australian and overseas studies have shown a significant underreporting of foodborne illness. These studies include a report from the Australian Department of Health, which finds that the current surveillance data represents only a small fraction of the total incidence occurred.



Queensland Health collects data on notifiable conditions across the state in accordance with the *Public Health Act 2005*, aiming to protect people from the spread of communicable diseases. The Public Health Regulation 2018 defines a number of infections as notifiable conditions. Not all of these infections are caused through foodborne transmission. Also, not all pathogens (infectious agents) that cause food poisoning in the community are notifiable to Queensland Health. Therefore, this data is not a reliable indicator of food safety outcomes. Appendix G provides further details about notifiable conditions.

Consumer complaints is another means of identifying foodborne illness. The existing food safety complaints data maintained by Queensland Health and councils is also of limited use as an effective performance indicator. While the data may show minimal to nil instances of confirmed foodborne illness outbreaks, this is not reliable evidence to conclude positive food safety outcomes, for a number of reasons.

Firstly, not all infected people lodge a complaint, because:

- of the effort involved
- they're unaware of how to
- they have mistakenly believed the symptoms are caused by other illness.

Secondly, a single case complaint does not trigger a foodborne illness investigation, as there needs to be two or more linked cases.

Thirdly, in order to record a confirmed foodborne illness case, complainants need to follow a formal process, which often involves completing a questionnaire and providing leftover food samples or stool samples for testing. Not all complainants are willing to go through this process or are able to provide samples.

Finally, without any corroborating evidence (for example, an environmental swab at the food premises confirming the presence of the same pathogen), it is difficult to establish a causal linkage between the illness and the food business.

Detecting licensable food businesses

While the existing definition of licensable food business captures new developments in food services (such as dark kitchens, which are set up for the preparation of deliverable food only), many food businesses are physically located in non-traditional food precincts and their primary presence is via online food delivery platforms. Councils are not monitoring the incidence of these businesses because they lack appropriate tools and resources to do so.

Emerging food businesses like these are not necessarily located where traditional food businesses are, for example, in food precincts where council inspectors regularly visit. The online food delivery platforms of emerging food businesses provide limited information about their physical locations.

If the businesses do not apply for a licence, there is a risk they will go unnoticed, which means they will not be subject to licensing assessments and regular inspections.

Councils often rely on complaints from the public to identify unlicensed businesses. This presents significant food safety risks to the community, as demonstrated in Case study 1.



Case study 1

Unlicensed home kitchen operating through a food delivery app

In August 2018, the Brisbane City Council received a complaint regarding a suspected unlicensed food business operating via a foreign-language food delivery application (app). It was alleged that the food business had been preparing food from home and selling ready-to-eat meals to the public for almost a year.

Following the complaint, the council translated relevant restaurant information and conducted investigations. The council was able to collect adequate evidence to substantiate the complaint, despite the owner claiming the food was being distributed to family and friends free of charge.

In October 2018, the council issued a prescribed infringement notice to the food business owner for operating without a licence.

Source: Queensland Audit Office analysis of information provided by the Brisbane City Council.

The issue of regulators not detecting unlicensed food businesses is not isolated to businesses operating from home and online. In one instance, a business serving food was found to have been operating in an office block without a licence for potentially up to six years in Brisbane. The council was initially advised that the food business was having food delivered instead of preparing food onsite. The business did not advise council or apply for a food licence when their food practices changed. A food safety program auditor reported this to council when the business requested a food safety program audit but could not provide its licence number to the auditor.



3. Managing and enforcing

Introduction

We assessed whether the audited entities have processes and practices in place to effectively and efficiently manage food safety risks and enforce compliance.

Our assessment focused on whether entities:

- have established appropriate policies, procedures, and practices to support them in consistently delivering their duties under the *Food Act 2006* (the Act)
- are managing food safety controls in a timely and effective manner
- are regularly monitoring and enforcing food safety compliance
- have the capability and support systems to meet their responsibilities effectively.

Figure 3A lists the Act’s division of responsibilities between Queensland Health, including the Department of Health (the department) and hospital and health services (HHSs); and the local governments (councils) within scope of the audit.

Figure 3A
Division of responsibilities

Description of legislative provision	Queensland Health	Local government
Handling of food in unsafe way	✓	✓
Sale of unsafe food	✓	✓
False description of food*	✓	
Handling and sale of unsafe food	✓	✓
Handling and sale of unsuitable food	✓	✓
Misleading conduct relating to sale of food*	✓	
Compliance with food labelling and composition requirement of food standards code*	✓	
Contravention by selling or advertising food in a way that fails to comply with food standards code*	✓	
Check audits	✓	
Licensing of food businesses		✓
Food safety programs		✓
Auditors	✓	
Audits of accredited food safety programs (excluding section 159)		✓
Emergency powers of chief executive	✓	

* Elements relating to food labelling, packaging, or advertising were excluded from audit scope.

Note: Food standards code—Australia New Zealand Food Standards Code.

Source: *Queensland Health Monitoring and enforcement of the Food Act 2006*.



Within Queensland Health, the department works in partnership with HHSs to manage their responsibilities.

The department sets the overarching policies and procedures relating to food safety and standards, provides guidance and advice to HHSs, and maintains the food safety auditor scheme including managing the check audit process.

HHSs investigate foodborne illness complaints and other food safety incidents (for example, a foreign object in food), take enforcement actions, facilitate and monitor food recalls, and undertake check audits.

Have entities established sound control environments for managing food safety?

We found most of the audited entities have implemented policies and procedures well and are undertaking regular quality checks of internal processes and practices. However, they do not adequately use performance monitoring to drive greater legislative compliance and better food safety outcomes.

Policies and procedures

The Brisbane City and City of Gold Coast councils have each developed comprehensive operating procedures for licensing, monitoring, and enforcing food safety practices. The procedures and supporting tools and templates they have implemented complement Queensland Health's guidelines.

The Cairns Regional Council, however, has limited operating procedures in place. While council staff report that they use relevant Queensland Health guidelines, the guidelines are not a substitute for detailed operating procedures. For example, staff need council-specific procedures for taking enforcement actions and retaining sufficient documentation to support their decisions.

The Cairns Regional Council has acknowledged the need for additional guidance and has an improvement plan that includes the development of operating procedures, template letters, and reporting tools for licensing and approvals.

Performance monitoring

We found that most of the individual entities we audited limit their performance measures to the activity level rather than outcomes. This is consistent with what we found at the state level. For example, they measure the number of inspections undertaken or the number of investigations of potential foodborne illness.

The Council of the City of Gold Coast's monthly performance reporting focuses on timeliness of council services, including food safety. The council has established standard response times for each of its five levels of customer service priority, ranging from two hours for critical matters affecting public safety to 25 working days for low-priority customer requests. However, the council's monthly performance reporting does not include timeliness of licensing processing, despite the performance targets set for individual environmental health officers (EHOs) of the licensing team.

In the Cairns Regional Council, monthly reporting to senior management captures the number of food safety complaints received and handled, food business licenses issued, and inspections conducted. These reports lack performance target timeframes. Therefore, users are unaware of any performance issues, such as backlog of inspections, or delays in issuing licenses within the statutory timeframe.



In comparison, the Brisbane City Council has established a set of comprehensive key performance measures for its food business rating program. It measures and reports to senior management on community awareness of the program, timeliness of licensing processes, inspections and complaints handling, and compliance rates of food businesses.

Quality assurance

Most of the audited entities have implemented processes that require team leaders or supervisors to regularly check food safety documentation such as investigation reports. This is to ensure decision-making is consistent across the teams and in accordance with operating procedures. Team leaders or supervisors also provide feedback to facilitate continuous improvement.

In all the HHSs we audited, we saw examples of reviewers (such as team leaders) signing off on paper files or electronic workflows of foodborne illness investigation records.

The Brisbane City Council's review process involves senior environmental health officers checking 20 completed tasks of EHOs each week, including inspections and complaint investigations. The council could demonstrate the completed checklists now form part of the records attached to relevant food businesses in the system. However, the council no longer maintains a separate register of quality checks conducted since 2018, which means we were unable to quantify the coverage of the quality checks performed.

In addition to quality checking, the Brisbane City Council conducts internal reviews of business processes to identify improvement opportunities. For example, the council reviewed its process for assessing licensing applications in November 2017 to identify business improvements through procedural reviews, data analysis, and staff interviews. The review has led to a food safety team structure change in March 2018 to better manage work backlogs.

In the Council of the City of Gold Coast, team leaders conduct quality assessment reviews and complete an assessment document. Over the 2015–16 and 2016–17 financial years, the council completed 424 quality assessment reviews. As the council conducted over 10 000 inspections during the two financial years, the coverage of quality checks equates to about four per cent, which is less than the 10 per cent target set in the council's operating procedures.

The management in Cairns Regional Council advised that periodic checks of inspection reports are conducted, but no documentary evidence is maintained. Coupled with a lack of operational procedures, this has led to inconsistent practices among EHOs, which have not been addressed. In one instance, an EHO wanted to issue a prescribed infringement notice to a temporary food business for operating without a licence. Another EHO thought a verbal warning was enough.

The Cairns Regional Council initiated an internal review of its licensing team's operation in 2016 to improve customer service and efficiencies. In November 2018, council management developed improvement action plans to address issues identified by this audit. The improvement plans broadly cover:

- template letters
- operating procedures
- structure and use of the food safety system (called 'Authority')
- reporting tools available for licensing and approvals
- review of publicly available information on the council's website.



Do entities effectively and efficiently manage key food safety controls?

Audited entities are not consistently and adequately managing the three key food safety controls of licensing, food safety programs (which show how businesses will control the safety hazards associated with food handling), and food safety supervisors.

We found:

- councils are not consistently processing licence applications in accordance with legislative requirements
- councils are not always accrediting food safety programs appropriately and following up on non-compliance issues identified in audits
- Queensland Health's food safety auditor scheme needs to be improved
- councils do not consistently ensure food businesses have nominated food safety supervisors at the time they lodge their licensing application, or check compliance during inspections.

Licensing of food businesses

Adequacy of pre-licensing assessments

The Act requires councils to conduct a suitability assessment of an applicant and premises before issuing licences.

The Brisbane City and City of Gold Coast councils demonstrated to us that they are conducting pre-licensing assessments and inspections in accordance with the legislation and operating procedures.

That said, the Brisbane City Council needs to implement a more timely licensing inspection after new food premises commence food preparations. Currently, once licensed, a food business will not be inspected again until the next routine inspection, unless there is a complaint. For four- or five-star rated food businesses under the food business rating program, this means another two to three years until the next routine inspection.

The Brisbane City Council undertook a sample review of 20 four-star rated businesses one month after initial inspections and found a 62 per cent degradation in rating. Due to resourcing issues, the council has not implemented its internal recommendation for conducting 30-day audits for all new food businesses.

Cairns Regional Council demonstrated inconsistent results with respect to conducting inspections prior to issuing licences. In some instances, council could demonstrate that it had conducted multiple inspections prior to the issuance of a full licence. However, we found examples of licences granted without adequate inspections or assessments. In some instances, the inspection reports were incomplete or did not contain enough information to support a satisfactory inspection outcome. Licensing-related records (for example, follow-up actions taken) were at times incomplete or entered into the system late.

The council has historically not undertaken pre-licensing inspections for temporary food licences and market food stalls due to the nature of their food business. However, the council advised that it has been reviewing the process and is aiming to ensure all temporary food premises also receive a pre-licensing inspection.



Timeliness in processing licensing applications

The Act requires councils to process licensing applications within 30 days, or if warranted (for example, if they need more information from applicants), within 60 days or as agreed with the applicant in writing. The Act deems the applications refused if they not processed within the required timeframe.

In practice, the licensing process can be lengthy. It often involves application and premise plan assessments, pre-licensing inspections of premises, follow-up inspections if required, and food safety program accreditation where applicable. Appendix D contains a process flowchart of the licensing process.

As a result of the often lengthy assessment process, all three councils have varying degrees of licensing backlogs. Of these, only the Brisbane City Council regularly monitors timeliness of licence processing against set performance target.

The Council of the City of Gold Coast has set performance targets for individual EHOs of the licensing team to process 80 per cent of applications within the statutory timeframe. While the council does not currently monitor its overall performance against this target, it is seeking to reconfigure its new system to support performance reporting by 1 July 2019.

At the time of the audit, the Cairns Regional Council did not have performance measures for monitoring licensing applications. It has advised that it has since reconfigured its system, which now allows for extension of application assessment, information notices to extend time, and applications to be lapsed.

Figure 3B summarises the three councils' performance targets for processing licensing applications and how well the councils have adhered to legislative timeframes.

Figure 3B
Council processing of licensing applications

Council	Performance target	System configured to track processing time	Actual performance
Brisbane City Council	90% processed within legislative timeframe	✓	Average 80.9% during 2015–16, 2016–17 and 2017–18
Council of the City of Gold Coast	80% processed within legislative timeframe	✗	Processing time for 42.2% of the applications during January and June 2018 exceeded 30 days (the legislative timeframe). This does not take into account extensions agreed in writing.
Cairns Regional Council	No performance target	✗	As at 8 November 2018, 38% of licensing applications on-hand exceeded 30 days (the legislative timeframe). Council did not have a practice of agreeing extensions in writing.

Source: Queensland Audit Office analysis of data provided by councils.

We noted instances where planning and construction issues associated with new food premises have caused delays in councils granting licences. While councils could grant extensions, they have not always written to applicants to properly extend the processing timeframe. Where councils' systems are not configured to track extensions, it can be difficult for management to be aware of the underlying causes of any licensing delays and to address the backlog issues.

The Brisbane City Council has made some changes to the structure of its food safety teams since March 2018 to address the licensing backlog issue. The council demonstrated to us that it has assessed 91 per cent of licensing applications within legislative timeframe during the July to September 2018 quarter.

The Council of the City of Gold Coast has procedures in place to grant written extensions in accordance with the Act and provided us with some written examples. However, the council has not properly configured its new system, implemented in December 2017, to track and monitor extensions. Our analysis of licensing decisions it made during the first six months of 2018 (42.2 per cent not processed within 30 days) does not take into account any extensions. The longest processing time was 14 months. Council could not provide us with all the written extensions during the six months analysed to accurately quantify and adjust the percentage not meeting legislative timeframes.

At the time of the audit, the Cairns Regional Council's system was not configured to report on processing time of licensing applications. Therefore, we were only able to perform a point in time analysis of council's licensing backlog. At the time of the audit, the council had some ageing licensing applications. One was 13 months old. When the council needs additional time to process applications beyond 30 days, it has elected not to notify food businesses in writing in accordance with the Act.

In one instance, the council's licensing delay has led to a food business choosing to operate without a licence. In another instance, a food business was found to be operating without a licence for almost a year, as the council did not send out its renewal notice, leaving the previous licence lapsed. It was only discovered when the council's compliance team investigated a food complaint at that premises.

The council has reported that it has taken actions to address processing timeliness and its compliance rate with the legislative timeframe.

Food safety programs

Councils' monitoring of food safety program audits

Food safety programs are a key control under the Act to address food safety risks associated with food service. Councils are responsible for accrediting food safety programs and ensuring applicable food businesses comply with the programs. Considering the importance of food safety programs, we expected to see adequate follow-up actions by councils of non-compliances noted in audits of food safety programs.

Within the three audited councils, higher-risk food businesses are responsible for having their food safety programs audited by an approved third-party auditor (not employed by Queensland Health or the councils) at the required frequency set by councils. The first audit is due within six months of initial accreditation and subsequent audits for most high-risk businesses are conducted at least once every 12 months.

