



# Compliance Strategy Food Act 2006

# Compliance Strategy for the Food Act 2006

The purpose of the State *Food Act 2006* (the Act) is to:

- ensure food for sale is safe and suitable;
- prevent misleading conduct in relation to the sale of food; and
- apply the national Australia New Zealand Food Standards Code (the Code)

The role of Logan City Council in relation to achieving the purpose of the Act is:

- the approval and licensing of food businesses and accrediting food safety programs;
- inspecting food businesses for compliance with the Act and Chapter 3 of the Code;
- undertaking investigations relating to complaints regarding licenced food businesses, including single cases of food borne illness; and
- education of food businesses and the general public in relation to key food safety matters

The Act is also administered in part by the State Department of Health. The Department of Health investigates and enforces the following issues:

- false description of food
- misleading conduct
- sale of unfit equipment, packaging or labelling material
- labelling and composition of food as detailed in the Code
- approval of auditors, conducting check audits
- food recalls and emergency powers
- food-borne illness and foreign matter
- notification of prescribed contaminants; and
- suspected intentional contamination

In addition to the Act, Safe Food Production Queensland (SFPQ) administers the *Food Production (Safety) Act 2000*, which relates only to the primary production of food and does not limit the provisions of the *Food Act 2006*. The combination of the two Acts and the Code ensure that food safety risks are managed from agriculture to consumers.

## Compliance Objectives

The Environmental Health (EH) Services team is responsible for the effective implementation and administration of the Act on behalf of the Logan community.

The objectives of the Environmental Health food program are:

- to prevent, control and reduce risks to public health associated with the sale of food,
- to ensure that businesses are regulated in a fair and effective manner, and

- to provide business operators and consumers with relevant information in relation to food safety.
- to work collaboratively with other regulators and policy makers (i.e. Department of Health, SFPQ, Food Standards Australia New Zealand, Australian Quarantine and Inspection Service etc) to ensure the overarching purposes of the Act are achieved.

## Strategy for Compliance Activities

To effectively achieve the compliance objectives the EH Services Team will:

- establish and adequately resource inspection Service Levels
- be guided by established Compliance Principles
- establish and utilise defined Compliance Tools
- escalate enforcement action consistent with an Enforcement Matrix

## Service Levels

### *Routine Inspection of Licensed Food Businesses*

The EH Services team will undertake routine inspections of licensed food businesses under the *Food Act 2006* and the Food Safety Standards. Officers will identify any legislative non-compliances during the inspection and thereafter work with the business operator to ensure food is safe and suitable.

### *Investigation of Customer Requests (Licensed Food Businesses)*

The EH Services team investigates complaints relating to the general operation of food businesses selling food through retail. Issues investigated include improper food handling, pest issues, suspected contamination of food, cleanliness of premises, etc. Officers will inspect the business to assess the validity of the complaint and take appropriate action to ensure any non-compliances found are resolved in a suitable timeframe.

### *Investigation and Management of Food-borne Illness*

The EH Services team investigates single cases of food-borne illness. This is where there is one single incident of illness. Where there are multiple incidents that require investigation, the lead is taken by the Department of Health with the support of Council.

The aim of these investigations is to limit the potential risks to public health, identify the source(s)/cause(s), implement appropriate remedial action and develop strategies to prevent recurrence in the future.

## Compliance Principles

The EH food program will be guided by the following principles:

**Proportionate** - the enforcement action taken will be comparable to the seriousness of the breach.

**Consistent** - the law is fairly and equally applied to all persons.

**Effective** - the reason for the law and the reason for what we do is well explained and achieved.

**Transparent** - what we do and the way we do it are written down and open to review and discussion by decision makers and operators.

**Accountable** - officers working in the program are accountable for decisions made and actions taken.

## Compliance Tools

The Act establishes enforcement pathways and statutory tools in the form of letters or notices to achieve compliance.

The compliance tools applied within the EH food program include:

- verbal advice
- improvement notice
- prescribed infringement notice
- show cause notice
- prosecution

## Enforcement Matrix

The *Food Act 2006 Enforcement Matrix* provides officers a recommended enforcement option based on a risk assessment of the investigation. The enforcement matrix considers 2 key matters:

- the risk to human health as a result of the non-compliance and,
- the likelihood of the business operator resolving the non-compliance in a reasonable timeframe.

These factors are independent of each other, however when assessed together in the Enforcement Matrix, provide a 'recommended enforcement option'. It is then expected that Council officers will apply the 'recommended enforcement option' to achieve compliance. If an officer believes that an alternative enforcement option is more suitable than the 'recommended enforcement option', the officer must provide evidence to their supervisor outlining the reason for this decision. If agreed, then the 'recommended enforcement option' may be replaced with a more appropriate option.

