

Regulating Food Safety

June 2023

Independent assurance report to Parliament
2022–23:18

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Regulating Food Safety

Independent assurance report to Parliament

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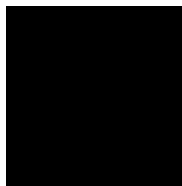
The Hon Shaun Leane MLC
President
Legislative Council
Parliament House
Melbourne

The Hon Maree Edwards MP
Speaker
Legislative Assembly
Parliament House
Melbourne

Dear Presiding Officers

Under the provisions of the *Audit Act 1994*, I transmit my report *Regulating Food Safety*.

Yours faithfully



Andrew Greaves
Auditor-General
20 June 2023

The Victorian Auditor-General's Office (VAGO) acknowledges the Traditional Custodians of the lands and waters throughout Victoria. We pay our respects to Aboriginal and Torres Strait Islander communities, their continuing culture, and to Elders past and present.

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Audit snapshot

What we examined

We looked at whether councils are complying with their legislative responsibilities for food safety to protect public health. The agencies we examined were the Department of Health, City of Casey, City of Greater Geelong, Hepburn Shire Council, City of Kingston and Manningham City Council.

Why this is important

Food safety is an important aspect of public health and wellbeing. Robust food safety regulation and enforcement is necessary to prevent illness, hospitalisation and death caused by foodborne illness.

What we concluded

Audited councils are not complying with all their legislative responsibilities for food safety to protect public health.

Not all audited councils are:

- assessing or inspecting all food premises
- systematically identifying unregistered food premises
- reinspecting 3 months before registration renewal for all noncompliant food premises or those with complaints
- meeting food sampling targets
- reporting data to the Department of Health.

What we recommended

We made 3 recommendations to the 5 councils we looked at to improve:

- compliance with their legislative responsibilities
- workforce planning.

We made 7 recommendations to the Department of Health to:

- address industry workforce shortages
- improve reporting of food safety performance
- improve guidance and training.

[→ Full recommendations](#)

Key facts

In Victoria:



The **Food Act 1984** is the primary legislation regulating the sale of food



In 2021 there were an estimated **61,870** registered food premises



Councils are responsible for the day-to-day regulation of most food business

Source: VAGO, based on the *Food Act 1984* and Department of Health Food Act reports 2020 and 2021 (draft).

Our recommendations

We made 10 recommendations to address 3 issues. The relevant agencies have accepted or partially accepted these recommendations.

Key issues and corresponding recommendations

Agency responses

Issue: Audited councils are not meeting all their *Food Act 1984* responsibilities

All audited councils	1	Develop a workforce plan that: <ul style="list-style-type: none"> reflects realistic environmental health officer caseloads considers the time needed to adequately undertake food safety obligations reassigns non-critical tasks from environmental health officers to other staff or authorities (see Section 2). 	Accepted	
	2	Develop or strengthen a plan for: <ul style="list-style-type: none"> completing annual assessments and inspections (see Section 2) conducting regular surveillance to identify unregistered food premises (see Section 2) regularly monitoring and reporting performance (see Section 3). 	Accepted	
	3	Use results of assessments, inspections, food sampling and complaints to develop education programs for owners of food premises and their staff that address food safety risks (see Section 2).	Accepted by Casey, Hepburn, Kingston and Manningham Partially accepted by Geelong	
Department of Health	4	Reviews the regulatory arrangements and provides advice to the government to: <ul style="list-style-type: none"> address the risk that owners of food premises that use online platforms are not registering their business. This includes a requirement to display the owner's name, registration number and registering council prominently on any online profile. assess whether the requirement for councils to reinspect food premises in the 3 months before registration renewal is necessary for: <ul style="list-style-type: none"> all noncompliant premises any food premises that received a complaint (see Section 2). 	Accepted	

Key issues and corresponding recommendations

Agency responses

	<p>5 Improve consistency in councils' compliance ratings of food premises by annually:</p> <ul style="list-style-type: none"> collecting, analysing and reporting on councils' food premises compliance rates (Section 2) investigating compliance rate variances (Section 2) educating councils (see Section 4). 	Accepted	
	<p>6 Complete and implement the Public Health Workforce Plan to address the statewide shortage of environmental health officers (see Section 2).</p>	Accepted	
	<p>7 Address, in collaboration with councils, the need for its statewide risk-based food sampling strategy to consider:</p> <ul style="list-style-type: none"> trends in pathogens and foodborne bacteria high-risk foods opportunities for improving education (see Section 2). 	Accepted	

Issue: Food safety reporting is ineffective

Department of Health	<p>8 Design and implement performance measures and targets that measure achievements against:</p> <ul style="list-style-type: none"> key objectives of the <i>Food Act 1984</i> at both a statewide and council level food safety outcomes such as reduction in foodborne illnesses over time, results of enforcement actions and quality of compliance activities (see Section 3). 	Accepted	
	<p>9 Annually publish the Food Act report, including:</p> <ul style="list-style-type: none"> performance against measures and targets analysis of the types of food complaints, investigation outcomes and emerging food safety risks council performance on food sampling, results and trends (see Section 3). 	Accepted	

Issue: Department of Health’s food safety guidance and training has improved but is not always meeting council needs

Department of Health	<p>10 Improve council guidance and training by:</p> <ul style="list-style-type: none">• collaborating with councils in developing a co-designed model for guidance and training• reviewing and updating guidance to ensure it reflects emerging trends and risks• developing and delivering regular training for new environmental health officers and more advanced practical and refresher training, to ensure a consistent standard of skills across the state• undertaking council surveys to measure whether Department of Health’s guidance and training is meeting council needs (see Section 4).	Accepted	
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What we found

This section summarises our key findings for regulating food safety. Sections 2, 3 and 4 detail our complete findings, including supporting evidence.

The agencies we examined were the Department of Health (DH), City of Casey (Casey), City of Greater Geelong (Geelong), Hepburn Shire Council (Hepburn), City of Kingston (Kingston) and Manningham City Council (Manningham).

When reaching our conclusions, we consulted with the audited agencies and considered their views. The agencies' full responses are in Appendix A.

Legislative requirements

The *Food Act 1984* (Food Act) regulates the food industry in Victoria to ensure that food sold is safe, suitable and correctly labelled.

Responsible entities

Councils are primarily responsible for administering and enforcing the Food Act, supported by DH. DH is responsible for promoting the objectives and consistent administration of the Food Act. It does this by providing information and guidance to local government environmental health officers (EHO) and publishing an annual report on food regulation.

Our key findings

Our findings fall into 3 areas:

1	Audited councils' regulation of food premises does not fully meet the requirements of the Food Act.
2	DH and audited councils' food safety reporting is ineffective.
3	DH's guidance and training has improved but is not always meeting council needs.

Key finding 1: Audited councils' regulation of food premises does not fully meet the requirements of the Food Act

Council legislative requirements

Under the Food Act councils are responsible for the day-to-day regulation of most food premises in Victoria.

Gaps in audited councils' administration of their legislative requirements

For the requirement to ...	We found that ...
conduct annual assessments or inspection of food premises	<ul style="list-style-type: none">no audited council consistently assessed all its class 1 and 2 premises or inspected all its class 3 premises for the 5-year period from 2018 to 2022audited councils' assessment and inspection ratings are inconsistentworkforce shortages are impacting some of the audited councils' ability to assess or inspect all properties annually.
register food premises	audited councils are not: <ul style="list-style-type: none">systematically identifying unregistered food premisesreinspecting all food premises in the 3 months before renewing their registration where there is noncompliance or a complaint.
sample food	Geelong, Hepburn and Manningham did not meet their food sampling obligations. Geelong fell short in 2020 to 2022, Hepburn in 2018, 2020 and 2021, and Manningham in 2019. DH does not: <ul style="list-style-type: none">know which councils are meeting their food sampling obligationsanalyse statewide results to assess risks to public health, mitigate these or develop educational tools for councils and business owners.
investigate complaints	audited councils are responsive to the community's food complaints and inquiries. However, councils can improve their recording and reporting of complaints.

Impact of not meeting requirements

If councils don't identify and take action on noncompliant premises, it may lead to unsafe food practices going undetected or unaddressed.

Inconsistent assessment or inspection ratings between councils mean consumers are not getting the same level of protection against food safety risks across Victoria.

Workforce issues pose a risk to the effective administration of food safety regulation in Victoria.

Challenges from COVID-19 and resourcing

Hepburn's and Geelong's ability to effectively fulfil their food safety functions from 2020 to 2022 was constrained. This was due to difficulties in filling vacant staff positions, staff undertaking urgent non-food related activities and COVID-19 lockdowns making it hard to undertake inspections. Hepburn continues to face resourcing challenges.

Key finding 2: DH and audited councils' food safety reporting is ineffective

DH and council reporting requirements

Public reporting is important to show councils' and DH's performance against their respective responsibilities under the Food Act.

DH reports on its performance in promoting the objectives and the consistent administration of the Food Act through its annual report and Food Act report.

Councils' performance is monitored through internal reporting, DH's Food Act report and the Local Government Performance Reporting Framework (LGPRF).

Under the Food Act, councils must report their activities to DH quarterly.

Gaps in DH and audited council performance reporting

DH and audited councils are not adequately reporting their respective performance against their obligations or their achievements under the food safety regulatory framework.

The key performance indicators and targets in DH's annual report do not address the regulatory framework in terms of the objectives of the Food Act. For example, DH's performance indicators do not measure the extent to which food for sale is safe and fit for human consumption or whether food safety is improving.

DH's Food Act report focuses on council activity levels (e.g. on numbers of registrations, samples and enforcement actions) and is not timely. The 2020 and 2021 annual reports are not yet published and the 2018 and 2019 reports were published together in 2020.

Additionally, DH undertakes little if any meaningful analysis of the data it receives from councils.

Audited councils' internal reporting provides no insights into food safety risks. It does not fully address performance against key regulatory responsibilities.

The LGPRF provides some insight into the efficiency and effectiveness of food safety management. However, councils do not always interpret rules consistently. The absence of targets means it is difficult to assess their performance.

Impact of ineffective reporting

DH's and audited councils' reported information is insufficient to assess their performance in terms of food safety, including:

- consistency and quality of regulatory activities
 - compliance ratings of food premises
 - reductions in foodborne illness across the state
 - trends over time.
-

Key finding 3: DH's guidance and training has improved but is not always meeting council needs

Guidance and training requirements

The Food Act requires DH to promote its objectives and ensure it is consistently administered. Therefore, DH has an important role in:

- developing a set of guidance materials to ensure all EHOs work from the same set of instructions with the same risk appetite
 - promoting a consistent application of food legislation across the 79 councils
 - supporting EHOs in dealing with new or ambiguous situations.
-

Quality of DH information is improving DH shares information and delivers training to councils on the interpretation and implementation of legislation and other specific issues concerning food safety.

Councils told us that the quality of information recently provided by DH through its online portal, the Public Health Hub (PHHub), has improved.

Gaps in training and guidance EHOs told us that DH needs to provide clearer and more contemporary advice. They also want further education.

Impact of guidance and training gaps Unless DH addresses these gaps in guidance and training, councils will continue to apply the Food Act inconsistently.

1.

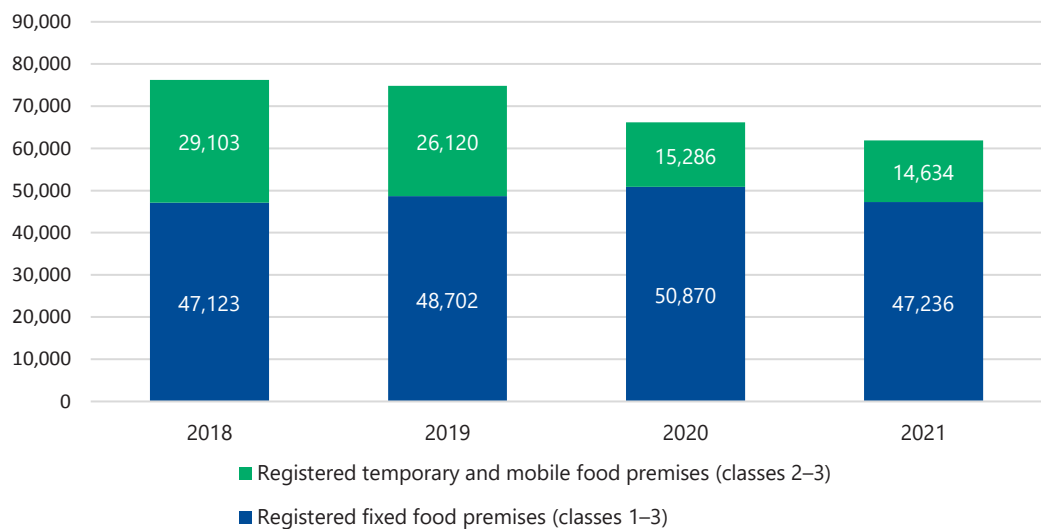
Audit context

Food safety is a critical aspect of public health and wellbeing. Worldwide, an estimated 600 million people fall ill each year after consuming contaminated food. An estimated 420,000 of those die. In Australia, approximately 4.7 million cases of foodborne illness cost the community \$2.4 billion a year.