Councils may increase audit frequency for repeated non-compliance. The auditors are required to provide a copy of the audit report to relevant councils. None of the three councils has had all of the necessary food safety program audits conducted within the required frequency. While they send reminders or follow up with food businesses, other tasks (such as complaints handling) often take priority.



Figure 3C shows the number of third-party food safety program audits conducted as a percentage of all food safety programs.

Figure 3C
Council monitoring of food safety program (FSP) audits

Council	Number of audits as a percentage of all food safety programs	Ability of system to track audit results
Brisbane City Council	Average 84% during 2015–16 and 2016–17 95% during 2017–18	✓
Council of the City of Gold Coast	65% during 2015–16 91% during 2016–17 (data for 2017–18 not available due to new system configuration issue)	✗
Cairns Regional Council	83% during 2015–16 111% per cent during 2016–17 (more FSPs had higher audit frequency than in other years) 86% during 2017–18	✓

Source: Queensland Audit Office analysis of data provided by councils.

Brisbane City Council has standard operating procedures in place regarding the accreditation of food safety programs, and the follow-up of food safety program audit results. The procedures require EHOs to complete an accreditation checklist to ensure the program complies with legislative criteria. However, we found instances where EHOs did not complete the checklists as required. The procedures also specify the type of actions that EHOs need to undertake to address minor, major and critical non-compliances, after reviewing the food safety program audit reports (for example, contact the food business to determine what correction actions have been undertaken, or schedule an on-site inspection). In practice, while the council contacted food businesses to seek information on corrective actions, this was not always done on a timely basis. We also found examples where the council had not followed up when businesses did not provide a response. We note that during the last three financial years, 28 per cent (or 131) of food businesses with food safety programs had varying degrees of non-compliance, but only one business recorded two or more major non-compliances.

The Council of the City of Gold Coast has also implemented operating procedures for managing food safety programs. The licensing team completes a checklist when conducting food safety program accreditation. Once the council receives food safety program audit reports, EHOs are required to review the reports and complete a desktop assessment in determining if an on-site assessment is warranted. However, we found instances where EHOs did not always complete the required checklists for accreditation, or when reviewing food safety program audit reports. In one instance, while the council met with a food business to discuss a high number of major non-compliance issues identified in a food safety program audit report, the council did not verify the adequacy of corrective actions. The council's system is not configured to provide an overview of food safety program audit results.

We found that the Cairns Regional Council has not implemented any standard operating procedures relating to food safety programs. Council staff advised they granted accreditations based entirely on the written advice from third-party auditors, without assessing if the program complies with legislative criteria. The staff became aware of the appropriate assessment steps after attending a Queensland Health roadshow for local governments in February 2018.

Over the last three financial years, food safety program audits conducted by approved auditors identified varying degrees of non-compliance in 47 of the 72 food businesses with food safety programs (including 22 childcare centres). While Cairns Regional Council records the audit results of food safety programs, it does not consistently follow up on non-compliance issues identified in the audit reports. There were instances where the council could have taken more enforcement action against food businesses that had repeat non-compliance issues identified in their food safety program audit reports.

Queensland Health's check audit regime

Queensland Health conducts checks of food safety program compliance audits to ensure they are appropriately undertaken. These are known as 'check audits' in the Act.

The department selects a sample of approved auditors and assigns check audits to qualified auditors of HHSs for completion. A check audit is essentially a second compliance audit of the same food safety program. Queensland Health compares results from the check audit and original compliance audit to identify gaps.

We found that Queensland Health's check audit regime has the following three deficiencies:

- selection of check audits not risk-based—while Queensland Health selects 20 per cent of approved auditors to check each year, only one audit per auditor is subject to check audits. This equates to about 10 auditors per year, out of the 53 approved third-party auditors. The selection does not take into consideration other potential risk factors, such as the number of audits conducted by individual auditors, or past check audit results.
- delayed timing of audits—check audits work more effectively if conducted not long after the original compliance audit, so there is lower likelihood of process changes in the food business, enabling good comparisons to be made between the two audit results. In practice, the timing of check audits is often affected by the availability of HHS staff auditors, or difficulties in agreeing a suitable time with food businesses. In some instances, check audits have been conducted six months after the original compliance audits, making it difficult to assess the quality of the compliance audit results
- lack of continuity in check audit experience—despite being approved auditors, many HHS staff auditors have never done any food safety program compliance or check audits. Some auditors may have done one check audit over the last three financial years, which is not enough to maintain continuity of experience or expertise.

Food safety supervisors

A food safety supervisor is a person who has relevant skills and knowledge in food safety matters and who has the authority to supervise and direct food handlers in a business. The Act requires all licensable food businesses to nominate food safety supervisors within 30 days of a licence being issued.



Issues with the food safety supervisor scheme

The food safety supervisor scheme is a control designed to ensure everyday safe food handling in licensable food businesses. All the councils we audited have had issues with the role of food safety supervisors relating to capability, availability, and turnover.

People do not have to satisfy any competency standards to become food safety supervisors. While all three councils provide food businesses with free access to the online food safety training program I'M ALERT (developed by Environmental Health Australia), the councils do not actively monitor the completion rate of the program by supervisors.

Additionally, the Act does not require supervisors to be present or employed in the food business—merely to be 'reasonably available'.

Finally, staff turnover can be high, which creates an administrative burden on food businesses and councils in terms of updating details of supervisors.

Do entities adequately manage and enforce compliance?

While the Act does not prescribe how regulatory activities must be undertaken, we expected to find the audited entities had implemented sound approaches to proactively monitor food businesses' compliance, respond well to unplanned food safety instances such as complaints, and take appropriate enforcement action if offences occurred.

We found that councils and Queensland Health have implemented a mixture of proactive and reactive monitoring approaches. They are summarised in Figure 3D.

Figure 3D
Compliance monitoring approach

Monitoring approach	Local government	Queensland Health
Proactive	Scheduled routine inspections Inspections prior to and during major events Food safety educational material	Three-year compliance plan identifying food surveillance and survey projects Inspections and food surveys ahead of major events Inspections and surveillance during major events Food safety educational material
Reactive	Ad hoc inspections or investigations responding to complaints relating to licensing, hygiene, cleaning, sanitising, and maintenance	Ad hoc inspections or investigations responding to complaints about foodborne illness, pathogens (infectious agents), and suspected intentional contamination (for example, a foreign object in food)

Source: Queensland Audit Office analysis of information provided by Queensland Health and councils.

Although these programs are in place, we found they are not always working as effectively as they could, as they are not always being conducted within planned timeframes. Entities often place greater emphasis on reactive problem/complaint solving.



Councils' routine inspections

All three of the councils we audited have implemented routine inspection programs of licensed food businesses. The frequency of routine inspections is determined by the food business classification framework each council uses (see Figure 2B).

Council inspection programs

The Brisbane City Council has set a performance target for conducting routine inspections according to its food business rating program. For example, the council's target is to inspect five-star rated food businesses every three years. On average over the last three financial years, it conducted 94.3 per cent of routine inspections within scheduled timeframes (against its performance target of 95 per cent).

The Council of the City of Gold Coast monitors its routine inspection completion rate on a monthly basis. During its three-year inspection cycle between 1 September 2014 and 31 August 2017, it conducted 93.9 per cent of inspections of high-risk food businesses and 81.8 per cent of inspections of medium-risk food businesses within scheduled timeframes.

The Cairns Regional Council has not consistently conducted routine inspections in accordance with its inspection schedule. Its framework means a greater percentage of food businesses require inspections than in the Brisbane City and City of Gold Coast councils. We estimated that, based on its risk classification framework, about 90 per cent of its licensed food businesses require routine inspections each year.

The actual inspections conducted during the period 2011–12 to 2015–16 ranged largely between 67 and 80 per cent.

The council has had high staff turnover over the last three years and continues to have trouble filling vacancies. Its routine inspections have often been affected by other higher-priority inspections in response to complaints or by the need to follow up on issues identified in previous inspections.

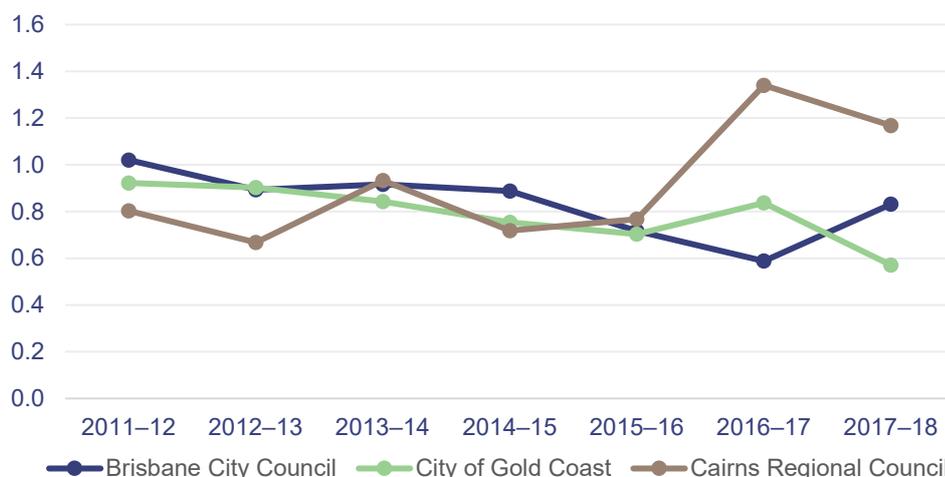
The council has made efforts since 2016–17 to catch up on its backlogs by engaging short-term contractors, as illustrated in Figure 3E. Despite its efforts, it still had some workload issues in managing routine inspections as recently as August 2018. Our analysis identified that of the 283 routine inspections assigned to EHOs, 17 per cent were overdue by more than 90 days (the tolerance level accepted by the council for operational reasons).

While the council has standard inspection templates in place, it does not have any operating procedures for conducting inspections or scoring standards for assessing outcomes. Some inspections have received satisfactory results despite several areas of non-compliance with food safety standards being noted in the inspection reports.

Figure 3E illustrates the average number of routine inspections conducted per licensed food business at the three councils over the last seven financial years.



Figure 3E
Average number of routine inspections per licensed food business



Note: the 2011–12 and 2012–13 figures for the Cairns Regional Council included Douglas Shire Council prior to their de-amalgamation in 1 January 2014.

Source: Queensland Audit Office analysis of local government annual reporting to Queensland Health.

The trends of routine inspections are not comparable across the three councils, because they have all set different inspection frequencies.

As the Cairns Regional Council has a more frequent inspection schedule than the Brisbane and City of Gold Coast councils, we expected to see a higher rate in Cairns. While, as shown in Figure 3E, it had a lower than expected ratio in three of the seven financial years, the improvement it has shown during the most recent two financial years is consistent with its efforts to catch up on overdue inspections.

The Council of the City of Gold Coast implemented a new food business rating program in November 2017. This did not significantly alter its inspection schedule. During 2017–18, in preparation for and during the Commonwealth Games, the council focused on priority areas around venues and tourist accommodation centres, while its overall routine inspection ratio decreased.

The Brisbane City Council’s food business rating program has been in place since 2010. The inspection ratio was high during the initial implementation years due to all food businesses being inspected as part of the conversion to the new program. The inspection ratio decreased every two to three years, in line with the inspection schedule for five-star (once every three years) and four-star (once every two years) rated food businesses.

Queensland Health’s food surveillance and surveys

Compliance plan projects

Queensland Health develops an ongoing three-year public health compliance plan, which is updated annually in consultation with HHSs. The plan covers Queensland Health’s overall public health responsibilities such as food safety, radiation, and water quality.

As part of this, it identifies food surveillance and survey projects to identify emerging trends and address specific food risks. The objectives of these projects are to proactively identify issues and put in place measures (such as educational material) to address them.



For example, following several salmonella outbreaks associated with egg products, Queensland Health introduced an eggs survey in its compliance plan to manage the food risks more proactively (see Case study 2).

Case study 2

The 'Salmonella Summer' and eggs survey

Salmonella is one of the most common causes of foodborne illness and is often linked to the eating of undercooked meats, poultry, or eggs. Common symptoms include diarrhoea, fever, abdominal cramps, and vomiting, and can last about two to five days.

The Australian Department of Health's *Australia's Foodborne Illness Reduction Strategy 2018–2021+* notes that, compared to similar countries, Australia has had the highest rate of increase in foodborne illness caused by salmonella over the last 20 years.

During the summer of late 2014 to early 2015 (later dubbed 'Salmonella Summer'), the South East Queensland region was swamped by widespread foodborne illness outbreaks linked to salmonella.

In:

- 11–14 December 2014, 10 people fell ill in Brisbane after eating deep-fried ice-cream and duck, both of which tested positive for salmonella
- mid-December 2014, there were two separate small outbreaks at the Gold Coast linked to salmonella
- 2–5 January 2015, 141 people attending multiple parties at a restaurant at Springwood fell ill. Salmonella was confirmed following lab testing of environmental swabs and food samples collected from the kitchen
- 10 January 2015, six diners developed gastrointestinal infections. Salmonella was found in stored frozen deep-fried ice-cream.
- 11 January 2015, 84 people fell ill after eating sushi from various retail outlets in Brisbane. 42 people tested positive for salmonella
- January 2015, there were reports of foodborne illness from people who had dined at sushi stores at the Gold Coast. Lab testing detected salmonella in chocolate mousse, cream cheese, cheesecake, and chocolate cake
- mid-February 2015, six children became ill after eating sushi sold at a tuckshop for weekend education classes. Cracked eggs were traced back to an egg producer, which led to a consumer level recall
- mid-February 2015, there were seven cases of suspected foodborne illness complaints against the same café. Faecal samples tested positive for salmonella
- late February 2015, 17 people attending an engagement party fell ill after consuming slow-roasted duck. The chef had put tea towels over raw duck then used them for other purposes in the kitchen. Faecal samples and the tea towel tested positive for salmonella
- early March 2015, 220 people attending a national conference and other events at the same venue in Brisbane became ill. 67 lab samples tested positive for salmonella.

Investigations of those outbreaks resulted in food business licences being suspended or cancelled, improvement notices being issued to improve cleanliness and food handling practices, fines being imposed, or product recalls being undertaken (for example, for eggs).

Following those outbreaks, Queensland Health implemented egg surveys as part of its compliance plan. The intent was to monitor any sale of cracked and dirty eggs in the wholesale and second-tier retail sector including markets and fruit shops, particularly during summer months.

Source: Queensland Audit Office analysis of information provided by Metro South Hospital and Health Service and the Department of Health.



We observed instances of delayed project completion and reporting and of scoping changes with Queensland Health’s compliance plan projects. Of the 20 projects on the 2017–19 compliance plan, five were delayed and four discontinued. The five delayed projects received extensions ranging from four months to 16 months due to scope changes, cost issues, or competing priorities.

More urgent reactive work (such as investigating foodborne illnesses) often takes priority, which affects Queensland Health’s ability to undertake food surveillance and survey projects. More time and effort needs to be allocated to proactive food safety measures to ensure food safety risks are appropriately managed.

Major events

Queensland Health and councils often work together during major state or regional events to proactively manage food safety risks.

Collaboration during the Commonwealth Games 2018

During the Gold Coast 2018 Commonwealth Games (the games), there was strong collaboration between the Council of the City of Gold Coast and Queensland Health entities, including the department and the Gold Coast HHS.