Regardless of the enforcement action taken officers will always discuss the issues with the business operator prior to action being taken. The Environmental Health food program is committed to being transparent and accountable when working with business operators and customers to achieve compliance.

## Food Act 2006 Enforcement Matrix

		Human Health Risk (actual or potential)		
		Minor (low risk)	Major	Critical (very high risk)
Likelihood of compliance	High	Verbal Advice	Improvement Notice	Improvement Notice Infringement Notice
	Uncertain	Verbal Advice Improvement Notice	Improvement Notice Infringement Notice	Infringement Notice Improvement Notice
	Low	Improvement Notice Infringement Notice	Infringement Notice Improvement Notice	Infringement Notice Show Cause Notice Prosecution
	Very Low	Infringement Notice Improvement Notice	Infringement Notice Show Cause Notice Prosecution	Infringement Notice Show Cause Notice Prosecution

*Note 1: The enforcement options in the enforcement matrix are a guide only. Enforcement should be undertaken in accordance with the enforcement matrix unless approval is obtained from the officer's supervisor.*

*Note 2: Officers must always discuss the identified issues / offences and proposed actions with the business operator / alleged offender prior to any documentation / notices being delivered.*

*Note 3: Officers must always refer to the relevant legislation to determine whether a particular enforcement*

*option (e.g. Infringement Notice/ Improvement Notice/Show Cause) is permitted for a particular offence.*

*Note 4: If deviating from the above recommended enforcement options, the decision must be clearly documented and validated by the inspecting officer.*

*Note 5: It should be noted that in cases where immediate action is required to address significant risk, verbal advice will be provided which will then be followed up with a written notice*

<b>Likelihood of Compliance</b>	
Likelihood of meeting the standards in the Food Act considering the history and ability of the operator to achieve the required standards.	
Likelihood of compliance	Examples
Indications of future and ongoing compliance is <b>High</b>	<ul style="list-style-type: none"> <li>No history of serious non-compliance;</li> <li>Shows a good ability and awareness to meet the standards; and/or</li> <li>Shows a willingness to understand and meet the standards.</li> </ul>
Indications of future and ongoing compliance are <b>Uncertain</b>	<ul style="list-style-type: none"> <li>Some history of serious non-compliance;</li> <li>Shows limited ability and willingness to meet the standards.</li> </ul>
Indications of future and ongoing compliance is <b>Low</b>	<ul style="list-style-type: none"> <li>Numerous cases of non-compliance.</li> <li>Very little improvement noted after guidance on how to comply; and/or</li> <li>Shows low ability and willingness to meet the standards.</li> </ul>
Indication of future and ongoing compliance <b>Very Low</b>	<ul style="list-style-type: none"> <li>Historic and/or current wilful violation of regulatory requirement; and/or</li> <li>Very little improvement noted after guidance on how to comply;</li> <li>Shows no ability or willingness to meet the standards.</li> </ul>
<b>Human Health Risk</b>	
Consideration of the risk to human health from the situation being investigated.	
Human health risk	Examples
<b>Minor (low risk)</b> <ul style="list-style-type: none"> <li>Breaches of the Food Act which have the potential for minor or temporary threat to human health.</li> <li>Defects that can be easily fixed during the normal course of business.</li> <li>Minor administrative breaches.</li> </ul>	<ul style="list-style-type: none"> <li>Minor cleaning issues e.g. small section of unclean flooring, unclean interior to microwave;</li> <li>A small number of broken/damaged utensils and/or equipment in the premises;</li> <li>No nominated food safety supervisor at a licensed food business.</li> </ul>
<b>Major</b> <ul style="list-style-type: none"> <li>Breaches of the Food Act which have the potential for a significant threat to human health.</li> <li>Businesses may not be able to fix major breaches during the normal course of business.</li> <li>Serious administrative breaches.</li> </ul>	<ul style="list-style-type: none"> <li>Serious cleanliness issues, such as floors, walls, ceilings, equipment, fixtures and/or equipment;</li> <li>Large quantities of food waste found stored in food storage or preparation areas;</li> <li>Serious issues regarding employee hygiene such as open wounds on hands, unclean hands, etc;</li> <li>Food business not holding a current food business licence with Council.</li> </ul>

<p><b>Critical</b> (very high risk)</p> <ul style="list-style-type: none"> <li>• Breaches of the Food Act which represent an immediate and significant threat to human health.</li> <li>• Critical breaches show a breakdown of food safety requiring immediate action.</li> </ul>	<ul style="list-style-type: none"> <li>• A serious pest infestation of the business, including food preparation and storage areas:</li> <li>• Potentially hazardous foods, such as cooked chicken, stored for extended periods outside of temperature control without an alternative means of compliance:</li> <li>• A large number of eating and drinking utensils being used such as plates, cutlery and glasses found to be unclean.</li> </ul>
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