Number of registered food premises in Victoria

Registered food premises Figure 1 shows that from 2018 to 2021 the number of registered food premises in Victoria decreased. The reduction in 2020 and 2021 was mainly due to food premises closing during COVID-19 lockdowns.

Figure 1: Number of registered food premises in Victoria



Note: The information for 2021 represents data from 70 of 79 Victorian councils.
Source: VAGO, based on DH Food Act reports 2018, 2019, 2020 (draft) and 2021 (draft).

Managing food safety

Significant responsibilities

The management of food safety in Victoria is complex and imposes significant responsibilities on the DH and councils.

DH's responsibilities

DH administers the Food Act. Appendix D outlines DH's food safety roles and responsibilities.

DH is also responsible for implementing the Food Safety Reform Program. This aims to support:

- food businesses in better understanding their food safety obligations under the Food Act
- councils in applying food safety regulation more consistently across the state.

DH administers the *Public Health and Wellbeing Act 2008* (PHWA). This aims to:

- protect public health and prevent disease, illness, injury, disability or premature death
 - promote conditions in which people can be healthy
 - reduce public health and wellbeing inequalities in Victoria.
-

Councils' responsibilities

Councils regulate most food premises in the state. Appendix D outlines councils' responsibilities under the Food Act.

Councils must do annual assessments and inspections of food premises. Inspections are less detailed than assessments. However, their purpose is the same, to:

- monitor food premises' compliance with the Food Act and the Australia New Zealand Food Standards Code
- identify any corrective actions required to minimise risk to the public
- ensure that food sold in Victoria is safe and suitable to eat.

The PHWA requires councils to protect, improve and promote public health and wellbeing in their area.

Food premises classes

Classes are based on risk level

Councils classify food premises into classes based on the level of risk associated with food handling. Where a food premises owner carries out a range of food-handling activities at different levels of risk, the activity with the highest risk level is used.

Figure 2: Classes of food premises



Class 1 – prepare and serve potentially hazardous food to vulnerable people
e.g. hospitals, children’s services and aged care services



Class 2 – handle or manufacture unpackaged potentially hazardous food or manufacture low-risk food declared allergen-free
e.g. cafes, pubs, fast food outlets and restaurants



Class 3A – prepare and cook potentially hazardous food served at accommodation premises, home-based or temporary food businesses
e.g. bed and breakfast, farmstays, guesthouses, nature retreats and motels



Class 3 – handle unpackaged low-risk food, sell prepackaged potentially hazardous food, or warehouse and distribute prepackaged food
e.g. cinemas selling unpackaged popcorn, milk bars and convenience stores, and greengrocers and fruit stalls selling cut fruit



Class 4 – sell prepackaged low-risk foods
e.g. stalls selling packaged cakes (excluding cream), bottled jams and honey

Note: Class 3A introduced 1 July 2022.
Source: VAGO, based on DHinformation.

Monitoring and reporting

Statewide food safety reporting

Councils report food safety data on registration, sampling and enforcement action numbers to DH every quarter.

Councils also report performance information by calendar year to Local Government Victoria (LGV) through the LGPRF. LGV is part of the Department of Government Services (DGS).

Further information

For more in-depth background information on DH and LGV reporting, see [Appendix D](#).

Challenges to regulating food safety

COVID-19

During 2020 and 2021, COVID-19 affected councils’ ability to meet their food safety obligations. The pandemic resulted in restrictions and closures of food businesses. This made it hard for councils to inspect food premises. Some councils had to redeploy public health resources in response to the pandemic.

Workforce shortages

Council EHOs handle a diverse range of public health duties, including food safety. They register food premises and inspect them to ensure that food for sale in Victoria is safe and suitable to eat.

However, workforce shortages are affecting councils' ability to source appropriately qualified EHOs, especially in rural areas. For the audited councils, this particularly affected Geelong and Hepburn.

The shortage of EHOs is a national issue and not a new problem in the industry. Due to the amount of work from the COVID-19 pandemic and the loss of qualified overseas resources, this problem is getting worse. In Victoria there is no university that provides an undergraduate degree for EHOs.

Other events

Between 2019 and 2022, Hepburn was also impacted by multiple storm and flood emergency events. This necessitated moving key members of the environmental health team from food safety activities to deal with these events. The council made multiple attempts to backfill these positions but was unsuccessful due to the statewide shortage of EHOs.

2.

Monitoring compliance

Not all the audited councils are meeting all their obligations under the Food Act.

None of the audited councils consistently use active surveillance to find unregistered food premises. They are also not assessing or inspecting all food premises.

The councils are responsive to community complaints and provide procedural fairness. However, they could improve their recording and reporting of food safety complaints.

Food safety activities

Legislative requirement

Key council activities involved in managing food safety include:

- registering food premises
 - conducting annual assessments and inspections
 - sampling food
 - investigating food safety-related complaints or potential foodborne illness outbreaks
 - taking enforcement action for noncompliance.
-

Ensuring all food premises are registered

Legislative requirement

Councils register food premises under the Food Act. Owners of food premises must ensure all their premises are registered, including temporary food premises such as street parties, festivals and markets. This gives councils a complete and up-to-date basis for their compliance actions.

Equally important is the need for councils to use appropriate and effective monitoring that ensures all food premises are registered.

Procedures for registering food premises

Casey, Geelong, Kingston and Manningham have documented registration procedures to guide staff. Hepburn does not, which creates a risk of inconsistent interpretation by council staff when registering businesses.

Identifying unregistered premises

All 5 councils provided examples of approaches used to identify unregistered food premises, including:

- cross-checking with payment records and sharing information with other council departments such as planning, economic development, building and tourism
- routine geographical surveillance by EHOs who are allocated areas within the municipality to build local knowledge
- investigating complaints
- ad hoc review of newspapers and social media

- attending festivals and markets
- desktop audits.

Example of monitoring for unregistered food premises

Case study: Casey conducted a desktop audit to identify unregistered food premises

In 2018, Casey introduced a project to search for businesses that were operating without a current registration under the Food Act or PHWA. This included food premises and health businesses such as beauty, skin penetration and tattooists.

The desktop review found 10 unregistered food premises. Of these:

- 4 became registered after engagement from the EHO
- 5 were no longer trading or did not require a permit
- one decided not to go ahead with registering and ceased activity.

Casey restarted the project in 2019 on a limited basis and it produced no formal reports. It intended to continue in 2020, but COVID-19's impact on resourcing forced it to focus on inspections of existing registered businesses. Casey intends to restart the project in 2023.

Source: VAGO, based on information provided by Casey.

Frequency of monitoring activities

The audited councils' monitoring activities should be – but are not – based on risk-based surveillance strategies that:

- set out actions to mitigate the risk of unregistered food premises operating
- address risks identified through an assessment of the local environment. This may include new food premises not located in traditional locations such as in food precincts where EHOs regularly visit
- prioritise actions and allocation of EHOs based on the severity of the risks identified.

Proof of registration

Many food premises are located outside traditional food precincts. For example, home kitchens' primary presence is on online platforms. The audited councils are not consistently looking for these businesses.

With the growth of home-based food businesses using online platforms, there is an increased risk of unregistered businesses going undetected. In 2020, the Food Safety Information Council, a health promotion charity that educates consumers in food safety, found unregistered home-based food businesses selling high-risk foods online through one of these platforms.

We undertook a similar exercise and found 19 unregistered home-based food businesses using online food delivery platforms in 4 of the audited councils. We did not find any unregistered businesses at Hepburn.

Councils have trouble engaging with these food premises because they have limited information about them.

Gaps in the Food Act

Under the Food Act owners of food premises must ensure that their name is prominently displayed. There is no requirement to display their registration certification, although this must be available to EHOs on request. They can display their registration certificate inside the shop or on

the door. For food premises using online platforms it is difficult for EHOs to check their registration.

Public information about registrations and inspections

In Victoria there is limited publicly available information for consumers to check on food premises' registration or their food hygiene performance. Privacy requirements of the Food Act currently restrict publication of some of this information. Other jurisdictions have developed websites for the public to see this information.

In the United Kingdom the public can check whether a food business is registered and see its inspection rating on the Food Standards Agency's food hygiene ratings website. As Figure 3 shows, in New York, ABCEats allows the public to look up a restaurant's registration details and inspection results.

Figure 3: Example of information available for New York on the ABCEats website

The screenshot shows the NYC Health ABCEats-Restaurants website. The header includes the NYC Health logo and the title 'ABCEats-Restaurants'. Below the header, there are navigation links: Home, About, and FAQ. The main content area is divided into two sections: 'Business Information' and 'Inspections'.

Business Information

Name: _____

Address: _____

Food Type: _____

Permit Number: _____

Inspections

Inspection Date	Result	Points
November 23, 2022	Violations Issued	11
March 17, 2022	Violations Issued	40
January 16, 2020	Violations Issued	13

Source: Redacted from City of New York Department of Health and Mental Hygiene's ABCEats website.

Impact of not knowing registration status

Councils failing to systematically identify and register all food premises undermines a fundamental component of the regulatory framework to monitor whether food meets safety standards.

Unregistered food premises may not be regularly assessed or inspected by councils.

Annual assessment and inspection of registered food premises

Requirement for food safety assessments or inspections

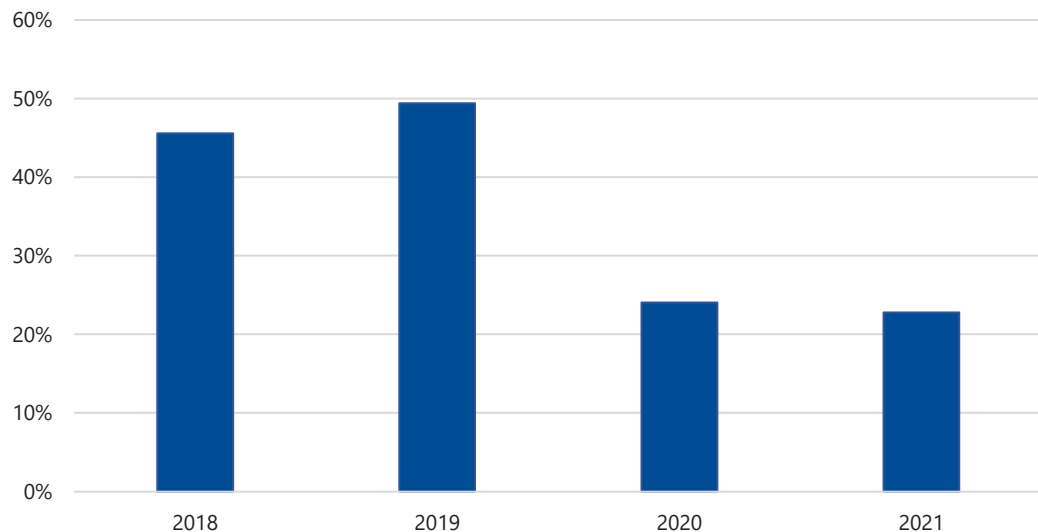
The Food Act sets out the requirements for councils to assess class 1 and 2 premises and inspect class 3 food premises each year. For more information about these requirements see [Appendix E](#). These requirements are important for ensuring food safety compliance. They allow councils to identify corrective actions that minimise the risk to public health.

Councils report the percentage of registered class 1 and 2 food premises they assess annually to LGV, as part of the LGPRF. They do not have to publicly report the percentage of registered class 3 food premises they inspect each year.

Figure 4 shows that only 24 and 23 per cent of all 79 Victorian councils reported that they had assessed all their registered class 1 and 2 food premises in 2020 and 2021 respectively. This compared to between 46 and 49 per cent from 2018 to 2019. Councils noted in their annual reports that the drop in annual food safety assessment was mainly due to the COVID-19 lockdowns.

Over the 4 years, Victorian councils assessed less than half of class 1 and 2 food premises.

Figure 4: Percentage of Victorian councils that assessed all class 1 and 2 food premises from 2018 to 2021

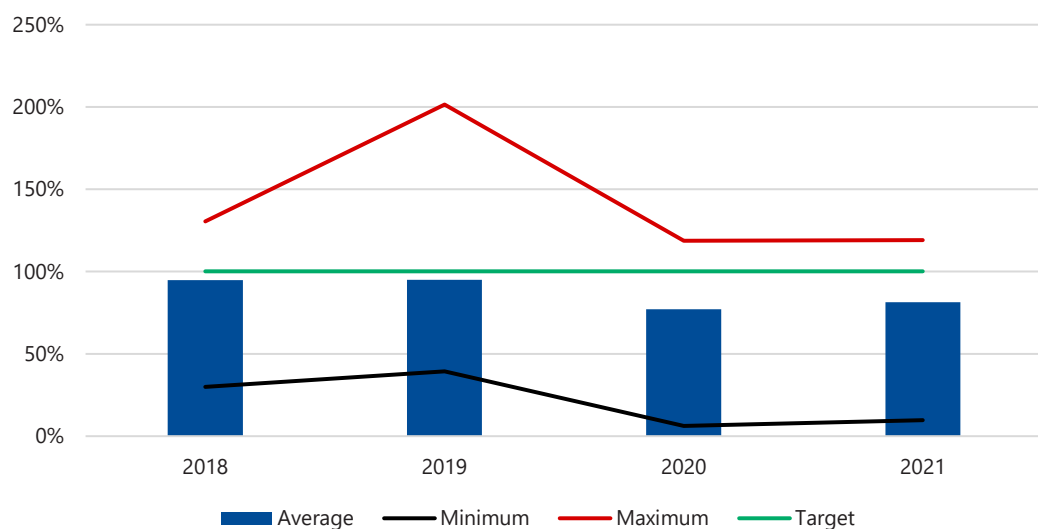


Source: VAGO analysis, based on DGS LGPRF data from 2018 to 2021.