The various entities established good practices for planning and managing food safety risks through regular joint meetings, workshops, intelligence sharing, food sampling, and joint inspections prior to and during the event. They also developed detailed operating procedures and working protocols to ensure rapid response to any potential food safety issues during the games.

Case study 3 outlines the proactive approach Gold Coast HHS applied during the games to quickly detect potential foodborne illness using technology.

Case study 3

Syndromic surveillance during the Commonwealth Games 2018

During the games, the Gold Coast HHS (GCHHS) developed a syndromic surveillance tool to enable more rapid detection of the potential outbreak of foodborne illness. (Syndromic surveillance involves monitoring disease indicators to quickly detect outbreaks of disease.)

Traditionally, the identification of foodborne illness relies on public reporting of symptoms to healthcare staff. A foodborne illness outbreak is only confirmed after investigations and lab results. This process is time consuming and does not identify and confine foodborne illness outbreaks quickly.

The syndromic surveillance tool examined gastrointestinal illness (GI) notifications reported during the games period, including emergency department patient data with GI presentations. Upon discharge, the patients were sent a text message asking them to complete a short online gastro illness questionnaire including date of first symptom and food venue name. GCHHS analysed the responses daily and identified any follow-up action required, for example, inspection of food venues.

Since the games, GCHHS has continued to use the tool to identify potential foodborne GI outbreaks on a daily basis. The syndromic surveillance tool uses near real-time data but requires additional follow up and validation to determine whether the GI is food related.

The tool complements but does not replace Queensland Health’s traditional surveillance systems, which take more time but produce more accurate results. The broader implementation of the tool requires further assessment of potential data sources, data validation mechanisms, and response protocols.

Source: Queensland Audit Office analysis of information provided by Gold Coast Hospital and Health Service.

Collaboration at the Royal Queensland Show

The Brisbane City Council and the Metro North HHS have established a good long-term working relationship through managing food safety at the annual Royal Queensland Show (known as the Ekka). The most recent Ekka was held between 10 August and 19 August 2018, with over 415 000 people attending.

The council worked with the event organiser to ensure all 118 food operators obtained appropriate temporary food licences before the Ekka opened. The council and Metro North HHS held joint information sessions for food operators and daily meetings involving other stakeholders (such as event organisers).

During the Ekka, the council conducted 248 inspections, while Metro North HHS collected food samples for testing. There were four suspected foodborne illness cases reported during the show. The council and Metro North HHS conducted joint inspections of all premises concerned and found the cases were linked to a virus instead of a foodborne illness.

Following the show, both the council and Metro North HHS prepared briefings to capture lessons learned to improve practices for the next Ekka.

Responding to food safety complaints

In accordance with the Act's division of responsibilities, councils generally handle complaints relating to food hygiene, cleaning, sanitising, and maintenance. Queensland Health responds to complaints regarding public health concerns, such as foodborne illness or suspected intentional contamination (for example, the recent needles in strawberries case).

A complaint generally triggers an inspection of the implicated food premises. The inspection can be unannounced. Under certain circumstances, such as suspected foodborne illness outbreaks, councils and Queensland Health may work together to conduct joint inspections.

As stated earlier in Chapter 2, the existing food safety complaints data maintained by Queensland Health and councils is of limited use as an effective performance indicator. While the data may show minimal to nil instance of confirmed foodborne illness outbreaks, this is not reliable evidence on which to base positive food safety outcomes. This is for a variety of reasons, including that:

- not all infected people lodge a complaint (for various reasons)
- a single case complaint may not trigger a foodborne illness investigation
- not all complainants are willing to go through the process to record a case
- it is difficult, without evidence, to establish a link to a food business.

Procedures and target timeframes

Queensland Health and the Brisbane City and City of Gold Coast councils have procedures for handling food-related complaints and have set target timeframes to respond to or begin actions according to set priorities.

Queensland Health reports on the number of food safety complaints handled across the department and HHSs, but not on performance against target timeframes. Over the last two financial years, Queensland Health managed an annual average of 998 food safety complaints across the state.



Over the last three financial years, the Brisbane City Council has processed, on average, 97.9 per cent of food safety complaints in accordance with its target timeframes. It also monitors the number of complaints with a view to reducing this number over time.

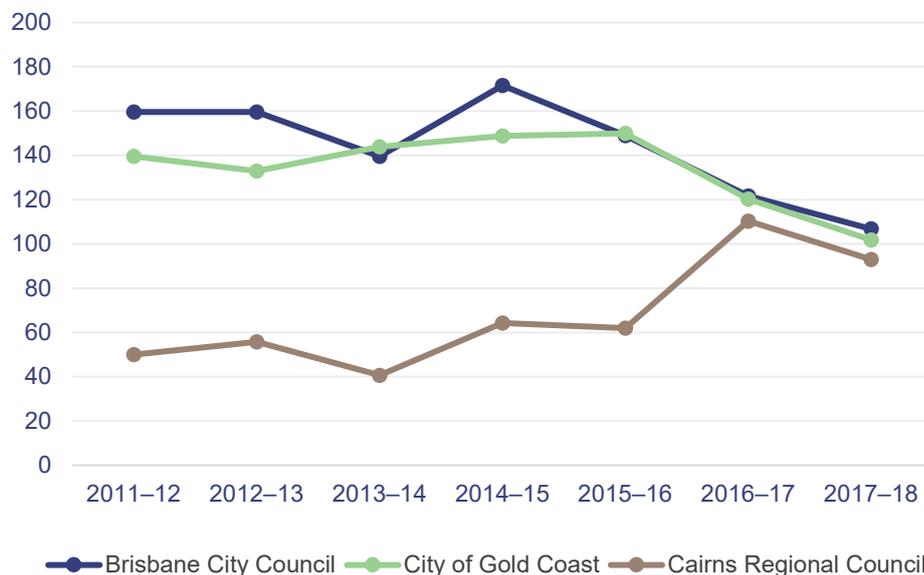
The Council of the City of Gold Coast has established new monthly reporting against its service level performance target, following the recent implementation of a whole-of-council system. In August 2018, the council handled (within target timeframe), 70 per cent of food hygiene and safety complaints, 11 per cent of food poisoning complaints, and 100 per cent of food premises complaints.

While the Cairns Regional Council does not have operating procedures for handling food complaints, its system has in-built target timeframes for responding to complaints to allow EHOs to keep track of assigned tasks. This information is point-in-time and cannot be aggregated for management reporting purposes. The council reports monthly on the number of complaints received and managed, but not on how well it responds to complaints within target timeframes.

Figure 3F illustrates the number of complaints received by the three councils. The level of complaints in the Brisbane City and City of Gold Coast councils has decreased over the last two financial years. The increase in 2014–15 coincided with the foodborne illness instances reported during the Salmonella Summer.

The Cairns Regional Council has had lower complaint rates compared to the other two councils over the last seven financial years. The council attributes the increase in 2016–17 to improved community communication channels, which provided customers with better access to council through emails and website queries.

Figure 3F
Average number of complaints per 1 000 licensed food businesses



Note: the 2011–12 and 2012–13 figures for the Cairns Regional Council included Douglas Shire Council prior to their de-amalgamation in 1 January 2014.

Source: Queensland Audit Office analysis of local government annual reporting to Queensland Health.



Working protocols for joint investigations into foodborne illness

Queensland Health has issued guidelines for investigating foodborne illness outbreaks. The guidelines outline the roles and responsibilities of entities during joint investigations.

HHSs and councils in Brisbane and Gold Coast have well established local working protocols, for example, for how to refer a complaint to another entity and for which entity takes a lead role during investigation and subsequent enforcement.

In Cairns, EHOs of the council and the local HHS have expressed different views on the council's roles and responsibilities for taking part in joint investigations, including the need for a joint inspection and the level of council involvement required. The council has not always attended joint foodborne illness inspections as requested by the local HHS, citing staff availability issues or other priorities at times.

Other food safety-related investigations also rely on entities working well together to achieve better outcomes. Case study 4 illustrates a well organised collaborative approach to managing incidents of suspected intentional contamination.

Case study 4

Investigation of suspected intentional contamination (SIC)

An SIC incident, commonly known as food tampering, occurs when a foreign substance is deliberately added to food products, often with the intention of causing harm to the consumer or a food business, or both. Food tampering can take place during any stage of the food supply chain including processing, storage, service, and retail. Intentional contamination is a criminal offence and perpetrators can be charged by the police under the *Criminal Code Act 1899*.

Under the Act, Queensland Health is responsible for investigating SIC incidents. All food businesses, licensed or not, are required to notify SIC incidents to Queensland Health. Consumers can also report SIC incidents by calling the 13HEALTH hotline.

On 9 September 2018, Queensland Health received notification that a sewing needle had been found in a fresh strawberry. Queensland Health investigated and found a deliberate food tampering incident had occurred.

On 12 September, Queensland Health escalated the incident to the Queensland Police Service (QPS) Organised Crime Investigation Unit. Queensland Health and QPS jointly named the affected brands in the media to protect public health.

On 14 September, following the implication of another brand of strawberries, Queensland Health activated the State Health Emergency Coordination Centre (SHECC) to coordinate communication across government and with industry. Representatives from QPS, the Department of Agriculture and Fisheries, and Queensland Health staff (from the Food Safety Standards and Regulation, Mental Health, Disaster Management, Media, and Community Response teams) worked collaboratively from a dedicated SHECC operation room.

Queensland Health communicated with other regulatory agencies through the Food Safety Network, to share information and coordinate further activities across all Australian states and territories and New Zealand.

The collaborative approach delivered an efficient and effective investigation and response. As a result, damage to the industry was limited, communication to the media was consistent, and public health and safety was ensured.

Source: Queensland Audit Office analysis of information provided by the Department of Health.



Taking enforcement action

Documenting enforcement decisions

Queensland Health has issued enforcement guidelines providing a risk matrix for enforcement strategies. It is designed to help in choosing the appropriate enforcement action based on health and safety risks and the level of compliance required. HHSs are required to follow Queensland Health guidelines.

Over the last three financial years, Queensland Health issued, on average, 43 improvement notices and 32 prescribed infringement notices and undertook six prosecutions annually across the state. We found that the audited HHSs have adequately documented their enforcement decisions.

The Brisbane City and City of Gold Coast councils have implemented their own local operating procedures regarding enforcement actions.

The Cairns Regional Council reported that it prefers to take an education and awareness-based approach rather than simply an enforcement approach. It was unable to provide evidence of its education policies and procedures beyond individual inspection reports on food businesses.

Without adequate procedures in place, different EHOs in Cairns have had different interpretations of what appropriate educational or enforcement action should be taken. While EHOs reported that they relied on the Queensland Health guidelines when taking enforcement action, the complaints and inspection records have not always been thoroughly documented and some have not adequately supported the decisions made.

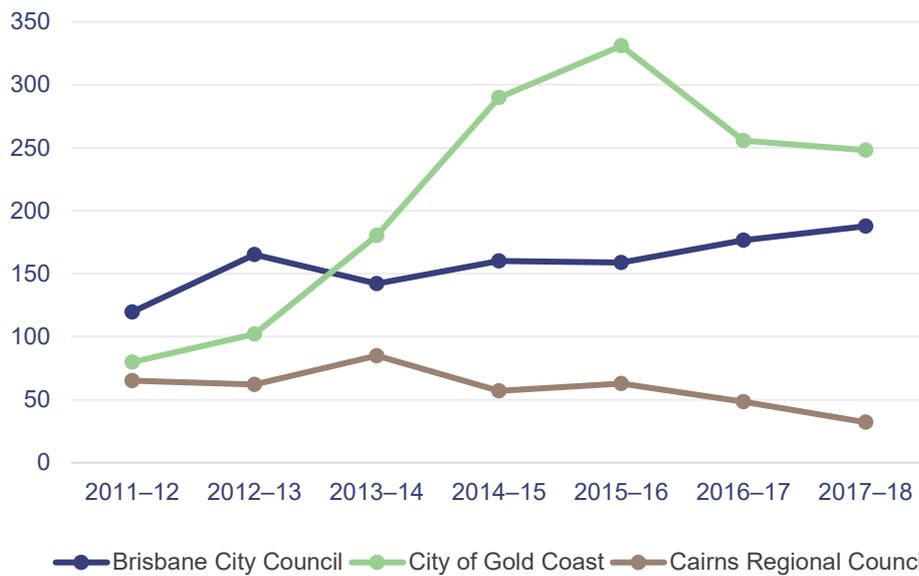
We found examples where the Cairns Regional Council could have taken further enforcement action against food businesses with repeated non-compliances. While council EHOs cited a preference for education over punishment as the main reason not to use enforcement options, the decision-making was at times inconsistent with Queensland Health's enforcement guidelines.

The guidelines warrant the use of enforcement tools such as prescribed infringement notices when there are risks to public health (for example, poor hygiene or vermin issues). Appendix F provides a summary of the Act's enforcement tools.

Figure 3G shows the number of enforcement actions per 1 000 licensed food businesses, excluding prosecutions, undertaken by the three councils. The trends of enforcement actions are not comparable across the three councils, because they have all adopted different approaches to enforcement and education.

The Cairns Regional Council has been less likely to take enforcement action against food safety offences than the Brisbane City and City of Gold Coast councils, despite the fact that the three councils received similar levels of complaints over the last two financial years (as shown in Figure 3F).

Figure 3G
Number of enforcement actions per 1 000 licensed food businesses



Note: the 2011–12 and 2012–13 figures for the Cairns Regional Council included Douglas Shire Council prior to their de-amalgamation in 1 January 2014.

Source: Queensland Audit Office analysis of local government annual reporting to Queensland Health.

The most common enforcement actions across all councils are improvement notices. The number of improvement notices peaked in the Gold Coast in 2014–15 and 2015–16, which coincided with the crackdown on food safety offences during and after the Salmonella Summer.

Of the three councils, the Brisbane City Council has issued the highest number of prescribed infringement notices and immediate licence suspensions in proportion to the number of licensed food businesses. It has had, on average, 27 prosecutions per year over the last seven financial years, compared to an annual average of five by the City of Gold Coast council and none by the Cairns Regional Council.

Food business education

There are no defined roles and responsibilities for educating food businesses. Queensland Health and councils publish numerous educational materials through portals and websites to promote compliance with the Act.

Some of the materials are lengthy or in traditional media format (for example, long electronic documents), which means they are not reader-friendly enough to reach a broader audience. There is also limited non-English information available to assist food businesses and consumers from culturally and linguistically diverse backgrounds.

Overall, there is a lot of material available from a variety of different sources (which has implications for duplication of effort), but it can be inconsistent and incomplete. A well-designed statewide education strategy would address these issues.



Disclosure of food safety offences

Consumers have limited awareness of the state’s food business compliance status. There is no disclosure of convictions of food safety offences due to concerns over privacy and currency of information. While Queensland Health tried to establish a conviction register in 2007, not all councils actively participated.

There are voluntary disclosure schemes in the Brisbane City and City of Gold Coast councils through their food business rating programs, which encourage food businesses to display their star ratings. The Brisbane City Council reported that in 2015–16, 56.2 per cent of food businesses with a rating of three stars and above voluntarily displayed their star rating. The disclosure rating continued to improve during 2016–17 and 2017–18 (58.5 per cent and 62.2 per cent, respectively).

Do entities have sufficient capability and capacity to manage their responsibilities?

We found audited entities have qualified and skilled workforces for managing food safety, but no structured training framework for maintaining and improving staff skills and knowledge.

Queensland Health and councils have implemented different systems to capture and report on food safety activities. But most audited entities do not have adequate systems to support their activities efficiently and effectively.

Authorised persons

Authorised persons are those who can approve or inspect food businesses and are empowered to enforce the Act. They work for either Queensland Health or a council.

Most of the authorised persons in audited entities (with the exception of some managerial staff) have a degree that corresponds to Environmental Health Australia’s accredited courses. This is not a legislative requirement. The competency of the EHOs is maintained by on-the-job training, team meetings, ongoing education, and oversight from team leaders.

Two entities have established a graduate or cadet program to ensure that EHO succession resources will be sustained. These include the 12 months mentor program developed for a graduate EHO position by the Metro North HHS since 2015, and the internal EHO cadet program recently introduced by the Council of the City of Gold Coast.

Structured training framework for EHOs

The audited entities do not have a formal training framework for EHOs, although on-the-job training and team meetings encourage the sharing of knowledge. Queensland Health’s regular webinars and roadshows are useful for EHOs, but participation is often affected by other priorities.

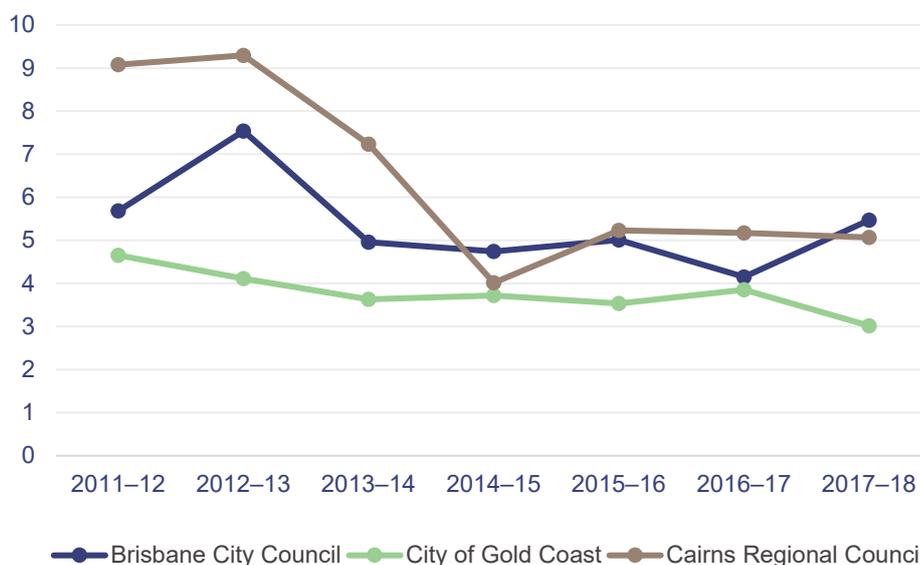
Queensland Health is redeveloping the authorised officer framework across its public health legislative program areas (including food safety). The new framework will introduce more structured training and continuing development requirements for EHOs. Councils are not, however, required to implement the framework.

Councils’ capacity to manage food safety responsibilities

All audited councils have assigned dedicated resources for managing food safety. Figure 3H illustrates the fluctuations in councils’ staffing levels. They have shown an overall downward trend over the last seven financial years.

The Cairns Regional Council cited the decreased resources level as a reason for not being able to keep up with its licensing and inspection workload. Its staffing levels (per licensed food business) are not dissimilar to those of the other two councils but it does have a more frequent inspection schedule.

Figure 3H
Number of full-time equivalent (FTE) food safety staff per 1 000 licensed food businesses



Note: the 2011–12 and 2012–13 figures for the Cairns Regional Council included Douglas Shire Council prior to their de-amalgamation in 1 January 2014.

Source: Queensland Audit Office analysis of local government annual reporting to Queensland Health.

Systems and data capture

Queensland Health’s MAPLE system

All HHSs use the Queensland Health Monitoring, Applications, Permits and Licensing Events (MAPLE) data record system. It was initially implemented as a licensing system for other public health programs and later expanded so it could manage food safety.

The usability of the system is limited by lack of functionality and lack of consistent adherence to rules when entering data. Data entry is a highly manual, time-consuming process, and data capture is inconsistent and untimely, with limited quality checking across HHSs. As a result, it is not possible to use data at an aggregated level to identify trends, patterns, and emerging food risks.

Councils’ systems

The three councils use different systems, including multiple systems within the same council, to record and report on licensing, compliance monitoring, and enforcement activities.



There is no consistent way to collate or collect data across the councils. Their processes for collating data for annual reporting to Queensland Health purposes are manual and time consuming.

Of the three councils, the Brisbane City Council has the most adequate systems in place to record food safety activities and produce reports for monitoring purposes, but the systems are not user-friendly and are difficult to navigate.

The Council of the City of Gold Coast implemented a new system across the council in December 2017. Compared to the previous system, which was customised for environmental health, the new system does not adequately meet the need for managing food safety. The system has limited functionality for recording and reporting activities (for example, results of food safety program audits and extensions for licensing applications). The council is in the process of reconfiguring the new system to provide better support for EHOs.

The Cairns Regional Council is procuring a new whole-of-council system, which is expected to be implemented within two years. The council's existing systems can support the majority of food safety activities, but they require some configurations to capture data and produce reports on response times for licensing applications and queries.

Both the Brisbane City and Cairns Regional councils provide mobile devices to EHOs to conduct inspections using electronic templates. Due to system issues, the Council of the City of Gold Coast has not been able to use this technology.

Statewide mobile food business register

Mobile food truck licensing is administered and enforced by local councils. A mobile food business is licensed in its 'home' council but can operate anywhere in the state. Inspection of mobile food vendors who are operating outside their council boundaries (and enforcement action if necessary) relies on the existence of an up-to-date statewide mobile food business register.

Queensland Health maintains the register using a spreadsheet that is published on its website. However, due to Queensland Health's system issues, local governments have been unable to access and update the register. It was last updated in February 2017, which means it cannot be used for efficient cross-council communication.



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A. Full responses from entities

As mandated in Section 64 of the *Auditor-General Act 2009*, the Queensland Audit Office gave a copy of this report with a request for comments to the Department of Health; the Cairns and Hinterland, Gold Coast, Metro North, and Metro South health services; Brisbane City Council; Cairns Regional Council; and the Council of the City of Gold Coast.

The Department of Health coordinated a system-wide response to our report on behalf of the hospital and health services.

The Director-General of the Department of Health, and chief executive officers of the three councils are responsible for the accuracy, fairness and balance of their comments.

This appendix contains their detailed responses to our audit recommendations.



Comments received from Director-General, Department of Health



In Enquiries to:

Telephone:
File Ref:

Queensland Health

Ms Daniele Bird
Acting Auditor-General
Queensland Audit Office
PO Box 15396
CITY EAST QLD 4002

Email: gao@qao.qld.gov.au

Dear Ms Bird

Thank you for your letter dated 10 April 2019, regarding the performance audit on managing consumer food safety in Queensland.

The Department acknowledges the findings of the audit and recognises the need to work collaboratively with Hospital and Health Services and local government to address the recommendations which will strengthen the approach to managing food safety risks to the community.

As your report notes, legislation is the cornerstone upon which all other elements of a food safety system are based and that "it is essential that Queensland implements a coordinated framework of legislation, regulation, policies and procedures that support agile, risk-based food safety management" (p14).

In regard to the first recommendation, which identifies matters that would require changes to legislation, prioritising regulatory reform will be a matter for the Government.

The resource implications of the recommendations will need to be considered as part of the planning and implementing process.

Noting the Department currently has no legislative authority to govern other agencies in achieving some of the recommendations proposed, it will progress all recommendations for the consideration of government.

The attached action plan outlines the work that is proposed to be undertaken by the Department of Health in collaboration with Hospital and Health Services to respond to the recommendations.

The Department recognises that food regulation plays an important part in ensuring the health and well-being of the community, and that continued renewal and modernisation are necessary to ensure that food safety regulation continues to achieve its public health objectives.

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Should officers of your Department require further information, the Department of Health's contact is Ms Sophie Dwyer, Executive Director, Health Protection Branch, on telephone

Yours sincerely



Michael Walsh
Director-General
07 / 05 / 2019

Enc. Queensland Health Action Plan



Responses to recommendations



Department of Health

Managing consumer food safety in Queensland

Response to recommendations provided by Michael Walsh, Director-General, Department of Health on 7 May 2019.

Recommendation	Agree/ Disagree	Timeframe for implementation (Quarter and year)	Additional comments
<p>We recommend that the Department of Health, in collaboration with hospital and health services:</p> <p>Legislation, governance and frameworks</p> <p>1. conducts a legislative review of the <i>Food Act 2006</i> (the Act) to ensure the Act enables effective responses to food safety risks</p> <p>This should include:</p> <ul style="list-style-type: none"> clarifying Queensland Health’s overall administration role of the Act and enforcement powers evaluating the food safety risks, costs, and benefits of the current exemptions to the Act making the definition of licensable food businesses clearer and aligning it more to food safety risks establishing competency standards and availability requirements for food safety supervisors considering public reporting of poor food safety practices or offences. 			
	Agree in principle	3 rd quarter, 2022	<ol style="list-style-type: none"> Establish a temporary project team for up to 36 months to conduct a legislative review Commission a consultation regulatory impact statement to review of the <i>Food Act 2006</i> including: <ul style="list-style-type: none"> definition of licensable food business statewide risk-based framework auditor verification food safety supervisors public reporting performance framework administrative and operational improvements identified by stakeholders adoption of national requirements increased enforcement tools modernisation of drafting and any other matters raised by stakeholders that require addressing Develop an action plan to implement recommended legislative changes Coordinate and progress legislative amendment to bind the Crown, noting that this is subject to the timeframes of legislative process Develop a policy document clarifying Queensland Health’s administration of the Act



Recommendation	Agree/ Disagree	Timeframe for implementation (Quarter and year)	Additional comments
2. ensures existing governance committees include representatives from local government and hospital and health services, in addition to the Department of Agriculture and Fisheries and Safe Food Production Queensland	Agree in principle	1 st quarter, 2021	<ol style="list-style-type: none"> 1. Explore suitability of including local government and hospital and health service representation on existing State governance committees; permitting escalation to heads of agency in the event of non-participation. 2. Introduce a new Food regulators governance committee, the Queensland Food Safety Governance Group. 3. Establish a dedicated permanent management system and secretariat function
3. In consultation with the Department of Local Government, Racing and Multicultural Affairs, implements a consistent statewide risk-based framework and standards for classifying and inspecting food businesses and for making enforcement decisions. This should include: <ul style="list-style-type: none"> • minimum standards for inspecting food businesses, investigating complaints, assessing inspection results, and making enforcement decisions, including documentation standards • redesigning the check audit regime including sampling methodology, timeframes, and capability of check auditors. 	Agree in principle	3 rd quarter, 2022	<ol style="list-style-type: none"> 1. In consultation with DLGRMA and other stakeholders develop an action plan 2. Develop a statewide risk-based framework 3. Develop an implementation plan to introduce the statewide risk-based framework including any necessary legislative amendment 4. Commence implementation of statewide risk-based framework acknowledging legislative amendment may be required and local governments ability to make changes to licensing systems 5. Redesign check audit regime and auditor renewal processes including ongoing implementation, monitoring and surveillance 6. Establish a dedicated local government project team to promote consistency in regulation and maintenance of regulatory framework
Monitoring, data and reporting	Agree in principle	3 rd quarter, 2022	
4. designs and implements a set of performance measures for statewide food safety outcomes such as reduction in foodborne illnesses over time, results of enforcement actions, and quality of compliance activities			<ol style="list-style-type: none"> 1. Design a set of performance measures for food safety outcomes in consultation with local government and hospital and health services 2. Develop an implementation plan for commencement of performance measures

Recommendation	Agree/ Disagree	Timeframe for implementation (Quarter and year)	Additional comments
			3. Establishment of long-term data linkage with local government to ensure adherence to performance measures. 4. Mud map of long-term IT solutions to address statewide food safety outcomes
5. rectifies its data collection and reporting issues, including: <ul style="list-style-type: none"> • providing local governments with better access to update the statewide mobile food business register • publishing annual reporting of local government food safety activities within a reasonable timeframe • improving the functionality and the timeliness, quality, and consistency of data capture of the Monitoring, Applications, Permits and Licensing Events (MAPLE) system • improving project governance and reporting for statewide compliance plan projects 	Agree in principle	1 st quarter, 2022	1. In consultation with local government, introduce a mobile food business register that provides efficient and effective local government access to the register 2. Review and amend the guideline, <i>Reporting of information by local governments under the Food Act 2006</i> to ensure collated reports are published within reasonable timeframes 3. Review systems currently in use by local government to ascertain an efficient method of data collection in relation to local government reporting 4. Review MAPLE with consideration of the functionality, timeliness, quality and consistency of data capture 5. Develop an implementation plan to address outcomes of the review into MAPLE under item 4 above 6. Review and redesign governance and reporting associated with statewide compliance plan projects 7. Establish permanent positions to ensure ongoing implementation and application of Queensland Health’s administration of the <i>Food Act 2006</i> and operational activities
6. investigates long-term technology solutions that can support a consistent statewide approach to detecting and managing foodborne illness outbreaks	Agree in principle	3 rd quarter, 2023	1. Investigate technology solutions to support a consistent statewide approach to foodborne illness surveillance which may include links to existing OzFoodNet surveillance systems and skill set



Recommendation	Agree/ Disagree	Timeframe for implementation (Quarter and year)	Additional comments
			2. Develop and implement a communication plan to medical practitioners and the general community around the importance of reporting
Training			
7. identifies training requirements for authorised people to promote consistent regulatory outcomes. The requirements should include skills in gathering evidence, managing a prosecution event, and conducting a check audit.	Agree in principle	1 st quarter, 2022	1. Identify training requirements for authorised people relevant to food safety and the <i>Food Act 2006</i> 2. Develop and implement a training framework that includes ongoing professional development 3. Resources to deliver, evaluate and ensure contemporary skill development to be embedded within a local government program



Comments received from Chief Executive Officer, Brisbane City Council



Dedicated to a better Brisbane

Brisbane City Council ABN 72 002 765 795

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3 May 2019

Ms Daniele Bird
Acting Auditor-General
Queensland Audit Office
PO Box 15396
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qao@qao.qld.gov.au

Dear Ms Bird

Thank you for providing Brisbane City Council (Council) with the opportunity to comment on the Queensland Audit Office's draft Managing consumer food safety in Queensland Report 2018-19 (the draft report). Council is committed to improving food safety outcomes for the Brisbane community and welcomes feedback on the way in which Council administers and enforces its delegated responsibilities under the *Food Act 2006* (the Act).

As identified in the draft report, there has been significant growth in the food industry in Queensland, including Brisbane, since the introduction of the Act in 2006. This is not just the volume of food businesses but also an increase in diversity of business types and changes resulting from business innovation, technology advancements and the disruption economy. Changes in consumer behaviour and the explosion of food delivery apps are making it easier to purchase take away food from an increasing number of businesses. Small start-up businesses are wanting easy access to the market to try out new business ideas and develop a customer base and social media following, before committing to bricks and mortar style outlets.

This rate of change requires a legislative framework that applies a risk-based approach to food regulation, while remaining flexible enough to account for new and emerging ideas. Food businesses are evolving and the food regulation system, along with its regulators, need to adapt to meet these challenges.