There is a wide variation in the percentage of annual assessments by councils. Figure 5 shows that in 2021 the maximum a council achieved is 119.1 per cent, the minimum is 9.7 per cent and the 2021 average is 81 per cent.

Results above 100 per cent are most likely due to councils including assessments of food premises that closed during the reporting period, along with repeat inspections. Of the audited councils, only Casey reports results more than 100 per cent.

Figure 5: Percentage of class 1 and 2 food premises assessed by Victorian councils

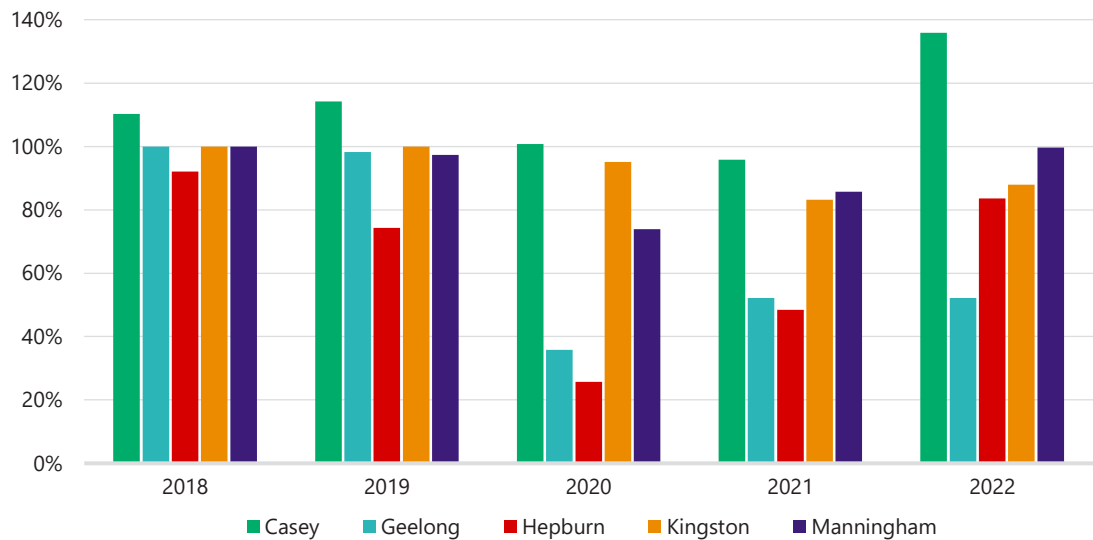


Source: VAGO analysis, based on DGS LGPRF data from 2018 to 2021.

Audited councils' assessment performance

Based on the LGPRF data, Casey is the only audited council that reported having assessed all its class 1 and 2 food premises from 2018 to 2020, as shown in Figure 6. However, this is because Casey's reporting includes assessments of food premises that subsequently closed. Adjusting for the closed premises changes the results to 95.6 per cent in 2020.

Figure 6: Percentage of class 1 and 2 food premises assessed by audited councils

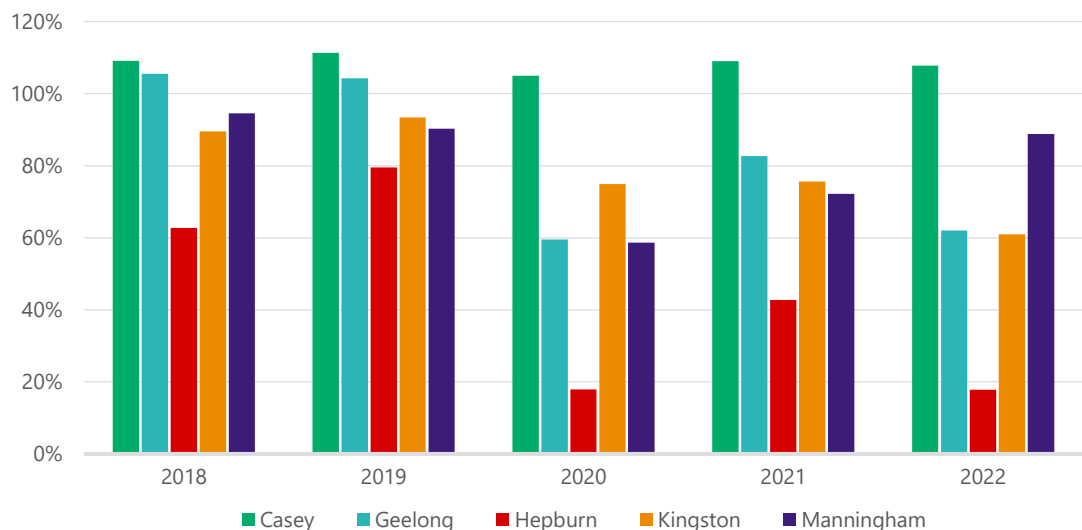


Source: DGS LGPRF data from 2018 to 2021 and audited councils' data for 2022.

Audited councils' inspection performance

Figure 7 shows that only Casey met the Food Act requirement to annually inspect all registered class 3 food premises for all 5 years. Geelong did so for 2018 and 2019.

Figure 7: Percentage of class 3 food premises assessed by audited councils



Note: Casey's and Geelong's percentages are greater than 100 due to the councils including inspections of closed premises.
Source: Audited councils.

While the Food Act requires councils to inspect all class 3 food premises annually, the broad range of EHO responsibilities means they prioritise class 1 and 2 food premises assessments using a risk-based approach.

Challenges facing EHOs

In addition to delivering and managing Food Act requirements, EHOs have other responsibilities under:

- the PHWA and *Public Health and Wellbeing Regulations 2019* (including managing nuisances)
- the *Residential Tenancies Act 1997* and *Residential Tenancies (Caravan Parks and Moveable Dwellings Registration and Standards) Regulations 2020* (such as rooming house regulation)
- the *Environment Protection Act 2017* and *Environmental Protection Regulations 2021* (such as septic tank inspections)
- specific local laws of each local government area (for example, smoking on council land)
- *Emergency Management Act 2013* (such as responding to the COVID-19 pandemic, and storm, flood and fire events)
- *Tobacco Act 1987* (including education and enforcement).

Any increase in work in these areas takes EHOs away from Food Act compliance activities, which affects service delivery levels. For example, the 2021 COVID-19 lockdowns made it hard for some councils to complete assessments and inspections.

At Geelong and Hepburn, vacant EHO positions (which both councils have had difficulty filling with appropriately qualified staff) made the situation worse. Geelong has had 7 vacant EHO positions out of 12 and Hepburn one out of 2. Both councils cited the inability to fill these positions for over a year as the key reason for not meeting their Food Act responsibilities to assess all class 1, 2 and 3 food premises.

Hepburn advised us that it has not filled its position. However, it states that in January 2023 it secured a contractor to help the council manage its Food Act responsibilities while it continues to recruit for a permanent EHO position that has been vacant for 18 months. Geelong filled 6 of these positions between December 2022 and March 2023 after they had been vacant for between 6 to 12 months.

Since 2019 Hepburn EHOs have also had to deal with the following emergency management events:

- fires in 2019
- storms in June and October 2021
- floods in January and October 2022.

Statewide workforce shortages

In 2018, DH began work to address the EHO workforce shortages by developing an internal Public Health Workforce Plan. However, this work stalled in early 2020 due to COVID-19.

DH restarted work on the Public Health Workforce Plan in late 2021 to identify and prioritise immediate and long-term solutions to address the worsening EHO workforce shortage. DH is developing a Victorian Health Workforce Strategy, which it intends to complete in July 2023. The department advised us it also plans to deliver a Public Health Workforce Plan in 2023–24.

The workforce shortage is a national issue and not a new problem in the industry. DH's 2022 environmental health officer workforce survey found that, due to a turnover of staff since the COVID-19 pandemic and EHOs leaving the industry, the problem is worsening, especially for councils. In addition, our report *Results of 2021–22 Audits: Local Government* shows average staff turnover for the sector was 20 per cent in 2021–22, up from 14 per cent the previous year.

Figure 8 shows the extent of the problem in Victoria.

Figure 8: Environmental health officer workforce survey results



Source: 2022 environmental health officer workforce survey.

DH is considering initiatives to attract and recruit, train, upskill, support and retain EHOs. However, DH told us it has been challenging getting councils to work with it to address EHO workforce challenges. This is because councils are experiencing staff shortages in multiple occupations and competing priorities. The situation is worsened by the impacts of the COVID-19 pandemic, meaning councils have to prioritise their areas of focus.

Council feedback on EHO shortages

The case study shows feedback from Victorian councils on the Public Health Workforce Plan during consultation suggests that there has been a lack of involvement, support and direction from DH on this issue.

Case study: Council staff feedback about staff shortages

Comments on problems staff face

'... lack of staff, lack of support from workplace and state government bodies (... DH in particular).'

'Lack of recognition of the value and importance of EHO work and capabilities by state and federal government.'

How problems could be addressed

'I would like to see more involvement by state government on staffing levels.'

'Greater promotion of the role from a state perspective.'

'Additional learning and upskilling opportunities provided by state government.'

Source: VAGO, from DH's 2022 environmental health officer workforce survey.

Impact of not assessing or inspecting all food premises

DH and councils need to respond quickly to the shortage of skilled staff, which compromises the effectiveness of the food safety regulatory system.

The failure of all audited councils to conduct proactive monitoring of all class 1, 2 and 3 food premises each year increases the risk that unsafe food practices in food premises may continue undetected, posing a risk to public health.

Consistency of council assessment and inspection rating of food premises

Legislative requirement

Victorian councils are required to consistently administer the Food Act, including assessing and inspecting food premises.

Food safety reforms

Councils face challenges consistently rating assessments and inspections because of the variation in EHOs' interpretation of food safety requirements.

DH recognises this and its 2018–21 Food Safety Reform Program aims to harmonise the approaches, policies and systems of councils. This should promote a more consistent and accurate application of food safety regulation.

A key initiative is the rollout of an assessment methodology that uses a consistent, risk-based approach to food premise assessments. Instead of EHOs focusing on basic cleaning (such as dirty floors and surfaces), they now focus on evaluating processes and controls for high-risk foods such as poultry, seafood, coleslaw, pasta and rice salads.

Inconsistent assessment and inspection ratings

Through a series of workshops in May 2020, DH identified inconsistencies in councils' compliance ratings. It asked EHOs to assess 6 different scenarios and arrive at an overall compliance rating of 'compliant', 'major noncompliance' or 'critical noncompliance'.

Major noncompliance means a deficiency or breach that does not pose an immediate, serious threat to public health but that may pose such a threat if no remedial action is taken. If there are several major noncompliances that, taken together, pose a serious threat to public health, the compliance check outcome may be categorised as critical.

Critical noncompliance means a deficiency or breach that poses a serious threat to public health. This includes situations where there is a serious risk of food being sold or prepared that is unsafe to eat.

As Figure 9 shows, there was variance in how councils and DH assessed different inspection scenarios. This highlights the differences in EHO approaches to food safety regulation. Councils rely on the experience and professional judgement of EHOs to arrive at a rating for an assessment or inspection and determine enforcement action.

Figure 9: DH compliance rating workshop assessments for different inspection scenarios

Inspection scenario	DH assessment	Council assessments		
		Compliant (%)	Major noncompliance (%)	Critical noncompliance (%)
1	Compliant	95	5	0
2	Critical noncompliance	26	63	11
3	Compliant	77	23	0
4	Critical noncompliance	4	37	59
5	Compliant	89	7	4
6	Major noncompliance	93	7	0

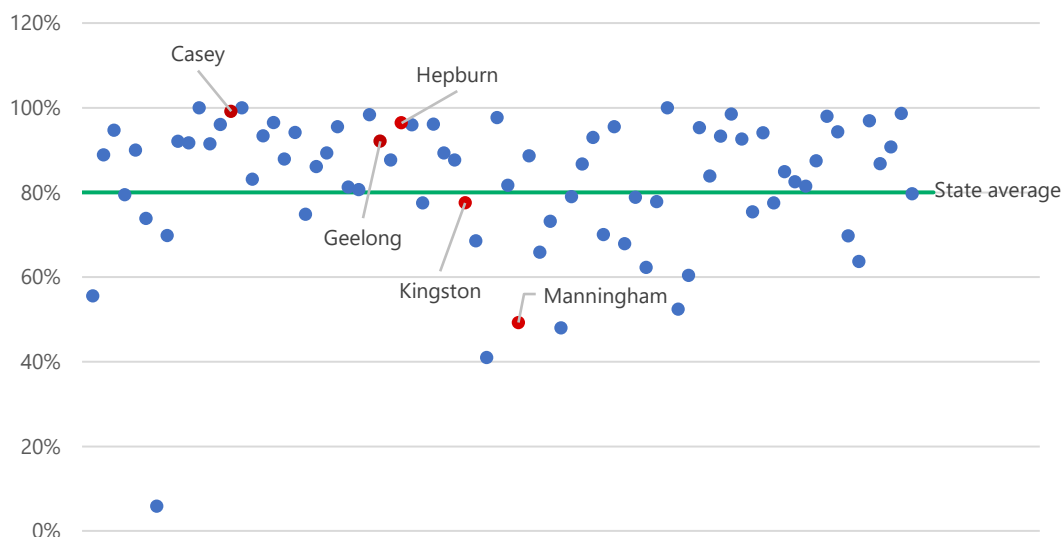
Source: VAGO, from DH Compliance outcomes report, May 2020.

Statewide compliance ratings

Data collected by DH in 2018 similarly highlights significant variation in ratings between Victoria's 79 councils. The variances could be due to several reasons, including the spread and number of businesses in a municipality. However, since all councils are enforcing the same legislation, there should be fewer extremes.

Figure 10 shows compliance rates for assessments councils conducted in 2018. The results are de-identified except for the audited councils, which are shown in red. The state average, indicated by the green line, shows that 80 per cent of food premises inspected by councils were compliant.

Figure 10: Compliance rates for class 1 and 2 food premises of all Victorian councils, 2018



Note: Data for one council that was not audited is unavailable. The graph does not include the results of audits of class 1 and 2 food premises completed by third party auditors or inspections of class 3 food premises completed by councils. The data may include multiple assessments of the same premises.
Source VAGO, based on DH data.

Councils use different proformas

In 2022, DH commissioned an evaluation of food safety risk assessment across councils. It found a lack of consistency in councils' assessment proformas. Our review of proformas used by the audited councils shows that the assessment template varies, increasing the risk of inconsistency between councils.

Variation in assessment records

The 2022 evaluation of food safety risk assessment also found a lack of consistency in how EHOs within councils completed assessment proformas. Some EHOs supported their evaluations with significant notations describing observations and interview responses. Others used the proforma as a 'tick and flick' exercise, with few notations recorded.

Impact of inconsistent ratings

The lack of uniformity in ratings across different councils can lead to:

- poorer health outcomes in areas where assessment or inspections are less robust
- higher costs for food premises needing to rectify noncompliant issues due to the council being tougher in their assessment or inspection ratings.

Follow-up of noncompliant assessments and inspections

Requirements to follow-up noncompliant food premises

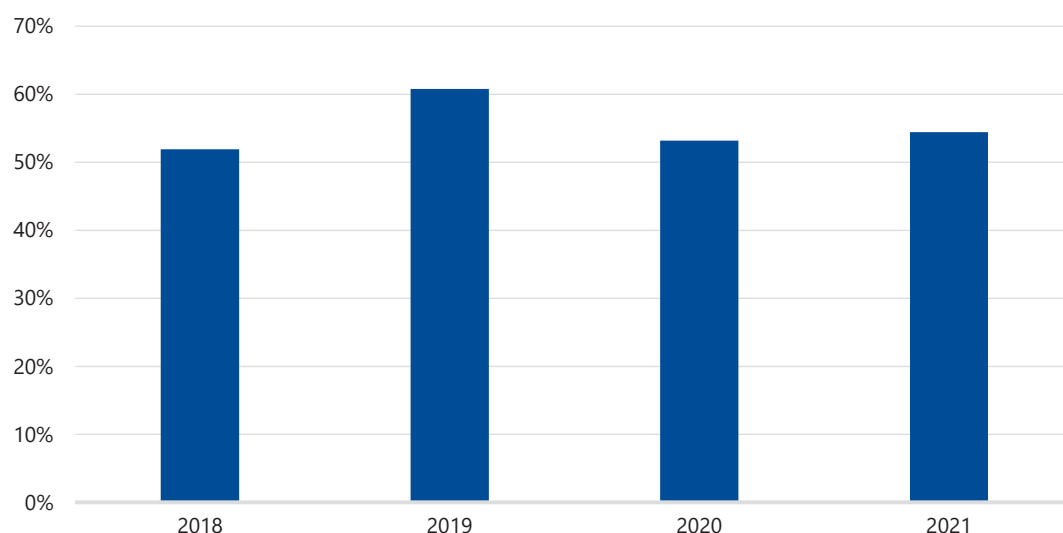
Under the Food Act councils must:

- take timely action to ensure that any critical or major noncompliance identified in an assessment or inspection is rectified, and that the owner is made fully aware of proper food handling practices
- inspect food premises within a 3 month period before the business renews their registration if they have reason to believe the food premises or proprietor have not complied with the Food Act.

Victorian council performance following up noncompliance

Information reported through the LGPRF, in Figure 11, shows that over the period from 2018 to 2021, between 52 and 61 per cent of Victorian councils followed up all their major and critical noncompliant food premises.

Figure 11: Percentage of Victorian councils that followed up 100 per cent of their critical and major noncompliance outcome notifications



Source: DGS LGPRF from 2018 to 2021.

Audited councils' performance following up noncompliance

We reviewed the records of 30 poorly performing food premises at the audited councils and interviewed council staff about food safety decision-making. These food premises consistently rated as noncompliant on third-party audits, assessments and inspections from 2018 to 2021. Council records showed that they followed up noncompliance issues and resolved these within reasonable timeframes.

EHOs give food premises owners set periods to address each noncompliant item. These range from one to 90 days, depending on the risk. The EHO rates the premises noncompliant until the owner addresses all items or enough high-risk items.

During follow-up inspections, EHOs focus on the noncompliant items. They give owners fair opportunity to address them and can follow-up several times. Councils followed up some poor performers up to 9 times in one year to rectify noncompliance issues.

Kingston could not demonstrate that it had taken action to follow-up some food premises with noncompliant outcomes during 2020. This was because it maintained paper records during the COVID-19 pandemic but had not added all these records into the system, due to a lack of resources.

**Reinspecting
noncompliant
premises before
renewing
registrations**

Audited councils are not reinspecting all food premises with noncompliance during the year in the last 3 months before registration renewal, which is a legislative requirement. This is because councils do not have processes in place or the resources to reinspect food premises. For example, in 2022 Kingston had 256 major and critical noncompliant food premises, which the council would have needed to reinspect in the 3 months before registration renewal. This is in addition to any previous inspections that year to address the noncompliance issues and is irrespective of whether the council now views the business as compliant.

**Impact of Food
Act requirement
on councils**

The requirement to reinspect premises in the 3 months prior to registration renewal significantly increases the number of council inspections required each year. It is also not a good use of their limited resources given councils have processes to follow-up and address noncompliance when it occurs.

Food sampling

**Councils must
take food
samples**

Food surveillance plays a significant role in ensuring that food sold in Victoria is both safe and suitable for public consumption. Section 32 of the Food Act requires councils to collect and analyse a minimum number of food surveillance samples annually. Councils can also collect food samples to investigate complaints.

Council selection of food for sampling should be based on risk, with higher-risk foods sampled and analysed more frequently. Councils send samples to a laboratory to analyse whether the food is safe and suitable. The laboratories report their results to the council and DH. Councils should also notify food premises of the outcome.

Each year, DH publishes the total number of food samples Victorian councils need to collect each year in the *Victoria Government Gazette* to meet their Food Act requirement.

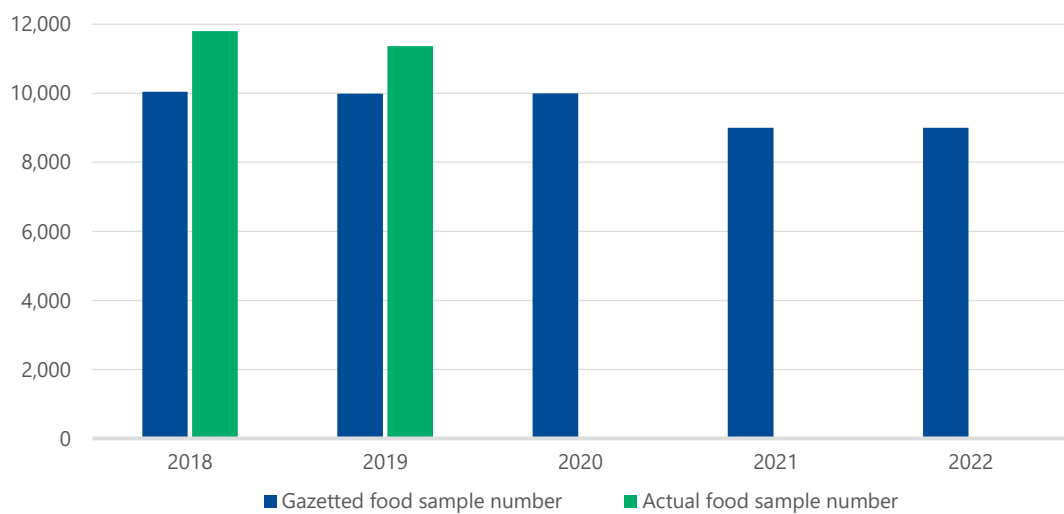
Statewide food samples

Victorian councils collect around 10,000 food samples from food premises every year. Figure 12 shows, that in 2018 and 2019, Victorian councils collected more than the minimum required number of food samples.

DH did not provide the number of food samples collected in 2020, 2021 and 2022 because its statewide database cannot collate data from the food laboratories and there are errors in the data. It has had limited success in fixing the problem. This means DH is unable to collate or analyse the results of statewide sampling to identify problem or risk areas.

DH is transitioning to a new statewide database that will allow the collection of food sampling data and greater analysis. However, implementation of the new database has been significantly delayed.

Figure 12: Expected and actual number of Victorian food samples from 2018 to 2022



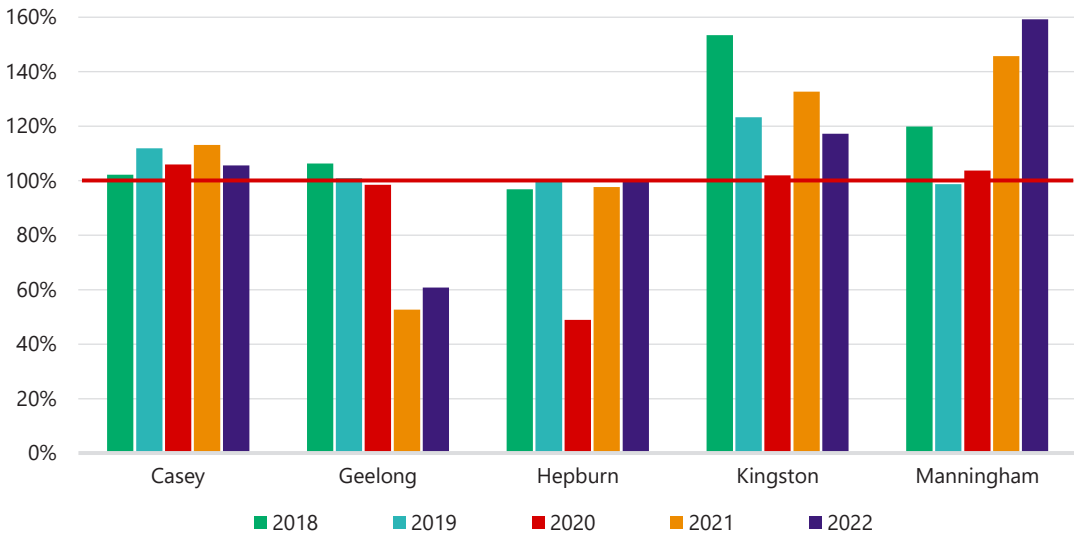
Note: DH reduced the food sample numbers in 2021 to reflect the reduced number of food premises open during the state's response to the COVID-19 pandemic.

Source: VAGO analysis, based on DH's Food Act reports for 2018, 2019, 2020 (draft) and 2021 (draft) and *Victoria Government Gazette* 16 December 2021.

Audited councils' food sampling performance

The audited councils provided us the actual number of section 32 food samples they took from 2018 to 2022. The sample number for each council varies depending on the number of food premises each council has. Figure 13 shows that only 2 councils, Casey and Kingston, achieved their food sampling targets for the 5-year period between 2018 and 2022. Manningham was just short in 2019. Geelong and Hepburn did not meet their targets in some years due to staff shortages and the impact of the COVID-19 pandemic.

Figure 13: Percentage of food sampling target met from 2018 to 2022 by audited council



Note: This data excludes food samples taken to investigate complaints.
Source: VAGO analysis based on information provided by audited councils.

Impact of DH not monitoring councils' food sampling performance or assessing results

Food surveillance plays a key role in ensuring that food sold in Victoria is both safe and suitable for public consumption. Without monitoring councils' food sampling performance, DH does not know which councils are not meeting their food sampling obligations.

In addition, it cannot analyse results to assess risks to public health, mitigate these risks or develop educational tools for councils and business owners.

Investigating complaints

Requirement to investigate and report on complaints

DH does not regulate food businesses. It refers complaints it receives about food premises to councils for investigation, response and reporting.