Council is pleased to see that the draft report acknowledges the challenges experienced within the current legislative framework for licenced food businesses and welcomes the recommendation for Queensland Health to conduct a legislative review of the Act.

Brisbane introduced its food safety rating scheme, Eat Safe Brisbane, in 2010. Eat Safe Brisbane aims to improve food safety standards, while providing an opportunity for Council to enhance food safety risk management and to promote food safety within the food industry and community. Recognising the value of a structured framework for the delivery of devolved food regulation activities, numerous other local governments in Queensland have adopted the Eat Safe scheme.

.../2

- 2 -

The scheme applies a risk management approach to food safety by awarding a star rating to all food businesses based on compliance with the *Food Act 2006*, the Food Safety Standards and the implementation of good management practices. This allows Council to undertake unannounced audits of businesses based on the star rating. Businesses that achieve a four or five-star rating are audited less frequently, however, they must maintain a high level of compliance. Extending the timeframe between audits for four and five-star rated businesses allows Council to concentrate resources on poor performing businesses by undertaking more frequent audits to assist them in improving their food safety practices. Additionally, should Council receive complaints about a food business, an unannounced inspection is undertaken and the star rating is reviewed.

The implementation of a consistent and structured framework for the regulation of food businesses has provided Council an opportunity to identify trends in the industry. For example, Council identified a need for additional support for culturally and linguistically diverse (CaLD) food businesses and, as a result, introduced the Eat Safe Food Education Program in 2016. The project aims to increase food safety compliance rates among CaLD food business owners by working collaboratively with key community stakeholders and the food industry. The program delivers food safety education through a number of channels, including translated educational resources, onsite training and food safety workshops. The program highlights the importance of education to influence outcomes in improving food safety culture within CaLD food businesses, particularly when 87.5% of CaLD food businesses that participated in the full program have improved their Eat Safe Brisbane star rating.

Comments to specific recommendations

Recommendation eight – it is recommended that Council reviews the risks associated with its licencing inspection processes for new food premises. It should consider whether additional procedures such as follow-up inspections are required within a reasonable timeframe after the food business becomes operational.

Council has commenced a review of the food business licencing inspection process for new food premises to understand the associated risks. Process improvements to be made include a change from the first inspection being a regulatory inspection to an education session with the new business operator. This will provide an opportunity for the business to understand the food safety requirements, and for Council officers to assist in establishing a good food safety culture within the business from the outset. This educational visit will then be followed up by a regulatory style inspection within a suitable period.

As with any changes that have the potential to increase workloads, Council will need to assess the impact of the proposed changes in line with existing public health services and the impact the changes are likely to have on improved outcomes, weighted against delivering value for money and not adversely impacting small businesses.

.../3

- 3 -

Recommendation nine – it is recommended that Council ensures consistent adherence to its operating procedures on food safety programs.

Council acknowledges that the audit has identified a number of inconsistencies with the application of food safety program procedures for the follow-up on non-compliances identified in third party audit reports. However, it is important to note that these businesses also form part of Council's Eat Safe Brisbane program and are inspected by Council's Environmental Health Officers at a regular frequency. This inspection process provides additional mechanisms for the identification and mitigation of risks outside of the food safety program framework. Therefore, the actual risk in those cases identified would be considered low, particularly in the context of the approximately 7,900 licenced food businesses in Brisbane and the 1,000 complaints received each year.

Council has provided training to officers in the operating procedures for food safety programs and will conduct regular audits to ensure food safety program procedures are adhered to.

Other recommendations

Although not specifically directed towards Council, the following recommendations for Queensland Health are supported with a view to improving the coordinated approach to the management of food safety risks across the State.

- Conduct a legislative review of the Act to ensure it enables effective responses to food safety risks.
- Local government representation on existing governance committees.
- Implement a State-wide risk-based framework and standards for classifying and inspecting food businesses and for making enforcement decisions.
- Design and implement a set of performance measures for State-wide food safety outcomes.
- Rectify data collection and reporting issues.

Council prides itself on the services it delivers under the Eat Safe Brisbane program. Council works hard to contribute to Brisbane's world-class food industry by ensuring residents and visitors have access to safe and suitable food, and to reduce and prevent the risk of food borne illness in the community.

Council is committed to working in partnership with Queensland Health, and other local governments, on the management of food safety risks in South East Queensland. Should you require any further information about Council's submission, please contact Ms Amanda Harley, Principal Officer – Environmental Health, Compliance Management Team, Compliance and Regulatory Services, Lifestyle and Community Services, on or via email to

Yours sincerely



Colin Jensen
CHIEF EXECUTIVE OFFICER

Encl. Council's response to recommendations form



Responses to recommendations

Brisbane City Council

Managing consumer food safety in Queensland

Response to recommendations provided by the Chief Executive Officer, Brisbane City Council on 3 May 2019.

Recommendation	Agree/ Disagree	Timeframe for implementation (Quarter and year)	Additional comments
<p>We recommend that the Brisbane City Council:</p> <p>8. reviews the risks associated with its licensing inspection processes for new food premises. It should consider whether additional procedures such as follow-up inspections are required within a reasonable timeframe after the food business becomes operational.</p>	Agree	Quarter three 2019-20	Council has commenced a review of the food business licencing inspection process for new food premises to see how the associated risks can be mitigated. This will include a change from the first inspection being a regulatory inspection to an education session with the new business operator. This educational visit will then be followed up by a regulatory style inspection within a suitable period.
<p>9. ensures consistent adherence to its operating procedures on food safety programs.</p>	Agree	Immediately (Quarter four 2018-19)	Council has provided training to officers in the operating procedures for food safety programs and will conduct regular audits to ensure food safety program procedures are adhered to.

Comments received from Chief Executive Officer, Council of the City of Gold Coast

Date: 9 May 2019
Contact:
Location:
Telephone:
Your reference:
Our reference:

CITY OF
GOLD COAST.

Auditor-General
Queensland Audit Office
PO Box 15396
CITY EAST QLD 4002

Dear Auditor-General

PERFORMANCE AUDIT ON MANAGING CONSUMER FOOD SAFETY IN QUEENSLAND

Thank you for the opportunity to review your proposed report to Parliament on managing consumer food safety in Queensland.

With regard to your correspondence of 10 April 2019, please find attached our responses to the proposed recommendations specifically relating to City of Gold Coast.

The City supports the broader observations and improvements identified in the report and is well progressed in addressing the specific recommendations impacting the city.

Yours faithfully



Dale Dickson PSM
Chief Executive Officer
Council of the City of Gold Coast

Enc.

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Responses to recommendations

Performance audit on managing consumer food safety in Queensland
FN342/341/19(P1)

Page 2
9 May 2019

Council of the City of Gold Coast

Managing consumer food safety in Queensland

Response to recommendations provided by
Rob Smith, Manager Health Regulatory & Lifeguard Services, 6/5/19

Recommendation	Agree/ Disagree	Timeframe for implementation (Quarter and year)	Additional comments
<p>We recommend that the Council of the City of Gold Coast:</p> <p>10. improves the configuration of its systems to ensure they can adequately capture extensions granted in accordance with the legislation, effectively manage the backlog of licensing applications, and report on the council's food safety activities.</p>	Agree	Quarter 3, 2019	<p>Enhanced reporting functionality for food safety inspections, complaints and notifications are now generated on a monthly basis and distributed to key staff for action.</p> <p>Council is currently establishing enhanced reporting processes which enable more efficient analysis and management of applications where extensions of time have been granted in accordance with the legislation.</p> <p>This enhanced reporting capability will enable the Council of the City of Gold Coast to maintain consistent compliance with legislated timeframes.</p>
<p>11. ensures consistent adherence to its operating procedures on food safety programs.</p>	Agree	Quarter 2, 2019	<p>Monthly quality checks have been enhanced to include both quantitative and qualitative assessments to ensure consistent adherence to business processes and operating procedures.</p>



Comments received from Chief Executive Officer, Cairns Regional Council



ENQUIRIES:
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OUR REF:

7 May 2019

By email: qao@qao.qld.gov.au
Brendan Worrall
Auditor-General
Queensland Audit Office
PO Box 15396
City East QLD 4002

Dear Sir

Response to QAO Audit Report for Managing Consumer Food Safety in Queensland

We refer to your letter of 10 April 2019, providing a copy of the Queensland Audit Office (QAO) final audit report on managing consumer food safety in Queensland (Report).

Cairns Regional Council (CRC) appreciates the opportunity to comment on the Report. Whilst CRC acknowledges that QAO has responded to CRC's comments on the initial draft, CRC maintains a number of concerns about the accuracy of the comments and findings made in the Report.

We have set out below some general observations as well as specific comments in relation to the findings of the Report.

General observations

- 1 The Report acknowledges that whilst Queensland Health has created guidelines to assist with implementing the Act and its subordinate legislation, it has not developed a state-wide risk-based framework to guide consistent practices. CRC supports this finding and agrees that a standardised approach to classifying food businesses, monitoring compliance and taking enforcement action is necessary.
- 2 In the absence of a state-wide approach, each Queensland Council has adopted their own risk based regimes. The Report delivers various findings relating to the differences in the audited Councils' approach to consumer food safety. The Act allows for this level of autonomy and this should not be stated as a negative finding.
- 3 The final recommendations relating to CRC are generally accepted. The audit findings highlighted the need for improved data management and system configuration to support actions required under the Act. It also emphasised the need for improved recordkeeping and the need for an enforcement guideline. These recommendations are business improvement initiatives and have not been found to pose a high risk to consumers if not implemented.
- 4 The Report inaccurately reflects the safety of food in the Cairns region. While CRC recognises that there could be improvements in its data management and record keeping, those administrative matters do not indicate poor food practices. On the contrary, CRC considers that it has a strong practice in educating the food businesses undertaking food handling, which has led to better food practices and

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fewer matters of non-compliance than the other audited Councils. The Report fails to highlight this fact.

- 5 The Report makes a number of statements implying that CRC's food safety practices expose consumers to risk, yet it should be noted that CRC has no recorded outbreaks of food borne illnesses linked to a regulated food business during the audit period. Furthermore, CRC is not aware of any food poisoning outbreaks (or individual cases) with a confirmed link to a regulated food business in the Cairns region over the last 17 years.
- 6 CRC made repeated requests of the QAO to provide data to support its findings that CRC's practices exposed consumers to risk. CRC requested a comparison between the audited Councils of reported food borne illnesses linked to regulated food businesses in their locality. QAO failed to provide this data and have advised that it is not available.
- 7 Based on this response, CRC reviewed its recorded complaints of foodborne illness potentially linked to a regulated food business compared to the number reported notifiable conditions. The review demonstrated that the number of **food poisoning allegations linked to a regulated food business that Council receives in comparison to the number of actual notifiable conditions is less than 5%**. Further, as stated in paragraph 5, none of these complaints have been confirmed to be linked to a regulated food business.
- 8 It would be expected that the Report might include a statement concluding that while CRC has adopted a more conservative approach to enforcement when managing consumer food safety, it appears to be adequately managing the risk to consumer safety which includes more frequent inspections than the other audited Councils.
- 9 Various findings of the Report do not appear to be based on sufficient evidence, but rather on anecdotal reports or discussions with staff. The opinions of the auditor are often based on a review of inspection records, which are unlikely to constitute a proper representation of all the facts and circumstances or full context of each scenario.

For example:

- The sample size of 7 used to draw the conclusion that some licences were issued without inspection represents 2% of the total of food business licence applications (335) received within that same year. Only 2 were identified as being processed without adequate inspection which equates to 0.6% of the total number of licences processed in a year. As the audit period was for 3 years (assuming an average of 335 applications per year), Council processed approx. 1005 licences. Therefore, the sample data of 2 inadequate inspections equates to approx. 0.2%.

Of the 2 examples provided, CRC cannot locate any evidence that either business traded without a licence, therefore it would be inappropriate to state that there is a risk to consumer food safety.

In addition to new licences, renewal licences are reinspected and reissued each year and follow up inspections are conducted regularly making a total of 1,540 (approx. average) inspections carried out. When considering 2 inadequate inspections across a total of 4,620 licences (average across a 3-year audit period) the sample data of inadequate inspections equates to 0.04%.

Of the 5 that have incorrectly been determined as having inadequate inspections/assessments, CRC's thorough review of the data did not support this determination.

- The sample size of 5 used to draw the conclusion that insufficient enforcement action was taken represented 0.4% of 1,100 food businesses. Of the 5 only 1 was found to be valid. Across 1,100 food businesses, this equates to 0.09%. The audit period was for 3 years and therefore 1 instance across 3,300 food businesses equates to 0.03%. Given the insignificance of this figure, it would be misleading to determine that there is a risk to consumer food safety.
 - Only 4% of CRC's routine follow up inspections are overdue by greater than 90 days and CRC inspects high risk premises annually unlike one of the other audited Councils.
- 10 CRC notes that despite the Report's concern with the level of enforcement action taken, compliance outcomes have still been achieved, and consumer safety has been maintained. CRC's approach to enforcement has been to take a lead role in the education of regulated food businesses with respect to safe food handling practices, rather than heavy-handed compliance action. CRC considers that this approach is more sustainable and adequately manages consumer food safety risk. Indeed, this approach has resulted in fewer non-compliances than other audited Councils.
- 11 It should be noted that whilst CRC supports a state-wide approach to managing consumer food safety, it would not support a standardised risk based regime that reduced the level of inspections or contact currently maintained with regulated food businesses under its current model (i.e reducing routine inspections from a frequency of every 12 months to every 3 years).
- 12 CRC generally accepts the findings that it needs to improve its data management, record keeping, and documentation of process but notes that the Report fails to provide any substantiated link between these practices and risk to consumer food safety.
- 13 CRC has already implemented the business improvement measures contained in the Report's findings. This is detailed in the **attached** extract from the Report titled "Cairns Regional Council - Managing consumer food safety in Queensland".

Specific comments

Page 8, "Legislation exemptions and challengers"

- 14 The Report notes that *"the Act's definition of licensable business is complex, making it difficult for prospective food businesses and councils to understand and apply."* CRC agrees that this definition should be clarified.

Page 9, "Risk-based framework"

- 15 The processes and practices which other Councils decide are best for their respective areas will not necessarily be the most appropriate for CRC, given the vast differences in the location, size, industries and demographics of each of the councils. Although the QAO advised that it did not intend for the Report to make a comparison of the merits of the approaches adopted by each audited Council, the format of the Report appears to do so.



Page 10, "Local government"

- 16 The Report acknowledges that *"as the primary regulators of licensable food businesses, local governments decide what processes, practices, resources, and systems they implement to meet the requirements of the Act."* CRC notes that it is indeed best placed to decide what processes are most efficient for its own local government area.
- 17 The Report notes that the three audited Councils have *"experienced issues with managing the legislative requirement for licensable food businesses to have food safety supervisors."* CRC notes that the issue with respect to managing the requirements of food safety supervisors is due to the legislative provisions under which the councils must operate. These stipulate that a supervisor does not need to be provided at the time of applying for a licence, but only that the details be provided within 30 days of the licence being issued.

Page 11, "Cairns Regional Council"

- 18 The Report states that CRC *"has applied a risk-based approach to its food safety responsibilities"*. CRC considers the Report does not adequately explain the role CRC has played in educating the food businesses undertaking food handling. This has resulted in better food practices and fewer non-compliances than other audited Councils.