The public also report complaints directly to councils.

The *Local Government Act 2020* requires councils to have a complaints policy and process.

In addition to its requirement to follow-up on noncompliant food premises, under the Food Act a council must inspect food premises within the 3-month period before the business renews its registration if it receives a complaint about the premises during the registration period.

We reviewed a selection of councils’ food complaints and investigations. We found that councils are responding to complaints in a timely manner and are fairly addressing food safety issues with owners of food premises.

Figure 14: Examples of councils’ good complaints management practices and areas for improvement

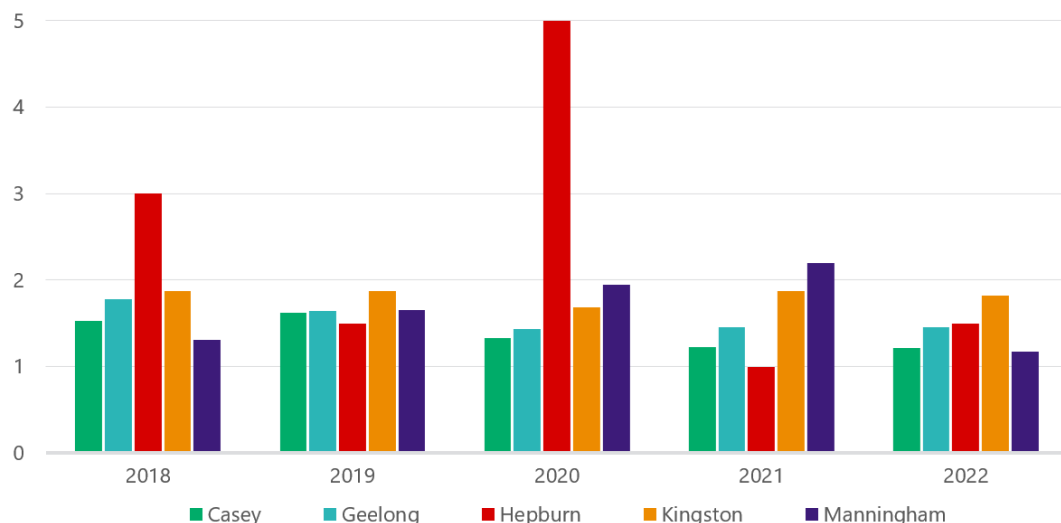
Good practices	Practices that need improving
<p>All audited councils are:</p> <ul style="list-style-type: none"> generally inspecting food premises within one to 2 days of receiving a food complaint focusing on processes relevant to the complaint during inspections, to determine whether there is a direct link to the complainant’s concerns. They take food and other samples if available giving owners fair opportunity to address identified food safety issues and to voluntarily close the food premises to fix the issues when the risk to public health is high following up with food premises until they are compliant reporting on the LGPRF indicator of the time taken for the first response to a food complaint. Casey and Manningham also set and monitor response targets for other processes in their complaint procedures. <p>Geelong and Manningham complete an assessment or inspection, if it is due, while investigating a complaint.</p> <p>Geelong and Manningham assign 2 EHOs to a complaint inspection, to support the workload if noncompliance is detected and enforcement tools are used.</p> <p>Kingston and Manningham add premises to their sampling program to recheck specific menu items.</p> <p>Geelong increases the frequency of assessments or inspections to 3 or 6-monthly for premises it assesses as high-risk.</p>	<p>None of the audited councils are:</p> <ul style="list-style-type: none"> reinspecting all food premises in the last 3 months before registration renewal. However, this requirement is not a good use of councils’ resources, given EHOs address food complaints when they are received. Geelong, Kingston and Manningham also prioritise these premises early in the following year. validating and cleansing complaint data to ensure its quality. For example, we found duplicate records at Geelong and Kingston, a missing complaint category (Hepburn), inaccurate time stamps, insufficient detail at all councils and missing electronic records (Kingston) capturing and retaining data at key intervals for accurate data analysis and reporting given their systems are a rolling point in time Reporting internally on the type of complaint, results of their investigation including inspections and sampling results, enforcement action and if a complaint is justified. <p>Geelong and Hepburn do not have documented procedures for investigating food complaints. While Geelong has limited work instructions and both use DH’s <i>Enforcement guidelines: A guide for councils in selecting enforcement tools</i> (enforcement guidelines), these are not a substitute for detailed operating procedures for all types of food complaints.</p>

Source: VAGO, based on council data.

LGPRF complaint response times

Figure 15 shows that on average, except for Hepburn, the audited councils first respond to complaints within 2 days of receipt. Hepburn had one complaint in 2020, which it responded to in 5 days. Hepburn advised that this was due to demand on EHOs during the COVID-19 pandemic. Without targets it is not clear if these results are in-line with the councils' expectations.

Figure 15: Days taken for audited councils to action food complaints from 2018 to 2022



Note: Data for the 2022 state average is unavailable. DGS LGPRF release their data in June each year.
Source: DGS LGPRF data from 2018 to 2021 and audited councils' data for 2022.

Challenges in investigating complaints

Councils experience difficulties in getting sufficient information and evidence from complainants. This can happen when:

- complaints are anonymous, the complainant is unwilling to further engage with council or the complaint is false
- evidence is limited
- councils need a 3-day food history and faecal and food sample results from complainants to link gastroenteritis to food premises.

Impact of gaps in councils' management of complaints

The absence of ...	Means ...
documented procedures for investigating food complaints at Geelong and Hepburn	there is a risk of inconsistent interpretation of requirements by EHOs in making food safety decisions on complaints.
targets and monitoring of complaints by all audited councils	they do not know whether: <ul style="list-style-type: none"> • their overall efforts are protecting public health • they are effectively and efficiently allocating limited resources • processes need improvement.
regular analysis of complaint data	councils are unable to identify and respond to trends over time and emerging food safety risks.

Council enforcement action

Legislative requirement

The Food Act contains a range of enforcement tools that councils can use where there has been noncompliance.

Council EHOs must consider what would be a proportionate response to an alleged breach of the legislation. Councils can issue infringement notices for some food safety or hygiene offences. These include:

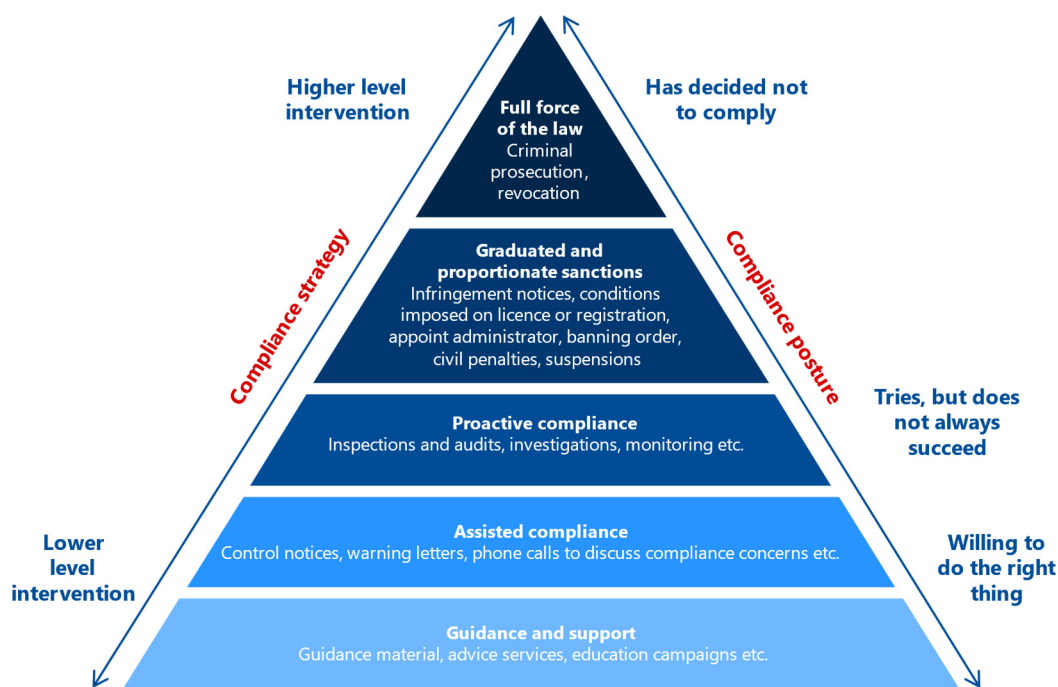
- failure to store, process, display and transport food safely
- lack of cleanliness and adequacy of food premises
- failure to clean and sanitise food equipment
- operating food premises without registration or notification
- failure to keep their food safety program (FSP) onsite.

DH guidelines

DH's enforcement guidelines are intended to help councils choose appropriate enforcement action. This will be based on health and safety risks and the level of compliance required. DH's regulatory tools pyramid, shown in Figure 16, summarises some of the compliance tools.

All audited councils use the enforcement guidelines to determine their approach to enforcement.

Figure 16: Regulatory tools pyramid



Source: DH enforcement guidelines under the Food Act.

Using education to improve outcomes

Audited councils indicated that they generally chose to educate and support businesses rather than using the enforcement powers available under the Food Act. They use inspections as an opportunity to educate food premises owners and staff. This was evident when we attended a selection of food inspections at each audited council. We observed EHOs giving owners advice and brochures about food processes, cleaning food processing machines and allergen management.

However, councils could not provide evidence of their education approach, policies and procedures beyond the inspection reports themselves. None of the 5 councils has developed a formal education strategy informed by:

- needs analysis of food premises (such as culturally and linguistically diverse owners, low literacy levels, or significant high-risk businesses and food products)
 - issues or findings arising from assessment, inspections and sampling.
-

**Enforcement
action against
poor performers**

Audited councils use a range of graduated and proportionate sanctions to address poorly performing food premises.

When there is sufficient evidence of noncompliance during follow-up inspections of premises, councils take immediate enforcement action, when noncompliant items are:

- an offence under the Food Act
- high-risk and actions by owners continue to put the public at risk

or the premises:

- have exceeded the deadline to address noncompliant items
- are in a cycle of returning to noncompliance and the council has given them many opportunities to demonstrate compliance.

The audited councils take enforcement that includes one or more of the following:

- orders to business owners to rectify the issue and close the premises
- issues infringement notices
- changes to business owners' registration conditions.

In 3 instances across 9 cases at Kingston that we reviewed, staff reflected that their enforcement action could have been timelier and stronger. EHOs used warnings – a lower level intervention – when an infringement notice was justified.

3.

Reporting performance

DH's statewide food safety reporting does not include useful or timely information about how effectively councils are managing food safety. DH and councils need better performance data to measure food safety outcomes.

The LGPRF provides some insight into the efficiency and effectiveness of food safety management. However, councils do not always calculate results consistently and it is difficult to assess their performance without targets.

The audited councils report internally on food safety but provide no insights on food safety risks. Better use of data and quality reporting would support good decision-making.

Statewide food safety reporting

Requirements to report on food safety

The Food Act requires councils to report their food safety activities to DH every quarter. The department must publish an annual Food Act report that provides food businesses, food regulators and the Victorian community an account of councils' and the DH's activities.

DH must also report its food safety output performance set out in Budget Paper No. 3 – Service Delivery in its annual report.

Focus of DH's reporting

DH's Food Act report focuses on councils' activity levels, such as the number of registrations, food samples and enforcement action. DH undertakes little meaningful analysis of this data. It also does not measure performance against the objectives of the Food Act, which are to:

- ensure food for sale is safe and suitable for human consumption
- prevent misleading conduct relating to the sale of food
- allow for the application of the Australia New Zealand Food Standards Code in Victoria.

To measure performance against the objectives of the Food Act, DH needs to consider a broader range of metrics to address the complexity involved in measuring food safety outcomes.

One measure of regulatory effectiveness in ensuring that food for sale is safe and suitable for human consumption is trends in foodborne illnesses. For example, the Food Standard Agency, which is responsible for food safety and food hygiene in England, Wales and Northern Ireland, reports on trends on the number of cases, confirmed by laboratory tests, of 4 of the main sources of foodborne illness – *E. coli*, *Salmonella*, *Campylobacter* and *Listeria*.

DH does not publicly report foodborne illness trends or use the sampling information to assess risks to public health. However, it does report on infectious diseases that may be foodborne. This reporting has limitations as an indicator of food safety because:

- the data includes diseases from non-food pathogens, such as water or pets
- some foods are manufactured in other Australian states or imported from overseas.

DH's annual report only reports on 'calls to food safety hotlines that are answered' and the 'percentage of food recalls acted upon within 24 hours of notification'.

**Timeliness of
DH's annual
Food Act report**

DH's annual Food Act report is not timely.

Since 2018, the department has issued it every 2 years. In May 2021, DH issued the 2018 and 2019 data in one report. It has yet to publish the results for 2020 and 2021 due to the impacts of COVID-19 on resourcing and due to data management challenges experienced by both councils and the department.

This is inconsistent with the Food Act requirement for DH to publish an annual report on food regulation.

**Timeliness of
council
reporting**

Councils must report their food safety activities to DH within 7 days of the end of each quarter. We found that Hepburn has not reported to DH since the first quarter of 2020 and Kingston did not report information between the last quarter of 2021 and May 2022.