Page 12, "Cairns Regional Council"

- 19 We address below the factors which are listed in the Report as areas CRC *"needs to improve"*:
- i. *"its backlog of licence applications and renewals so food business don't run the risk of operating without a licence"*
 - This backlog is largely attributed to administrative management of data rather than an actual backlog of overdue inspections. Likewise, CRC has not in any circumstance elected to extend the application timeframe under section 62 of the *Food Act 2006 (Act)*. Had this provision been enacted, CRC's overdue applications would likely be zero. This has also been demonstrated with recent system data reports which indicate that since the system was reconfigured in January 2019 to allow for extension of application assessment periods, the CRC have consistently achieved the target of 100% of food business licence applications being processed within statutory timeframes.
 - ii. *"the timeliness of routine inspections according to the council's inspection schedule"*
 - The relevant legislation does not set out any required inspection frequency. If CRC reduced the inspection frequency to the minimum time frames under the FSANZ Risk Clarification System, it would subsequently have minimal (if any) overdue inspections.
 - The majority of routine inspections are scheduled to be done annually. The Report notes that similar businesses in another audited Council may not be inspected for up to three years.
 - It should be noted that the overdue inspections can be attributed to difficulties in sourcing qualified EHO's despite repeated recruitment attempts. All vacancies have now been filled.
 - iii. *"the apparent inconsistency at times between inspection report conclusions compared with food safety issues raised in the inspection reports"*

- The Report does not provide any justification for this claim, which is based solely on the opinion of the auditors following a review of CRC records and discussions with staff.

- 20 The Report notes that CRC "*could also have taken further enforcement action on some occasions – based on Queensland Health enforcement guidance*". A total of 5 instances were provided as examples of where enforcement action was not appropriate or inconsistent. Of the 5 example cases provided for enforcement comments contained in this Report, only 1 instance was found to be valid. The sample section of 5 equates to 0.4% of 1,100 food businesses. 1 instance across 1,100 food businesses equates to 0.09%. However, the audit period was for 3 years, therefore 1 instance across 3,300 food businesses equates to 0.03%. Given the insignificance of this figure, it would be misleading to determine that there is a risk to consumer food safety.
- 21 CRC notes that despite the Report's concern with the level of enforcement action taken, compliance outcomes have still been achieved, and consumer safety has been maintained. CRC's approach to enforcement has been to take a lead role in the education of food businesses with respect to safe food handling practices, rather than heavy-handed compliance action. CRC considers that this approach is more sustainable and seems to adequately manage consumer food safety risk. Indeed, as stated in paragraph 18, it is this approach which has resulted in fewer non-compliances than other audited Councils.
- 22 Whilst enforcement action between local governments may vary, the Report's comment about food business not being adequately overseen by CRC is overstated, given that CRC has a more frequent inspection regime than other audited Councils.

Page 12, "Food safety program audits and the mobile food register"

- 23 The Report's criticism that "*not all councils maintain documentary evidence of follow-up actions taken on non-compliance issues identified in the audit reports*" appears to be unwarranted, given that the Queensland Health Management of Food Safety Program Guidelines states "*the local government may assess the audit report to determine whether further action is required*" and "*a local government is not obliged to follow the recommendation or opinion of the auditor, but may consider this in making their decision.*"

Business improvement actions

- 24 Recommendation 12 suggests that CRC continue to improve its licensing and compliance processes to manage the backlog of overdue licensing applications and routine inspections, and ensure service levels can be maintained for local food business.
- 25 CRC acknowledges that the Report notes on page 35 that an internal review was commenced in 2016, and then in 2018 action plans were developed.
- 26 For completeness, we confirm that a full review of the Licensing and Approvals Team was commenced in 2016. As a result of that review, a number of changes were implemented with respect to improvement of customer service, reducing risk and exposure and improving efficiencies, including:
- restructure of food business licensing;
 - introduction of a suite of template documents; and
 - commencement of drafting fresh website content and guidelines.
- 27 In July 2018, a further review was undertaken. The business improvement plan included review of:



- the suite of template letters;
- current operating procedures;
- the structure of the Authority system and use of the system; and
- reporting tools available for licensing and approvals data and benchmarking of other local governments with respect to information made publicly available on their website.

28 At the time of the audit for the Report, CRC was already taking a proactive approach in addressing:

- data capture in CRC's document management systems;
- reporting tools for the purposes of performance standards for monitoring areas of responsibility for the Licensing and Approvals team;
- effective management of licensing and approvals data (for example, ensuring the Authority register is updated to present an accurate reflection of each application and that applications are closed and removed from the Authority system once finalised);
- workflows and communications between the Licensing and Approvals team and the Permit Compliance team and how they interact;
- redesign of the information made publically available to reduce frequent simple enquiries which could be easily resolved with improving website content;
- a review of information provided to applicants to assist with completion of application forms under the Act, with an aim to reduce the volume of incomplete applications received (which results in unnecessary delays in assessing applications); and
- providing additional assistance to the applicants to ensure they are adequately prepared for their final inspection to reduce delays in providing a final outcome on their application.

CRC confirms that the following items from its business improvement action plan have been completed:

- The process for Food Business Licensing was mapped and streamlined to support a more efficient processing time and better customer service.
- The structure of the Authority system was changed to:
 - support the new streamlined process;
 - create new tracking steps for time extensions on applications. As the system structure previously did not support extensions of time, applications with a valid reason for extending would flag as overdue in the system, even though they were technically not overdue;
 - create new tracking steps for provisional licences to ensure premises are reinspected prior to the provisional licence expiring; and
 - create a new front screen determination code, to assist with impeded workflows between Licensing and Approvals and Permit Compliance

- Training was delivered to the environmental health officers (EHOs), management and administration support on the use of the Authority system (following the system changes).
- A new procedure manual was created for EHOs and administration support to provide step by step instructions on how to use the new system.
- A data report has been created to provide the management team with an overview on the current status of all applications to ensure statutory timeframes are met.
- The suite of template letters was reviewed and letters were redrafted to support the new process. Included in this suite is a final inspection checklist for customers to use to ensure they are prepared for their inspection.
- A review of payment options has been undertaken and new online payment options are being implemented to expedite processing of applications (not yet complete).
- A complete data cleanse of the existing applications was undertaken. Lapsed applications were closed and applications over 30 days that had not been formally extended were processed as a priority.
- A new system for regularly cleansing Permit Compliance data was implemented to ensure data is regularly cross checked and errors are fixed.
- System changes are underway with new crystal reports to be created to assist the administration support team and Permit Compliance with ensuring all renewals are sent out.
- The iAuditor inspection report was reviewed to support a consistent assessment across the team. The template has now been modified to support a more efficient assessment. The template has been tested and feedback is that it is working well.
- Regular internal meetings have been scheduled for the Licensing and Approvals, Permit Compliance and administration support officers to discuss hot topics, difficult or sensitive applications, and changes to existing food businesses which may affect both teams. This is also used as a forum to raise issues which may require escalation.
- A benchmarking exercise was undertaken with like local governments with respect to their KPI's for food safety.
- KPI's have been set for food safety actions and reporting tools have been created to provide data stats for KPI reporting.
- The food business page on CRC's external website has been redesigned to ensure customers can obtain valuable information on all aspects of food licensing, the process for applying and all necessary forms. The redesigned website went live on 14 December 2018.
- New guidelines for mobile food businesses, fixed food premises, temporary food premises and home based businesses have been created to provide customers with detailed and technical information on all aspects of licensing (guidelines are currently under final review).
- The Permit Compliance Unit are currently undertaking the following actions to address matters highlighted by the auditors:
 - An Enforcement Guideline has been drafted, this is now being reviewed by the teams and management before adopting



- Undertaking a review of the iAuditor inspection checklist to incorporate scoring which will guide consistent inspection outcomes in accordance with the enforcement procedures
- Implementing formal inspection report review system to ensure more consistent outcomes in accordance with enforcement guidelines
- Developed an EHO training schedule and development checklist

It should be noted that these requirements are not currently required by the Act.

- 29 In discussing inspection frequency, it is relevant to note that since some food businesses are not inspected for a number of years under another audited Council's risk based regime, it would be likely that a stronger enforcement action may be required should a non-compliance be noted. A cleaning and hygiene offence noted at a planned inspection and not adequately enforced could likely become a major non-compliance by the time the next planned inspection occurs in 3 years' time. Stronger enforcement action would then be required to demonstrate the seriousness of the risk, however, a similar offence noted at a premises with annual inspections would attract less risk given that the premises would be re-inspected again at a sooner interval. This would therefore present the inspecting EHO with an option to take a lesser level of enforcement action.

Page 28, "Regional forums"

- 30 CRC notes that Queensland Health has now recommenced these forums in Cairns and CRC is actively participating.

Page 35, "Quality assurance"

- 31 The Report states that no documentary evidence of checks of inspection records is maintained. CRC notes that a Supervisor or Senior Officer reviews all documentation when enforcement action (such as Improvement Notices or PIN) is taken. In addition, new staff undergo 1 month, 3 month and 6 month performance reviews and then annual reviews thereafter. Staff also undergo multiple joint inspections per year including with a Senior Officer and on occasion a Supervisor. Seniors and Supervisors oversee all enforcement actions to ensure consistency.

Page 34, "Adequacy of pre-licensing assessments"

- 32 With respect to new food businesses, within CRC every food business has at least two inspections within the first 12 months (if not, three or more). The permit compliance team will re-inspect a new food business within the first 6 months of trade, as this is when checking on food handling skills and food safety is paramount.

Page 35, "Timeliness in processing licensing applications"

Page 37, Fig 3B

- 33 Examples were provided to the auditor for CRC to demonstrate that in most circumstances, applications not approved in 30 days were as a result of the applicant delaying the process. In a number of circumstances, the applicant had submitted an application without a plans assessment. Notes against the application in the system demonstrated that the applicant had been verbally advised that they needed to submit a suitability of premises application before assessment could commence. In the meantime, the licence application would remain in the system as overdue.
- 34 Other examples of applications in CRC's system which the auditor noted as being overdue are:
- One circumstance where an application for amendment of a licence was received with no fee paid (no fee required for a minor amendment), upon

initial review, the EHO contacted the applicant and advised that their application was not considered a minor amendment, but rather a new application. They were charged the appropriate fee for a new application however the fee was never paid and the business closed. This application was considered overdue by the auditor.

- Three circumstances where the applicant lodged their application and later called to confirm that the builders were delayed and they were not opening until a later date. The applications were placed on hold until a future date. No formal letter of extension was sent however it was verbally agreed and documented that the inspection would occur at a later time. This was considered overdue by the auditor.
- One circumstance where it had been documented that the business was closed, however, the auditor considered the application overdue because the tracking step had not been closed in CRC's Authority system.
- One circumstance where an application was received but when the EHO called to arrange an inspection, the owner said they knew nothing about an application being lodged. The owner confirmed they were still the owner, no changes to the business had been made, and they did not require the application. As the tracking step was not closed in the Authority system, the auditor considered this to be overdue.

35 The above examples indicate the context or background facts which the auditor has failed to take into account in making broad statements in the Report, to CRC's detriment.

Page 40, "Councils' monitoring of food safety program audits"

36 The Act does not set out any criteria for establishing when enforcement action must be commenced. CRC relies on and repeats its comments above with respect to its discretion to initiate enforcement action.

Page 41, "Do entities adequately manage and enforce compliance?"

37 The Report is correct in noting that the Act does not prescribe how regulatory activities must be undertaken.

38 In fact, it is a proper matter for consideration of compliance measures to have regard to the available resources of the regulator.

39 Section 35(a) of the *Civil Liability Act 2003*, which sets out the principles which apply to a proceeding in deciding whether a public or other authority has a duty or has breached a duty, states that "*the functions required to be exercised by the authority are limited by the financial and other resources that are reasonably available to the authority for the purpose of exercising the functions.*"

Paged 42, "Council inspection programs"

40 It is noted that a higher percentage of inspections completed is achievable where food businesses are only being audited every 3 years.

41 CRC repeats and relies on its comments above in relation to the fact that the Act does not prescribe any inspection frequency. CRC could reduce its inspection frequency to minimum timeframes, however, considers that this would likely result in an increased food safety risk.

42 The Report notes that some CRC inspections have received satisfactory results despite several significant non-compliance issues. The auditor's opinion about what constitutes a significant non-compliance may vary from the opinion of CRC's Qualified EHOs, and the auditor is unlikely to be aware of all the facts and



circumstances that lead to the EHO determining the outcome was satisfactory (including consideration of any reasonable explanations, compliance history and the licensees' willingness to comply).

Page 48, "Working protocols for joint investigations into foodborne illness"

- 43 The Report notes that CRC and the local HHS have differing views on CRC's roles and responsibilities for taking part in joint investigations. The evidence on which this statement is based has not been included. In fact, the roles of each party are quite clear.

Page 49, "Documenting enforcement decisions"

- 44 The Report criticises CRC for an absence of operating procedures regarding enforcement actions. However, this is not a statutory requirement under the Act, and appears instead to be based on the auditor's opinion of what would constitute best practice.
- 45 While it is acknowledged that documentation with respect to enforcement decisions may be lacking in some cases, documentation has never been lacking with respect to complaint and inspection records.
- 46 As already noted, EHO's have a professional discretion to make decisions on enforcement action – as this is not prescribed in the Act, it cannot be said that CRC is failing to comply with any statutory obligations.
- 47 The Report notes that CRC has commenced a lower number of enforcement actions than the other audited Councils and insinuates that this is a negative rather than a positive outcome. In fact, a lower number of enforcement actions is representative of better food practices and education in the local government area, resulting in fewer cases where compliance action is warranted or necessary.
- 48 Enforcement action is not necessarily an accurate indication of managing consumer food safety. CRC's increased contact with food businesses (annual inspections) and its educational approach to food safety is the likely cause of the decrease in enforcement action taken. Likewise, other Councils may have experienced a number of food borne illness outbreaks, which CRC has not, so enforcement action is likely necessary under those circumstances. This context has not been explained at all in the Report and unfairly misleads and misrepresents the food safety in CRC's local government area.

Page 51, "Structured training framework for EHOs"

- 49 CRC considers that as part of the Queensland Health redeveloped authorised officer framework, EHOs working in local government should also be subject to mandatory continuing development requirements.

Page 52, "Councils' capacity to manage food safety responsibilities" – Figure 3H

- 50 The representation of full time equivalent (FTE) food safety staff at CRC does not take into account the higher inspection frequency at CRC as opposed to the other two councils.
- 51 The graph also overstates the actual resourcing level, as it includes vacant positions in the numbers.

Conclusion

CRC acknowledges that improvements could be made with respect to the manner in which its procedures are documented. However, CRC has strong concerns with the presentation of the findings of the Report as they are not based on sufficient evidence and fail to provide a demonstrated link to a risk to consumer food safety.

The wording of the Report indicates that there could be a cause for concern with respect to food business, which in fact is not the case. The Report failed to produce any evidence to demonstrate any food borne illnesses directly linked to a licenced or regulated food business in Cairns. CRC's increased inspection regime alone ensures consumer food safety is well managed.

The primary objective of the Act is to ensure that consumer food safety is effectively managed. CRC's view is that the Report unjustifiably paints CRC in a negative light and there has not been sufficient evidence adduced to support the allegations which are raised against CRC. The findings are based loosely on opinion of the auditor without elaborating on the context or relevant background circumstances.

It would be expected that the Report may include a statement to the effect that while CRC has adopted a more conservative approach to enforcing consumer food safety concerns, it is adequately managing the risk to consumer safety. Furthermore, CRC has demonstrated a proactive approach to addressing business improvement initiatives in relation to consumer food safety and this information had been provided to the auditor prior to the release of the Report.