Hepburn advised that staff shortages and technical issues with submitting data resulted in the council being unable to comply with its Food Act obligations. DH has made several attempts to follow-up with the council. Hepburn has attempted to re-upload the information, but it has been rejected again due to validation issues. The council cannot validate the data, as the reporting portal has been temporarily removed since July 2022.

**Completeness of
council
reporting**

DH advised that some councils choose not to report all required data because it is too time-consuming and they capture data in different systems that are not linked.

The DH Food Act report includes data on enforcement actions taken by councils for breaches of the Food Act by fixed premises. It does not report data for mobile and temporary premises as required by the Food Act. The department is working with councils to ensure they report this data.

Due to the COVID-19 pandemic, some councils experienced difficulties submitting data for 2020 and 2021 because of lack of staff and food premise closures.

Data quality

According to DH's *Food Safety Reporting Guide*, councils are responsible for ensuring the quality of their data. DH does not independently audit the quality of councils' data.

We found instances in DH Food Act reports where it is unclear whether a '0' means there was no result for the period or that the council had not provided the data.

**Impact of
limited annual
reporting**

The information in DH's Food Act report does not:

- fully measure DH's performance against its key regulatory responsibilities
 - show the efficiency and effectiveness of the regulatory framework at a council or state level
 - show whether the objectives of the Food Act are being achieved.
-

**Impact of
insufficient
reporting on
statewide
activities**

DH's Food Act report and annual report do not enable users to assess councils or DH's performance in relation to:

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

Public reporting of council performance

Requirement to report on food safety The *Local Government Act 2020* requires all councils to publicly report their performance against the LGPRF indicators in their annual reports. This is separate to the reporting by DH.

To support consistent reporting, LGV's *Performance Reporting Indicator Guide* provides instructions on how councils must calculate indicator results.

LGPRF reporting The LGPRF indicators provide some insight into the efficiency and effectiveness of council food safety management. For more in-depth background information on LGPRF reporting, please see Appendix D.

Interpreting guidance We found that some councils do not interpret the *Performance Reporting Indicator Guide* correctly or consistently, and there are inherent issues with the rules.

Calculating the percentage of food safety assessments As highlighted in Section 2, Casey reported undertaking more than 100 per cent of its food safety assessments in the years 2018 to 2020 and in 2022. This is because it counts assessments of closed premises in the number of assessments but not in the number of premises.

The other audited councils advised that they do not include closed businesses in their reporting. It is unclear in the guide whether an inspection of a closed business should count.

In 2021, 7 councils reported inspecting over 100 per cent of their food premises, highlighting that this is not an isolated issue. LGV acknowledges this issue and has updated the guide for 2023 to cap the result at 100 per cent. The calculation now omits food premises that close during the year and counts only one assessment per premises.

Casey is also calculating the result on financial year, instead of calendar year as required by the LGPRF. Our *Results of 2018–19 Audits: Local Government* previously found critical and major non-compliance outcome notifications, where council calculations were based on the financial year, rather than the calendar year per the LGPRF.

Setting targets to assess performance Our report *2016–17 Results of Audits: Local Government* recommended the need to set LGPRF targets that allow management and other report users to understand which areas need improvement.

LGV is reforming the LGPRF. Starting in 2023–24, councils will set targets for 8 key performance indicators. This will ensure that councils demonstrate their performance by linking their intentions to their outputs. However, there is no plan to set targets for food safety indicators.

Impact of inconsistently interpreting guidance Councils interpret guidance inconsistently. This means the information they publish about food safety assessments in their annual reports and on LGV's website is not comparable between councils.

Impact of no targets The absence of targets also makes it difficult for users of the performance information to understand whether councils' food safety performance meets expectations.

Audited councils' internal food safety reporting

Audited councils' reporting

All the audited councils report internally to management and/or executive management on their regulation of food safety. Reporting frequency ranges from monthly to quarterly.

The audited councils' reporting focuses on food safety activity levels and LGPRF results. It does not provide any insights into food safety risks.

For example, all audited councils except Hepburn report on the number of food complaints. However, they do not provide information on the progress against timeframes set in their complaints procedures or on what they are finding in their investigations, to improve practice.

Using data to inform risk management

All the audited councils could make better use of data from inspections, food sampling and complaints to drive education.

Case study: Inspection and food sampling information used to develop targeted education for allergen management

Through food safety inspections, Casey identified allergen management as an area of concern. Casey targeted sampling of food allergens over a period. The sample results had a higher-than-expected unsatisfactory outcome.

As a result, Casey developed an allergen intervention program to promote education of EHOs and business operators in allergen management. Casey expects to evaluate the education program in early 2023. This will determine the program's effectiveness and future needs for allergen management education.

Source: VAGO, based on information supplied by Casey.

Impact of ineffective internal reporting

Better reporting and information would help councils:

- identify systemic food safety issues
 - make decisions on education and support services
 - determine appropriate enforcement options.
-

4.

Guiding and training

The quality of DH's guidance is improving and councils are accessing it more often. However, it does not always meet council needs.

DH's training and workshops are effective, but EHOs need more regular sessions and refresher training throughout the year.

DH guidance and training

Requirement to guide councils The Food Act requires DH to promote the objectives and the consistent administration of the Food Act through provision of information and guidance to councils.

Access to information

To meet its obligations, DH shares information with councils and EHOs about interpreting and implementing the legislation and other specific issues concerning food safety. It does this by:

- running information roadshows about legislative changes
- responding to requests for information and support
- attending Environmental Health Network meetings
- publishing material
- delivering training.

Information provided by DH is readily available on the online PHHub. DH launched the PHHub in March 2020 to provide council EHOs dedicated access to information, guidance and resources.

In 2022, DH commissioned an evaluation of its Food Safety Reform Program. This noted that the previous webpage was 'clunky' and challenging to navigate, and was underused by councils and EHOs.

Information quality

DH has improved the quality of information provided to councils with documents such as its *Guide to the Food Act 1984* and enforcement guidelines. They are designed to be easier to understand and less legalistic than previous guidance.

The *Guide to the Food Act 1984* is the cornerstone of DH's Food Safety Reform Program, meeting the major objective of providing guidance on the correct interpretation of the Food Act.

Council use of information

EHO's use of the PHHub has been growing since July 2020. Significant growth in access to the portal from late 2021 to February 2022 was mainly due to DH's release of the food safety assessment, enforcement and Food Act guidelines over this period.

DH's commissioned evaluation also notes that:

- around half the EHOs surveyed found the PHHub was a useful and user-friendly resource to communicate critical information

- EHOs and councils provided consistent feedback that the initiative was a positive step forward, specifically referencing the design, navigation and resources such as animations, videos and templates.

Councils' experience with DH support

The audited councils provided feedback on their satisfaction with the level of guidance and training provided by DH. EHOs consider that:

- the knowledge and level of advice provided by DH staff is sound
- some of the training and workshops over the years on specific topics such as the risk assessment, egg safety and fermentation have been excellent.

In 2022 DH commissioned an evaluation of its implementation of the Food Safety Risk Assessment Project. It found that 92.6 per cent of respondents agreed that the risk assessment training was 'very effective or somewhat effective in explaining the risk-based approach to food safety assessment'.

However, there are gaps in guidance and training. Audited councils told us that:

DH needs to provide ...	For example ...
clear advice	<p>information on the transition from the Stretrader database for registering temporary or mobile food business to FoodTrader has created confusion.</p> <p>The FoodTrader system was due for release on 1 July 2022. However, this did not occur. DH advised councils on:</p> <ul style="list-style-type: none"> • 27 September that FoodTrader was delayed • 28 September that Stretrader would be turned off • 29 September that Stretrader would be available until the end of the year. <p>This matter is unresolved as FoodTrader is not yet in place.</p>
contemporary advice	<p>the growth of activity in the home-based food sector has created risks to food safety. DH is best placed to work with councils in understanding food trading trends and risks and to develop guidance.</p>
more timely guidance	<p>while DH communicated legislative amendments to food premises classifications prior to their implementation in July 2022, it did not provide practical guidance promptly to help EHOs understand and implement the changes. DH did not provide information sheets with practical guidance on the PHhub until August 2022.</p>
more regular training	<p>training and workshops tend to be one-off. This means they are not available for recent EHO graduates, anyone who may have missed out or EHOs needing a refresher.</p> <p>DH's 2022 internal review of the Food Safety Reform Program also found ongoing training is required to ensure consistency of understanding and practice across the state.</p>

Impact of not meeting councils' needs

Unless DH addresses these gaps, inconsistencies in applying the Food Act between different councils will continue – in particular, with assessment and inspection ratings.

Appendices

[Appendix A: Submissions and comments](#)

[Appendix B: Abbreviations, acronyms and glossary](#)

[Appendix C: Audit scope and method](#)

[Appendix D: In-depth background information](#)

[Appendix E: Assessment and inspection of food premises](#)

Appendix A:

Submissions and comments

We have consulted with DH, Casey, Geelong, Hepburn, Kingston and Manningham, and we considered their views when reaching our audit conclusions. As required by the *Audit Act 1994*, we gave a draft copy of this report, or relevant extracts, to that agency or council and asked for their submissions and comments.

Responsibility for the accuracy, fairness and balance of those comments rests solely with the agency head.

Responses received

Agency or council	Page
Department of Health	A-2
City of Casey	A-7
City of Greater Geelong	A-12
Hepburn Shire Council	A-15
City of Kingston	A-21
Manningham City Council	A-24

Response provided by the Secretary, Department of Health



Secretary

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BAC-CO-36470

Andrew Greaves

Auditor-General

Via e-mail: [REDACTED]

RE: Proposed Report – Regulating Food Safety

Dear Mr Greaves

Thank you for your correspondence of 18 May 2023 and the proposed report for *Regulating Food Safety*. In accordance with the Audit Act 1994 (the Act), I have considered your report and wish to provide a submission in response to your recommendations.

I accept the recommendations provided by the Victorian Auditor-General's Office and attached to this letter you will find the department's action plan to address these recommendations.

I note that the proposed report will be tabled in Parliament and that under the Act, I am responsible for protecting the confidentiality and security of this information.

Thank you for the opportunity to respond to these recommendations. Should you wish to discuss this matter further, please contact Dr Angie Bone, Deputy Chief Health Officer (Environment) at the Department of Health on [REDACTED].

Yours sincerely

[REDACTED]

Professor Euan M Wallace AM
Secretary

29/05/2023



**Department of Health action plan to address recommendations from
*Regulating Food Safety***

No.	VAGO recommendation	Action	Completion date
1	Recommendation 4 Reviews the regulatory arrangements and provides advice to the government to: <ul style="list-style-type: none"> address the risk that owners of food premises using online platforms are not registering their business. This includes a requirement to display the owners name, registration number and registering council prominently on any online profile 	Accepted Conduct a review of the regulatory arrangements of how businesses that sell food using on-line platforms can demonstrate that they are registered with their council. The review will be conducted in consultation with in-scope food businesses and councils, following which recommendations will be presented to the Minister on how this issue can best be addressed.	30 June 2024
2	Recommendation 4 Reviews the regulatory arrangements and provides advice to the government to: <ul style="list-style-type: none"> assess whether the requirement for councils to reinspect food premises in the 3 months before renewal of registration for <ul style="list-style-type: none"> all non-compliant premises any food premises that received a complaint 	Accepted Councils should resolve non-compliances within a reasonable timeframe from when they were first identified and investigate complaints as soon as practical. Mechanisms already exist in the <i>Food Act 1984</i> that permit councils to increase frequency of inspections per registration period for poor performing businesses. To remove this requirement there must be an amendment to the <i>Food Act 1984</i> . The department will seek the next opportunity to amend the Act to remove this provision.	30 December 2024
3	Recommendation 5 Improve consistency in councils' compliance ratings of food premises by annually: <ul style="list-style-type: none"> collecting, analysing and reporting on councils' food premises compliance rates investigating compliance rate variances 	Accepted The department notes consistent provision of data by councils and data sharing agreements will be important in achieving this recommendation. The completion of the FoodTrader/ OSCAR system for managing the regulation of fixed food premises later this year is expected to assist obtaining the required data that will permit the Department to: <ul style="list-style-type: none"> investigating compliance rate variances of user councils; and 	30 December 2024

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Response provided by the Secretary, Department of Health – *continued*

	<ul style="list-style-type: none"> educating councils 	<ul style="list-style-type: none"> develop strategies on educating councils that either have very high or very low food premises compliance rates. <p>But this will only be for the councils that opt to use FoodTrader/ OSCAR</p> <p>For councils not using FoodTrader/ OSCAR for managing the regulation of fixed food premises, the department will need to provide these councils with instruction on how to improve the data that they submit to the Department as currently, it lacks sufficient detail. This will result in councils needing to consult with their system vendors and may result in expense to councils. Whilst the Department will complete this work during 2024 there is no guarantee that councils (not using FoodTrader/ OSCAR) will update the data they need to send the Department. The Department can make councils to comply.</p>	
4	Recommendation 6 Complete and implement the Public Health Workforce Plan to address the statewide shortage of environmental health officers	Accepted The department is developing a "Victorian Health Workforce Strategy", intended to be published in July 2023. The department will then build on this and leverage internal expertise to deliver a "Public Health Workforce plan" in the 2023/24 financial year.	30 June 2024
5	Recommendation 7 Address in collaboration with councils, the need for its statewide risk-based food sampling strategy to consider: <ul style="list-style-type: none"> trends in pathogens and foodborne bacteria high-risk foods opportunities for improving education 	Accepted This allows time for the department to undertake consultation and develop a statewide risk-based food sampling strategy that includes: <ul style="list-style-type: none"> trends in pathogens and foodborne bacteria; high-risk foods; opportunities for improving education. 	30 December 2024

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Response provided by the Secretary, Department of Health – continued

6	<p>Recommendation 8</p> <p>Design and implement performance measures and targets that measure achievements against:</p> <ul style="list-style-type: none"> key objectives of the <i>Food Act 1984</i> at both a statewide and council level food safety outcomes such as reduction in foodborne illnesses over time, results of enforcement actions and quality of compliance activities 	<p>Partially Accepted</p> <p>The department will develop performance measures and targets that measure achievements against key objectives of the <i>Food Act 1984</i> at both a statewide and council level, noting the quantum of measures and targets will need to be staged.</p> <p>This is because being able to collect the required quality data from both councils and laboratories (and other possible sources yet to be identified) will need to be negotiated with those agencies. In addition, capability in the department data systems and staff will require time to be developed.</p> <p>It is forecasted that some measures and targets will begin being reported on by the end of 2024 and expand in the following years.</p> <p>With respect to measuring food safety outcomes such as reduction in foodborne illnesses over time. The department advises that data on cases of diseases that may be foodborne are available at: https://www.health.vic.gov.au/infectious-diseases/interactive-infectious-disease-reports. The department advises that there are some limitations as indicators of food safety system performance. For example, the same pathogens can be transmitted by other routes (such as water or pets) and many foods are manufactured in other Australian states or imported from overseas. In addition, food safety outcomes are also highly contingent on environmental and climate change and primary production conditions and regulation.</p>	30 December 2024
7	<p>Recommendation 9</p> <p>Annually publish the Food Act report, including:</p> <ul style="list-style-type: none"> performance against measures and targets analysis of the types of food complaints, investigation outcomes and emerging food safety risks council performance on food sampling, results and trends 	<p>Accepted</p> <p>The department intends to return to annual publication as required.</p> <p>Annual reports will be up to date by the end of 2023.</p>	30 December 2023

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Response provided by the Secretary, Department of Health – continued

8	<p>Recommendation 10</p> <p>Improve council guidance and training by:</p> <ul style="list-style-type: none">• collaborating with councils in developing a co-designed model for guidance and training• reviewing and updating guidance to ensure it reflects emerging trends and risks• developing and delivering regular training for new environmental health officers and more advanced practical and refresher training, to ensure a consistent standard of skills across the state• undertaking council surveys to measure whether Department of Health's guidance and training is meeting council needs	<p>Accepted</p> <p>The department acknowledges the importance of continuous improvement of guidance and training provided to councils.</p>	30 June 2024
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1 June 2023

Andrew Greaves
Auditor-General
Victorian Auditor-General's Office
Level 31/ 35 Collins Street
Melbourne VIC 3000

Email: [REDACTED], [REDACTED]

Dear Mr Greaves

Proposed Report - Regulating Food Safety – Casey Comments

Further to City of Casey correspondence on 3 May 2023, thank you for the previous opportunity to provide comments on the provisional report into Regulating Food Safety. Council acknowledges the acquittal to the matters raised and appreciates VAGO's consideration in these matters.

In response to the correspondence dated 18 May 2023 and the request for Council's action plan to address the recommendations, please see the attached document. We welcome future engagements for monitoring purposes.

If further information or clarification is required, please do not hesitate to contact Daniel Osborne on telephone [REDACTED] or email [REDACTED].

Yours sincerely



Holly De Kretser
Manager Corporate Governance

Attached: City of Casey action plan to address recommendations from Regulating Food Safety

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Customer Service Centres:
Narre Warren: Bunjil Place, Patrick Northeast Drive
Cranbourne: Cranbourne Park Shopping Centre
ABN: 43 320 295 742



City of Casey action plan to address recommendations from Regulating Food Safety

No.	VAGO recommendation	Action	Completion date
1	<p>Develop a workforce plan that:</p> <ul style="list-style-type: none"> Reflects realistic environmental health officer caseloads Considers the time needed to adequately undertake food safety obligations Reassigns non-critical tasks from environmental health officers to other staff or authorities. 	<p>Recommendation One Accepted</p> <ol style="list-style-type: none"> In collaboration with People and Culture team, develop a Public Health Workforce plan that considers internal and contractor resources and addresses the VAGO recommendation. Undertake a time survey of food safety work tasks and determine adequacy to ensure food safety obligations are effectively being met. Review tasks undertaken by EHO's and consider non-critical tasks re-allocation to other staff or authorities were appropriate. Document changes applied. <p>We note achievement of this recommendation will partly be dependent on the findings/ outcomes of recommendation 6 and the Department of Health's Public Health Workforce state-wide plan in addressing EHO shortages.</p>	Develop a workforce plan – 30 June 2024
2	<p>Develop or strengthen a plan for:</p> <ul style="list-style-type: none"> Completing annual assessments and inspections Conducting regular surveillance to identify unregistered food premises Regularly monitoring and reporting performance 	<p>Recommendation Two Accepted</p> <p>Completing annual assessments and inspections</p> <ol style="list-style-type: none"> Review and report on changes (if applicable) to "Assessment/ Mandatory Inspection of a Food Premises – FP16V Procedure." Review and report on changes (if applicable) to the following report types in Health Manager: <ul style="list-style-type: none"> Operational – Total premises number by class Operational – Total inspections completed by premises class – current year to date Master officer reports – Total inspections completed by inspection type LGPRF Reports – Total number Class 1 2 premises LGPRF Reports – Total Class 1 2 inspections completed 	Completing annual assessments and inspections – 31 December 2023

	<p>3. Undertake routine monitoring of annual assessments and inspection data and discuss in operational catch-up meetings between Council and Contractor on required actions to meet inspection targets.</p> <p>4. Continue to report routinely to Department of Health on Councils food premises compliance rates to aid in consistency.</p> <p>5. Continue to promote the “Assessment/ Mandatory Inspection of a Food Premises – FP16V Procedure” amongst the Environmental Health Shared Service to aid in consistency between City of Casey, Cardinia and Bass Coast Councils.</p> <p>Conduct regular surveillance to identify unregistered food premises</p> <p>1. Undertake an initial review of online marketplace websites (e.g. Facebook marketplace, Gumtree, ebay etc) and food sharing platforms (e.g. UberEats, Menu log, DoorDash) to understand risk and extent of issues relating to unregistered food premises. Develop recommendations based on data gathered to support the development of an active surveillance program for unregistered food businesses.</p> <p>2. Develop a process to support active surveillance of unregistered food premises within the municipality. This process will be based on risk-based surveillance strategies that:</p> <ul style="list-style-type: none"> • Set out actions to mitigate the risk of unregistered food premises operating, • Address risks identified through an assessment of unregistered food premises found to be operating in the municipality. This will incorporate non-traditional locations for new food premises, • Actions to be prioritized and EHO resources allocated based on risks identified. <p>3. Frequency of “regular surveillance” to be determined through understanding the extent of the problem and if businesses are being identified through BAU EHO field work responsibilities. It’s anticipated a review (either desktop or in-field) will occur at a minimum every 12 months.</p> <p>4. Review and report on changes (if applicable) to “Unregistered Food Premises – FP30V procedure”.</p>	<p>Conduct regular surveillance to identify unregistered food premises – 30 June 2024</p>
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		<p>We note councils' success in achieving recommendation 2 is dependent, in part, on the Department of Health's implementation of recommendation 4 in relation to greater controls for online platforms.</p> <p>Regularly monitoring and reporting performance</p> <ol style="list-style-type: none"> 1. Report on the outcomes of Regulating Food Safety VAGO report to councils Audit and Risk Committee. 2. Review processes in monitoring and reporting performance, with a particular focus on food safety risks. Investigate potential food safety indicators and targets that can be used for internal reporting and to understand councils food safety performance against its obligations. 3. Review Performance reporting Indicator Guide and application to data collected to address LGPRF indicators. With a particular focus on ensuring removing closed premises in the number of assessments and number of premises data. Also ensuring data is collected and reported on a calendar year as opposed to financial year where required. 	<p>Regularly monitoring and reporting performance – 31 December 2023</p>
3	<p>Use results of assessments, inspections, food sampling and complaints to develop education programs for owners of food premises that address food safety risks.</p>	<p>Recommendation Three Accepted</p> <ol style="list-style-type: none"> 1. Evaluate Allergen Management education program and determine effectiveness and future needs for allergen management education. 2. Evaluate Food Sampling Program and determine effectiveness, future needs and application to future education programs. 3. Evaluate Voice of the Customer (VOC) program data as it related to complaints to food premises and application to future education programs. 4. Evaluate what results can be extracted from existing Health Manager system to support future education programs. 5. Develop a formal education strategy/ policy that is informed by: <ul style="list-style-type: none"> • Needs analysis of food premises (such as culturally and linguistically diverse owners, low literacy levels, or significant high-risk businesses and food products). • Issues or findings arising from assessment, inspection and sampling. 	<p>Use results of assessments, inspections, food sampling and complaints to develop education programs for owners of food premises that address food safety risks - 30 June 2024</p>

		6. Identify changes required to Health Manager Database and incorporate into HM1 upgrade to improve data capture of assessments, inspections, food sampling, complaints and as a tool to better analyse food safety risks to inform education programs. Completion date of this recommendation to align with HM1 update.	Health Manager Database system improvements – 31 December 2024
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CITY OF GREATER GEELONG

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www.geelongaustralia.com.au



Mr Andrew Greaves
Auditor General
Victorian Auditor General's Office
Level 31, 35 Collins Street
MELBOURNE VIC 3000

01 June 2023

Doc No: D23-266974

Dear Mr Greaves

Re: Proposed Performance Audit Report Regulating Food Safety

Thank you for your letter of 18 May 2023, providing the City of Geelong with the opportunity to comment on the proposed report on Regulating Food Safety.

Enclosed is the City of Geelong's response to the recommendations in the report and the action we intend to take, including proposed completion dates.

I would like to thank the VAGO team who worked with City officers involved in the audit for their positive and collaborative approach and for the opportunity to discuss findings and recommendations from the audit.

Yours sincerely

KAARINA PHYLAND
ACTING CHIEF EXECUTIVE OFFICER

CHIEF EXECUTIVE

TELEPHONE

Attach: VAGO Action Plan

Copy To:

OFFICIAL: Sensitive

City of Greater Geelong action plan to address recommendations from *Regulating Food Safety*

No.	VAGO recommendation	Action	Completion date
1	<p>Develop a workforce plan that:</p> <ul style="list-style-type: none"> • Reflects realistic environmental health officer caseloads • Considers the time needed to adequately undertake food safety obligations • Reassigns non-critical tasks from environmental health officers to other staff or authorities 	<p>Accepted</p> <p>1.1 The City will review the case loads of EH Officers and review demand vs capacity. If required submit an FTE request as part of the 2024/2025 budget process</p> <p>1.2 Measure all inputs to understand resource requirements for regulating food safety</p> <p>1.3 The City will review the inspection and assessment procedures to reduce the administrative burden on EHO's</p>	1/3/2024
2	<p>Develop or strengthen a plan for:</p> <ul style="list-style-type: none"> • Completing annual assessments and inspections • Conducting regular surveillance to identify unregistered food premises • Regularly monitoring and reporting performance 	<p>Accepted</p> <p>2.1 The City will review its plan for completing annual food assessments and inspections based on outcomes of actions 1.1, 1.2 & 1.3</p> <p>2.2 The City will develop proactive monitoring plan for unregistered food businesses which includes on-street & on-line monitoring.</p> <p>2.3 A monthly performance report will be provided to the Manager of Health & Local Laws and the Director of Community Service Delivery</p>	31/3/2024

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3	Use results of assessments, inspections, food sampling and complaints to develop education programs for owners of food premises and their staff that address food safety risks	<p>Partially accepted</p> <p>3.0 Whilst the City of Geelong accepts it has a role to play in providing information and educational material to food businesses on food safety, it does not accept that it is responsible for developing education programs for food businesses. This should sit with the department of health.</p> <p>3.1 We currently provide guidance and education at the conclusion of our food premises assessments/inspections. This is based on any anomalies or non-compliances found.</p> <p>3.2 The City intends to re-introduce its quarterly newsletter to food businesses, this will include any trends or items of note through the previous quarter.</p>	<p>N/A</p> <p>Complete</p> <p>1/12/2023</p>
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1 June 2023

Mr Andrew Greaves
Auditor-General
Victorian Auditor-General's Office
Level 31 / 35 Collins Street
MELBOURNE VIC 3000

Sent via email to Acting Director responsible for this audit: [REDACTED]

Dear Mr Greaves,

Re: Performance Audit Report Regulating Food Safety

Thank you for your letter and for the opportunity to review and respond to the audit recommendations made to Hepburn Shire Council.