CRC strongly supports the implementation of a comprehensive, state-wide approach to food safety standards, however, wishes to ensure that all findings in the Report are based in fact and are an accurate reflection of CRC's adopted practices and, more importantly, the legislative requirements.

Yours sincerely



John Andrejic
Chief Executive Officer

Encl.

Queensland Audit Office response

We would like to remind those reading this report, including the response letter from Cairns Regional Council, to refer to the performance engagement section of this report on page 2.

The performance engagement section describes the Queensland Audit Office's requirements for a performance audit and the nature of what we include in the report to parliament.



Responses to recommendations

Cairns Regional Council

Managing consumer food safety in Queensland

Response to recommendations provided by Kelly Reaston, General Manager Planning and Environment 7 May 2019.

Recommendation	Agree/ Disagree	Timeframe for implementation (Quarter and year)	Additional comments
<p>We recommend that the Cairns Regional Council:</p> <p>12. continues to improve its food safety licensing and compliance processes and systems to effectively manage the backlog of overdue licensing applications and routine inspections, and ensure service levels can be maintained for local food businesses.</p>	Agree	Complete	<p>Licensing applications</p> <p>The food business licensing applications data has been cleansed and all overdue applications processed as a priority. A key performance indicator of 100% of Food Act 2006 applications processed within statutory timeframes has been set for processing applications. This KPI has been consistently met since January 2019. Weekly system reports generated and sent to the management team demonstrate the achievement of this KPI.</p> <p>Inspections</p> <p>As at 1 May 2019, overdue inspections data showed:</p> <p>0 overdue >90 days 29 overdue >60 days</p>
<p>13. implements detailed council specific operating procedures to complement Queensland Health guidance for, and monitoring and analysis of:</p> <ul style="list-style-type: none"> processing licence applications, including conducting assessments and accrediting food safety programs 	Agree	Complete	<p>The food business licence application process has been workshopped and documented using ProMapp. A detailed instruction manual on the use of the authority system has been drafted and provided to the team. It is acknowledged in the report that the process for accrediting Food Safety Programs was improved and brought into alignment with the requirements of the Act in Feb 2018. This process has been workshopped and is in the final stages of being drafted in ProMapp.</p>
<ul style="list-style-type: none"> following up on non-compliance issues identified in food safety program audits 	Agree	Complete	<p>An Enforcement Guideline has been drafted and management have provided feedback. The guideline includes a formal inspection report review system and enforcement matrix to ensure more consistent outcomes.</p>

Recommendation	Agree/ Disagree	Timeframe for implementation (Quarter and year)	Additional comments
<ul style="list-style-type: none"> inspecting food premises— including assessment standards 	Agree	Complete	The Enforcement Guideline includes assessment standards and a weighting system to ensure more consistent outcomes.
<ul style="list-style-type: none"> taking enforcement action. 	Agree	Complete	The Enforcement Guideline includes a matrix for enforcement action to be administered to ensure consistent outcomes.
14. improves the configuration of the data management system to enable applications to be extended where appropriate in accordance with the legislation.	Agree	Complete	The Authority system has been configured to enable applications to be extended. Additional tracking steps have been included in the system to allow for information requests and extension of applications by agreement. Additionally, tracking outcomes have been included against the APAS tracking step to allow for applications to be withdrawn or lapsed.



B. Audit objectives and methods

The objective of the audit was to examine whether food safety was effectively managed for consumers of food in Queensland. The audit addressed the objective through the sub-objectives and lines of inquiry set out in Figure B1.

Figure B1
Audit sub-objectives and lines of inquiry

Sub-objectives		Lines of inquiry	
1	Department of Health, in partnership with hospital and health services (HHSs), is effectively administering and enforcing food safety practices	1.1	Is the Department of Health, in partnership with HHSs, administering and enforcing its duties as per the <i>Food Act 2006</i> (the Act)? (That is, managing food handling, sale, conduct, and auditor approval duties.)
		1.2	Is the Department of Health, in partnership with HHSs, effectively managing emerging food safety risks?
2	Local governments are effectively administering and enforcing food safety practices	2.1	Are local governments administering and enforcing their duties as per the Act? (That is, managing food handling, sale, conduct, licensing, and inspecting duties.)
		2.2	Are local governments effectively managing emerging food safety risks?
3	Responsible entities are effectively working together to maintain and improve food safety	3.1	Are responsible entities working together to maintain food safety for consumers in Queensland?
		3.2	Are responsible entities working together to improve food safety for consumers in Queensland?

Source: Queensland Audit Office.

Entities subject to this audit

We selected the following eight entities for the purposes of this audit:

- Department of Health
- Brisbane City Council
- Council of the City of Gold Coast
- Cairns Regional Council
- Metro North Hospital and Health Service
- Metro South Hospital and Health Service
- Gold Coast Hospital and Health Service
- Cairns and Hinterland Hospital and Health Service

The audit excluded from scope:

- the *Food Production (Safety) Act 2000*, Food Production (Safety) Regulation 2014 and administering bodies
- areas of food safety relating to food labelling, food composition (for example, preservatives), food packaging, and equipment
- food not covered in the food standards (which are included in the Australia New Zealand Food Standards Code).

Audit approach

We conducted the audit in accordance with the Auditor-General of Queensland Auditing Standards, which incorporate the Australian Auditing and Assurance Standards.

The audit included:

- desktop review and analysis of documents
- interviews with key personnel from the Department of Health, in scope HHSs, and local governments (councils)
- assessment of policies, procedures, and sample practices
- analysis of relevant data (for example, council reports on food safety activities)
- consideration of submissions and other information from key stakeholders.

Under the performance auditing standard, we are required to include variations in performance in the report to parliament that are considered material. Variations can be considered material in nature, not necessarily in number. We have noted exceptions which are material in nature in this audit. The *Auditor-General Act 2009* also requires the Auditor-General to report matters of public interest. Matters related to public health and safety are considered matters of public interest.



C. Food safety legislation in other jurisdictions

	Victoria	New South Wales	Western Australia	South Australia
Primary consumer food safety legislation	<i>Food Act 1984</i>	<i>Food Act 2003</i> Food Regulation 2015	<i>Food Act 2008</i> Food Regulation 2009	<i>Food Act 2001</i> Food Regulation 2017
Binding of the Crown (including the state)	The legislation binds the Crown (including the state). This means that the state government is not exempt from the legislation and must comply with it.	The legislation binds the Crown (including the state)	The legislation binds the Crown (including the state)	The legislation binds the Crown (including the state)
Other food safety legislation	<i>Dairy Act 2000</i> <i>Seafood Safety Act 2003</i> <i>Meat Industry Act 1993</i>	Not applicable	Not applicable	<i>Primary Produce (Food Safety Schemes) Act 2004</i>
Regulators of primary consumer food safety legislation	Department of Health and Human Services Local governments	NSW Food Authority Local governments (enforcement agencies appointed by the NSW Food Authority)	Department of Health Local governments	SA Health Local governments



	Victoria	New South Wales	Western Australia	South Australia
State regulator roles and responsibilities	<p>The Department of Health and Human Services has overarching authority for councils' environmental health officers and food safety auditors.</p> <p>It serves as interjurisdictional policy and project lead; conducts food safety risk assessments, incident investigations, and recalls; approves food safety auditors, authorised food analysts and approved food safety program templates; and investigates complaints.</p>	<p>The NSW Food Authority is the single food regulatory agency across the supply chain, supporting food safety and nutrition across the state.</p> <p>It administers and enforces food regulation; licenses, audits and inspects high risk (licensed) food businesses; provides training and support to councils; manages food safety risk; and develops policy.</p> <p>It conducts food business registration, monitors compliance, educates and advises food businesses, and carries out enforcement.</p>	<p>The Department of Health is responsible for food safety including dairy and seafood.</p> <p>The department is the enforcement agency for food businesses related to:</p> <ul style="list-style-type: none"> • public hospitals • dairy (primary production, processing, and transportation) • seafood (primary production or manufacturing of bivalve molluscs) • food businesses not within a local government area. 	<p>SA Health has overarching authority for monitoring and enforcement; conducting surveys and sampling to inform policy development; supporting and advising local councils on consistency and workforce development; educating regulators, businesses, consumers, and students; investigating (outbreaks and recalls); and approving and verifying food safety auditors.</p>
Local government roles and responsibilities	<p>Local governments register food businesses, monitor compliance, educate and advise food businesses, and carry out enforcement.</p>	<p>The councils are enforcement agencies appointed by the NSW Food Authority.</p> <p>They monitor and enforce compliance (with food safety standards) by retail food businesses and provide annual reporting on food safety activities.</p>	<p>Local governments are the enforcement agencies for food businesses within their districts.</p>	<p>Local governments register food businesses, monitor compliance, educate and advise food businesses, and carry out enforcement.</p>
Other food safety regulators	<p>Dairy Food Safety Australia PrimeSafe</p>	<p>Not applicable</p>	<p>Not applicable</p>	<p>Department of Primary Industries and Resources DairySafe</p>



	Victoria	New South Wales	Western Australia	South Australia
Exemption from licensing or registration requirements	<p>Some exemptions apply to registration requirements. Class 4 food businesses (which are classified as the lowest risk) are not required to register with local governments. However, they are still required to notify local governments before commencing food handling. Class 1, 2, and 3 food businesses must be registered with a council and ensure that the food they sell is safe. They include businesses providing services to patients in hospitals, or prisoners in prisons.</p>	<p>Some exemptions apply to registration requirements. Retail food businesses register with their council when they begin trading. The licensing requirements only apply to certain primary producers, transporters of certain primary produce, and those providing food service to vulnerable persons in hospitals and aged care facilities. A ‘vulnerable persons’ business must be licensed under the <i>Vulnerable Persons Food Safety Scheme</i> of the NSW Food Regulation 2015. Under NSW legislation, childcare centres are not included in the definition of a ‘vulnerable persons’ business and do not need to be licensed.</p>	<p>Some exemptions apply to registration requirements. The following food businesses or activities are exempt from registration:</p> <ul style="list-style-type: none"> • community fundraising events • food businesses selling certain packaged food • food businesses solely providing complimentary drinks in conjunction with another non-food business. 	<p>No exemption.</p>



	Victoria	New South Wales	Western Australia	South Australia
Framework for food business classification and inspection	<p>Victorian food businesses have a pre-determined classification in four classes:</p> <ul style="list-style-type: none"> • Class 1 (highest risk) • Class 2 • Class 3 • Class 4 (lowest risk). 	<p>The NSW Food Authority uses the Australian Government’s <i>Business Sector Food Safety Risk Priority Classification Framework</i> to priority classify food businesses.</p> <p>The classifications are:</p> <ul style="list-style-type: none"> • Priority 1 (P1)—highest risk • Priority 2 (P2) • Priority 3 (P3) • Priority 4 (P4)—lowest risk. 	<p>The Department of Health has developed guidance for the classification of food businesses—<i>WA Food Regulation: Food Business Risk Profiling</i>. The guidance recommends the use of a food safety assessment frequency model, based on the <i>Priority Classification System for Food Business</i> issued by Food Standards Australia New Zealand. The model provides enforcement agencies with a base from which to develop an assessment frequency schedule.</p> <p>The classifications are:</p> <ul style="list-style-type: none"> • exempt food businesses • low risk • medium risk • high risk. 	<p>SA Health has developed a statewide food business risk classification and inspection frequency system known as the <i>South Australian Food Business Risk Classification</i> system. It is based on inherent risk, which sets initial, maximum, and minimum inspection frequencies.</p> <p>The South Australian system is based on the national food safety risk profiling framework. The classifications are:</p> <ul style="list-style-type: none"> • Priority 1 (P1)—highest risk • Priority 2 (P2) • Priority 3 (P3) • Priority 4 (P4)—lowest risk.



	Victoria	New South Wales	Western Australia	South Australia
Food safety programs	All Class 1 and 2 food businesses need a food safety program.	Licensed food businesses, including food businesses serving food to vulnerable people, must implement a food safety program as required under the Australia New Zealand Food Safety Code's Food Safety Standard 3.3.1 (Food Safety Programs for Food Service to Vulnerable Persons). The food safety program must comply with Standard 3.2.1 (Food Safety Programs).	Food businesses covered by the Australia New Zealand Food Safety Code's Food Safety Standard 3.3.1 (Food Safety Programs for Food Service to Vulnerable Persons) are required to implement a food safety program that complies with Standard 3.2.1 (Food Safety Programs).	Food businesses covered by the Australia New Zealand Food Safety Code's Food Safety Standard 3.3.1 (Food Safety Programs for Food Service to Vulnerable Persons) are required to implement a food safety program that complies with Standard 3.2.1 (Food Safety Programs).
Audit of food safety programs	Class 1 and 2 businesses using an independent food safety program must be audited each year. Class 2 businesses using a department-registered food safety program are assessed annually by their local councils.	Food safety programs are required to be audited by a regulatory food safety auditor approved by the NSW Food Authority. The frequency of audits is based on each food business's priority classification and its previous audit rating.	Food safety programs are required to be audited by a regulatory food safety auditor approved by the Department of Health. The audit frequency is determined in accordance with the priority classification system developed by the Department of Health for the purpose of food safety program audits.	Frequency of food safety audits is determined based on the priority classification framework. SA Health conducts food safety audits of public hospitals, not-for-profit delivered meals organisations, and other government agencies.



	Victoria	New South Wales	Western Australia	South Australia
Food safety supervisors (FSS)	<p>All Class 1 and most Class 2 premises must have an FSS. Every FSS must complete the relevant training for their food sector with a registered training organisation.</p> <p>Class 3 and Class 4 food businesses only handle lower-risk foods and are not required to have a food safety supervisor.</p>	<p>The FSS requirement applies to retail businesses who process and sell food (prepare and serve) that is:</p> <ul style="list-style-type: none"> • ready to eat • potentially hazardous (that is, needing temperature control) • not sold and served in the supplier's original package. <p>In order to be certified as an FSS, a person must attain mandatory competency units from an approved registered training organisation under the FSS program.</p> <p>FSS certificates expire five years from the date of issue. FSS certificate holders are required to renew their training at an approved registered training organisation.</p>	<p>The legislation does not contain any specific requirement for an FSS.</p>	<p>The legislation does not contain any specific requirement for an FSS.</p>
Enforcement options	<p>Enforcement options include: infringement notice, temporary closure of food premises, revocation or suspension of registration, emergency order, and prosecution.</p> <p>The Department of Health and Human Services also suggests other options such as providing advice/guidance on how to comply or issuing a warning.</p>	<p>Enforcement options include: improvement notice, prohibition order, emergency order, seizure, and prosecution.</p> <p>The Food Authority's <i>Biosecurity and Food Safety Enforcement Policy</i> sets out the enforcement response matrix, which includes education, authorised officer powers, warning letters, improvement notices, penalties, and prosecution.</p>	<p>Enforcement options include: improvement notice, prohibition order, emergency order, seizure, and prosecution.</p> <p>The Department of Health's <i>Compliance and Enforcement Guideline for Enforcement Agencies</i> also includes other approaches such as written warnings and increased frequency of inspections.</p>	<p>Enforcement options include: improvement notice, expiation notice, prohibition order, emergency order, seizure, and prosecution.</p> <p>The SA Health's <i>Public Health Services Enforcement Framework</i> also includes options for encouraging compliance such as advice, warning, and mediation.</p>



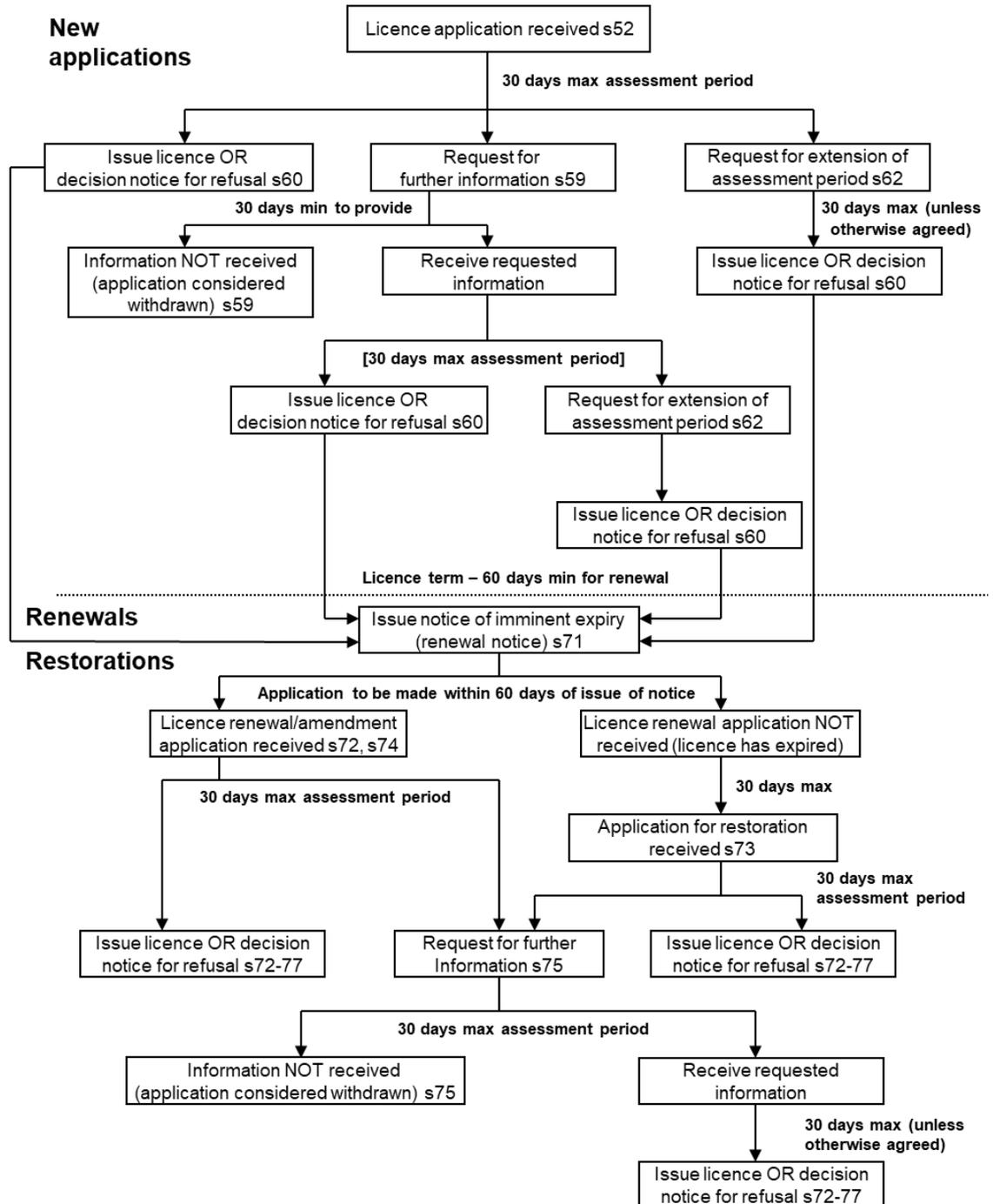
	Victoria	New South Wales	Western Australia	South Australia
Reporting requirements	<p>The legislation requires the Department of Health and Human Services to publish an annual report on statewide food regulation. The report must include:</p> <ul style="list-style-type: none"> • statistics relating to the registration of food premises by the department and councils • statistics relating to the analysis of food samples submitted by each council • statistics relating to the enforcement action taken by the department and councils • any direction given to councils by the minister. 	<p>The legislation requires local government enforcement agencies to report to the NSW Food Authority on their performance and functions. In addition to its own annual report, the Food Authority publishes an annual summary report on enforcement agency activities in the retail food service sector. The report includes information on:</p> <ul style="list-style-type: none"> • food business compliance rates • food business inspection outcomes • enforcement actions • food complaints • foodborne illness reduction • support for enforcement agency officers • participation rate in the ‘Scores on Doors’ program (see next page). 	<p>Local government enforcement agencies are required to report to the Department of Health on their performance of functions under the <i>Food Act 2008</i>. The Department of Health has developed <i>Reporting Requirements on Enforcement Agencies’ Activities</i>, which sets out the information required for the following four areas:</p> <ul style="list-style-type: none"> • authorised officer numbers and approval procedure • registration of food businesses (the number and process followed) • compliance and enforcement activities • issues or highlights of enforcement agency performance of functions under the legislation <p>The reporting requirements apply to both the Department of Health and local governments.</p>	<p>The legislation requires local government enforcement agencies to report to SA Health on their performance and functions. SA Health publishes an annual Food Act report, covering regulatory activities of SA Health and local governments, including:</p> <ul style="list-style-type: none"> • SA Health activities, such as enforcement actions, food surveys, investigations of food safety issues, investigations of foodborne illness, and educational activities • local government activities, such as inspections, food safety program audits, complaints lodged, enforcement actions, and council highlights.



	Victoria	New South Wales	Western Australia	South Australia
Disclosure of offences	<p>The Department of Health and Human Services keeps a register of convictions for offences, which is made available on the department's website. Each conviction remains in the register for 12 months. Details of the business name and offence are included.</p>	<p>The NSW Food Authority publishes a register for convicted offences and a separate register for penalty notices issued. The legislation prescribes the information to be included in the registers, including name, address, name of the chief executive officer and directors, and description of the nature and circumstances of the offence. Once published, the information remains on the register for two years. In addition to statutory requirements, the Food Authority and local councils jointly run a hygiene and food safety scoring program called 'Scores on Doors'. It encourages food businesses to voluntarily display the results of regular inspections of their premises. The program is for restaurants, takeaways, cafes, bakeries, pub bistros, hotels, and clubs.</p>	<p>The Department of Health has a food offender register containing details of persons/corporations convicted (in a court) of food legislation breaches. The details include the date of the offence and conviction, enforcement agency, a description of the offences, and the penalty imposed. Once published, a conviction remains on the web-based publication for 24 months from the date of conviction unless: the food business has demonstrated to the satisfaction of the local government a significant improvement in the management of food safety risks, the food business has been sold, an appeal has been made against the conviction, or a conviction has been quashed or annulled.</p>	<p>SA Health maintains a publicly available food prosecution register. Details include name and address of business, date of offence, nature and circumstances of offence, court decision date, and penalty.</p>



D. Process for assessing licence applications under the *Food Act 2006*



Source: Queensland Health, 'Local government assessment of applications for a licence under the Food Act 2006' (November 2015).



E. Summary of Victoria’s food regulatory system

The key elements of Victoria’s regulatory framework under the *Food Act 1984* are summarised below. Food premises are classified by councils according to the public health risks involved in handling foods. The classification drives the types of compliance checks conducted by councils.

New food premises classifications										
Legislative reforms	Class 1		Class 2		Class 3		Class 4			
Rationale for classification based on risks	✓ Handles, processes or serves ready-to-eat potentially hazardous food to groups most vulnerable to food-related illness (e.g. hospital patients, nursing home residents, children in long day childcare)		✓ Supplies potentially hazardous unpackaged foods which need correct temperature control throughout the food-handling process, including cooking and storage, to keep them safe (e.g. restaurants)		✓ Supplies or handles unpackaged low-risk foods or pre-packaged potentially hazardous foods which simply need refrigeration to keep them safe (e.g. milk bars, or bread baking) and some community events		✓ Supplies low-risk pre-packaged foods which do not need refrigeration. Also sessional kindergartens where cut fruit is served, sausage sizzles where food is cooked, served and immediately consumed, and cake stalls			
Council registration or notification	Independent food safety program registration (initially)		Standard food safety program registration		Independent food safety program registration		Registration		Notification	
	Initial or transfer	Annual renewal	Initial or transfer	Annual renewal	Initial or transfer	Annual renewal	Initial or transfer	Annual renewal	Initial or transfer	Annual renewal
Type of compliance check										
Audit by approved auditor. Reports to be available to council	✓	✓			✓	✓				
Council assessment		✓		✓						
Mandatory council inspection	✓		✓		✓		✓	✓		
Choice of food safety program	✓ Independent FSP including whole-of-business QA system or ✓ Department-approved standard (future)		✓ Independent FSP including whole-of-business QA system or ✓ Simplified department-approved standard		x No food safety program required ✓ Simple record keeping		x No food safety program required			
Choice of staff supervisor training	✓ Food Safety Supervisor including other accredited training (e.g. chef) or ✓ via recognised QA system		✓ Food Safety Supervisor including other accredited training (e.g. chef) or ✓ via recognised QA system							
Support to businesses										
Choice of food handler staff training	✓ Council advice and support ✓ Optional free online training ✓ Free guidance material		✓ Council advice and support ✓ Optional free online training ✓ Free guidance material		✓ Council advice and support ✓ Optional free online training ✓ Free guidance material		✓ Council advice and support ✓ Optional free online training ✓ Free guidance material		✓ Council advice and support ✓ Optional free online training ✓ Free guidance material	

Note: FSP–food safety program; QA–quality assurance.

Source: Victoria Department of Health, *Food safety in focus Food Act report 2010*.



F. Key enforcement tools of the Food Act 2006

Enforcement tools	Enforcement entity	Grounds
Improvement notice	Queensland Health or local governments	<ul style="list-style-type: none"> • Contravention of the Act (for example, handling and sale of unsafe food) • The matter is capable of being rectified and it is appropriate to give the person an opportunity to remedy the issue
Suspension or cancellation of licence	Local governments	<ul style="list-style-type: none"> • Licence holder is no longer a suitable person (for example, following a successful prosecution) • A failure to comply with a food safety program that is likely to result in significant risk to public health or safety • Contravention of a condition of the licence • Materially false or misleading representation
Show cause notice	Local governments	<ul style="list-style-type: none"> • Grounds exist to suspend or cancel licence
Immediate suspension of licence	Local governments	<ul style="list-style-type: none"> • Grounds exist to suspend or cancel licence • Immediate and serious risk to public health and safety
Prescribed infringement notices (PINs)	Queensland Health or local governments	<ul style="list-style-type: none"> • For certain offences prescribed under the State Penalties Enforcement Regulation 2000, for example, selling unsuitable food, or failure to comply with an improvement notice
Injunction	Queensland Health or local governments	<ul style="list-style-type: none"> • Possibility of a serious danger to public health due to unsafe food handling, sale of unsafe food, or false description of food
Prosecution	Queensland Health or local governments	<ul style="list-style-type: none"> • Significant threat to human health or safety • Known or expected ongoing non-compliance or a repeat offender

Source: Queensland Audit Office analysis of Food Act 2006 provisions.



G. Notifiable conditions

Queensland Health maintains a notifiable conditions register in accordance with the *Public Health Act 2005* to protect people from these conditions and from the spread of communicable diseases. Figure G1 shows the number of notified cases in Queensland over the last seven years. The notifiable conditions it includes are:

- Campylobacter
- Ciguatera poisoning
- Cryptosporidiosis
- Hepatitis A
- Hepatitis E
- Listeriosis
- Salmonella
- Shigella
- Shiga toxin-producing *Escherichia coli* (STEC)
- Yersinia.

Notifications are generally those cases that are infections confirmed by laboratories. Not all infections are caused through foodborne transmission. Other modes of transmission of infection for some of these pathogens include person to person, zoonotic (via animals), and via water.

Other pathogens that cause food poisoning in the community are not notifiable to Queensland Health. They included *Bacillus cereus*, *Clostridium perfringens*, *Staphylococcus aureus*, *Vibrio parahaemolyticus*, norovirus, adenovirus, sapovirus, astrovirus, rotavirus, Scombroid, and other pathogenic *E. coli*.

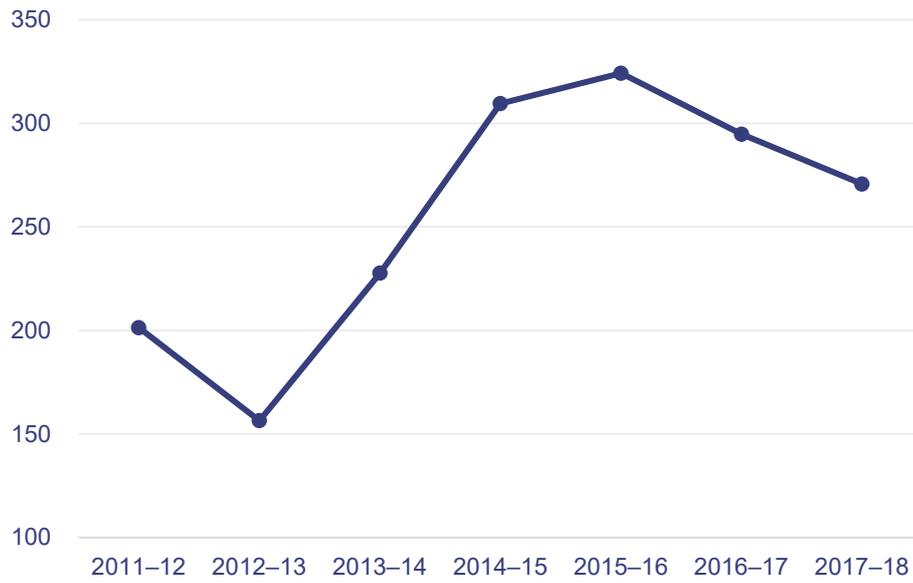
Studies estimate that for each notification of a foodborne pathogen, there are another five to 10 cases in the community (that were not tested). Outbreak cases represent only a small fraction of the total number of notified cases.

Therefore, this data is not able to be used in isolation as a performance indicator for measuring food safety outcomes or the effectiveness of councils regulation of licensed food businesses.

Figure G1 shows the notified cases of communicable diseases registered in the Notifiable Conditions System (NOCS) for the whole state. The NOCS data is based on the residential postcode of the affected people. Queensland Health does not capture data to identify and report cases by where the infection was acquired.



Figure G1
Notified cases per 100 000 population in Queensland



Notes: Source of Queensland population data is <http://www.qgso.qld.gov.au/products/tables/erp-components-change-no/index.php>; five notifiable conditions are excluded from the figure: Botulism, HUS, Paratyphoid fever, Typhoid fever, and Cholera, as they are either rare, not due to foodborne transmission or acquired overseas.

Source: Queensland Audit Office analysis of Queensland Health data extracted from NOCS.



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2. **Access to the National Disability Insurance Scheme for people with impaired decision-making capacity**
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Tabled September 2018
5. **Follow-up of Bushfire prevention and preparedness**
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15. **Follow-up of Oversight of recurrent grants to non-state schools**
Tabled March 2019
16. **Follow-up of Maintenance of public schools**
Tabled April 2019
17. **Managing consumer food safety in Queensland**
Tabled May 2019



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