I confirm that we accept all the audit recommendations directed and am pleased to advise that work on some recommendations has already commenced. Since the time of the audit, Hepburn Shire Council have developed a Draft Food Act Compliance and Surveillance Procedure and a Draft Enforcement Policy. Outcomes of the audit have been used to inform these policies and procedures and they will include sections that address routine assessments and inspections, regular surveillance of unregistered food premises and regular monitoring and reporting.

Council thanks the Audit team for their collaborative and consultative approach, particularly with the opportunity to meet, discuss and provide a response to each of the findings or recommendations throughout the audit process.

I would also like to thank the office for acknowledging the service provided by Hepburn Shire Council has been particularly impacted by statewide recruitment challenges of Environmental Health Officers, impact of the COVID Pandemic and reallocation of resources to respond to three major storm events within the shire.

Please contact our office should you have any queries or would like any further information regarding Council's action plan to improve our regulation of food safety.

Yours sincerely,

A black rectangular redaction box covering the signature of Bradley Thomas.

Bradley Thomas
Chief Executive Officer

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Hepburn Shire Council action plan to address recommendations from *Regulating Food Safety*

No.	VAGO recommendation	Council response	Action	Completion date
1	<p>Develop a workforce plan that:</p> <ul style="list-style-type: none"> • Reflects realistic environmental health officer caseloads • Considers the time needed to adequately undertake food safety obligations • reassigns non-critical tasks from environmental health officers to other staff or authorities 	Accepted	<p>Recruitment of adequately skilled Environmental Health Officers (EHOs) remains a challenge in Victoria, particularly in regional areas.</p> <p>Since the time of the audit, one of the EHO positions in the team has been reclassified to attract a more senior professional to the role.</p> <p>A service review will be conducted on the entire Health and Community Safety Team. This will consider such things as:</p> <ul style="list-style-type: none"> - Current roles and responsibilities under all Acts and Regulations. - Time needed to adequately undertake all roles and responsibilities, with particular focus on food safety obligations. - Identify any possibilities to reassign non-critical tasks, such as administrative tasks, from EHO's. - Bench marking against other Councils of similar size. <p>Results of the service review will be used to inform a workforce plan to ensure that the team is adequately resourced to meet its legislative responsibilities.</p> <p>EHO's are authorised under many Acts and Regulations and generally only perform their legislated functions. Therefore, it will be challenging to identify non-critical tasks.</p>	July 2024

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2	<p>Develop or strengthen a plan for:</p> <ul style="list-style-type: none"> • completing annual assessments and inspections • conducting regular surveillance to identify unregistered food premises • regularly monitoring and reporting performance 	Accepted	<p>Since the time of the audit, Hepburn Shire Council have developed a Draft Food Act Compliance and Surveillance Procedure and a Draft Enforcement Policy. Outcomes of the audit have been used to inform these policies and procedures and they will include sections that address routine assessments and inspections, regular surveillance of unregistered food premises and regular monitoring and reporting.</p> <p>Annual Assessments</p> <p>As above, a service review will be carried out and results from this review will be used to inform a workforce plan to ensure that the team is adequately resourced to meet its legislative responsibilities.</p> <p>An inspection plan will be strengthened to ensure that annual inspections are adequately planned and scheduled.</p> <p>The plan will include:</p> <ul style="list-style-type: none"> - Monthly inspection targets based on total number of premises by classification. - Consideration of staff annual leave, rostered days off and training days. - Consideration of seasonal inspections which will be scheduled in advance e.g. sporting clubs. - Identification of premises that require additional assessments. - Requirement for the Coordinator to escalate concerns to the Executive Manager if they feel that annual inspection targets may not be met. 	July 2024
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			<p>Surveillance of Unregistered Premises</p> <p>Hepburn Shire will formalise its surveillance program as detailed in the new Food Act Compliance and Surveillance Procedure which will include:</p> <ul style="list-style-type: none"> - Council Officers pro-actively review online forums to identify any unfamiliar food businesses. - Details of unregistered food businesses will be saved on Councils record management system and actioned to the appropriate Officer. - EHO's regularly monitor fixed premises and itinerant traders within the shire as part of their normal duties and follow up on any unfamiliar businesses. - EHO's confirm the proprietor details at every inspection to ensure they have not changed. - EHO's respond to any complaints or allegations of unregistered food business. - EHO's respond to any planning referrals relating to a food premises to ensure there is a planning permit condition that requires the proprietor to obtain Food Act registration. - EHO's carry out unannounced inspections at festivals and markets. <p>Monitoring and Reporting</p> <p>The Health and Community Safety Team will restructure their quarterly reporting to ensure that all critical tasks are identified, monitored monthly and reported on quarterly.</p>	
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			<p>Reporting will include:</p> <ul style="list-style-type: none"> - Monthly team report - Quarterly Council briefing report - Quarterly Department of Health report - Annual Local Government Performance Report 	
3	Use results of assessments, inspections, food sampling and complaints to develop education programs for owners of food premises and their staff that address food safety risks	Accepted	<p>Hepburn Shire Council is committed to using compliance data in a meaningful and effective way. Various forms of local compliance data such as food sampling results, food safety risk assessment reports, seizure notices, enforcement actions etc will be used to inform ongoing education for food businesses.</p> <p>State-wide surveillance data, food recalls and local or national food trends may also be used.</p> <p>Since the time of the audit, an education component has been included in the team's new Food Act Compliance and Surveillance Procedure which includes:</p> <ul style="list-style-type: none"> - Distribute regular food safety newsletters and/or fact sheets to food businesses. - Promote Food Safety Week within both the community and local food businesses. - Conduct regular food sampling surveys targeting a specific food type or process and share results of significance with food businesses in an engaging way. - Provide targeted education during routine food safety risk assessments, such as allergen awareness. 	December 2023

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			In recognition of the importance of this work, food business education has been included in EHO's Performance and Development Plans.	
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31 May 2023



Mr Andrew Greaves
Level 31 / 35 Collins Street
Melbourne VIC 3000

Dear Mr Greaves

Re: Proposed Performance Audit Report Regulating Food Safety

I am writing in response to your letter of 18 May 2023 in relation to the Proposed Performance Audit Report - Regulating Food Safety.

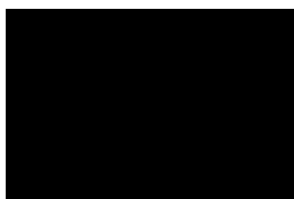
Please find attached Council's Proposed Action Plan addressing the recommendations outlined in the Audit Report.

I would like to thank the Victorian Auditor General's Office for the opportunity to provide comment on the report and for being one of the five Victorian Councils involved in this Audit.

The City of Kingston supports the findings of the Proposed Audit Report which provides Council with strong guidelines on improvement opportunities. I am confident that with the recommendations in this Proposed Audit Report and the ongoing support of the Department of Health working with the Local Government sector can implement improved service delivery.

The City of Kingston looks forward to ensuring the appropriate practices identified as part of this Audit are implemented and maintained.

Yours sincerely



Peter Bean
Chief Executive Officer

community inspired leadership

kingston.vic.gov.au

Visit us: City of Kingston, 1230 Nepean Highway Cheltenham, Monday - Friday: 8.30am - 5pm

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23/143604 PAGE 1


City of Kingston action plan to address recommendations from *Regulating Food Safety*

Issue: Audited councils are not meeting all their <i>Food Act 1984</i> responsibilities			
No.	VAGO recommendations	Action	Completion date
1.	Develop a workforce plan that: <ul style="list-style-type: none"> Reflects realistic environmental health officer caseloads Considers the time needed to adequately undertake food safety obligations Reassigns non-critical tasks from environmental health officers to other staff or authorities (see Section 2). 	The need to review and realign the workforce plan is recognised as an area of improvement. This will be addressed as follows: <ul style="list-style-type: none"> Review team roles including statutory and authorised classifications to inform task allocation and team structure Complete a time and motion study to identify indicative times to complete key tasks Use the recently completed benchmarking outcomes together with the team role analysis, to compare caseloads and determine realistic expectations Define and implement overall best practice. 	September 2023
2.	Develop or strengthen a plan for: <ul style="list-style-type: none"> Completing annual assessments and inspections (see Section 2) Conducting regular surveillance to identify unregistered food premises (see Section 2) Regularly monitoring and reporting performance (see Section 3). 	Recommendation to strengthen the plan is accepted. Council will evaluate the current plan and based on the outcome of the actions summarised under the above, enhance the plan to deliver improved outcomes. Options will be explored on the best methodology to commence active surveillance to identify unregistered food premises. Usage optimisation of Health Manager is underway to enable ease of regular monitoring and reporting.	December 2023
3.	Use results of assessments, inspections, food sampling and complaints to develop education programs for owners of food premises that address food safety risks (see Section 2).	The Recommendation is accepted in principle. Council will implement a risk protocol across all food businesses, with the objective being to provide visibility of needs as they relate to specific business types.	December 2023

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kingston.vic.gov.au

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	<p>Capturing the risk profile in Health Manager will enable reporting that in turn will inform educational needs.</p> <p>While Council has a strong role to play in educating proprietors on specific issues relating to their food business, a State developed educational program, similar to the Environmental Health Officer training referenced under Recommendation No. 10 in the Report, would yield economies of scale, consistency, and benefit to the Councils across Victoria.</p>	
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Return Address:
PO Box 1
DONCASTER
VIC 3108

1 June 2023

Mr Andrew Greaves
Auditor General
Victorian Auditor-General's Office
Level 31 / 35 Collins Street
Melbourne VIC 3000

Your Reference: 34759

Dear Mr Greaves

Re: Proposed Performance Audit Report - Regulating Food Safety

Thank you for providing Manningham Council with a copy of the Proposed Performance Audit Report - Regulating Food Safety and for the opportunity to provide feedback to its recommendations.

Manningham Council is committed to the protection of public health and in improving our processes to achieve full compliance with our obligations under the Food Act 1984.

Council accepts the audit report's recommendations and provides the attached comments, which identifies our proposed actions.

Should you have any queries, please contact Director City Planning, Duncan Turner on [REDACTED] or by email – [REDACTED]

Yours sincerely



Cr Deirdre Diamante
Mayor, Manningham Council



Interpreter service
9840 9355

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Response provided by the Mayor, Manningham City Council – continued

Manningham City Council

Action Plan to address recommendations from Regulating Food Safety

VAGO Recommendation	Council Response	Action	Completion Date
Develop a workforce plan that: <ul style="list-style-type: none"> reflects realistic environmental health officer caseloads considers the time needed to adequately undertake food safety obligations reassigns non-critical tasks from environmental health officers to other staff or authorities. 	Accepted	<p>An enhanced workforce plan will be developed in responding to these recommendations.</p> <p>A more robust workforce plan will assist to ensure EHO caseloads are realistic and manageable.</p> <p>The workforce plan will take into account time demands in delivering Manningham's food safety program to ensure compliance with our statutory obligations and VAGO recommendations in keeping the community safe.</p> <p>Reassigning non-critical tasks will also factor into the revised workforce plan to ensure EHO's expertise is optimised in undertaking critical tasks.</p>	February 2024
Develop or strengthen a plan for: <ul style="list-style-type: none"> completing annual assessments and inspections conducting regular surveillance to identify unregistered food premises regularly monitoring and reporting performance 	Accepted	<p>a) Council will continue to aim to meet its inspection obligations and will strengthen internal reporting to help achieve this. This will bolster existing reporting and will allow appropriate contingencies to be introduced if it is detected that our inspection program is not on track. A more proactive approach with food businesses that fail to provide access to enable assessments to be undertaken will also occur.</p> <p>b) A cyclical surveillance program will be introduced to identify unregistered premises operating from Manningham and advertising via online platforms such as gumtree and marketplace. Council will continue to monitor for unregistered food premises at events, festivals and shopping precincts.</p> <p>c) Increased internal monitoring and reporting at management level will occur for class 3 food premises and surveillance of unregistered food businesses to ensure our statutory obligations are being satisfied throughout the year.</p>	December 2023
<ul style="list-style-type: none"> Use results of assessments, inspections, food sampling and complaints to develop education programs for owners of food premises that address food safety risks 	Accepted	<p>In addition to targeted education provided to each food business, a strategy will be developed to use results of assessments, inspections, food sampling and complaints to develop a broader education program that addresses food safety risks. March 2024 is the likely timeframe to review January to</p>	July 2024

Response provided by the Mayor, Manningham City Council – continued

		December 2023 data (in-line with LGPRF data reporting) with delivery by July 2024.	
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Appendix B:

Abbreviations, acronyms and glossary

Abbreviations We use the following abbreviations in this report:

Abbreviation

Casey	City of Casey
enforcement guidelines	<i>Enforcement guidelines: A guide for councils in selecting enforcement tools</i>
Food Act	<i>Food Act 1984</i>
Geelong	City of Greater Geelong
Hepburn	Hepburn Shire Council
Kingston	City of Kingston
Manningham	Manningham City Council
PHHub	Public Health Hub
PHWA	<i>Public Health and Wellbeing Act 2008</i>

Acronyms We use the following acronyms in this report:

Acronym

DGS	Department of Government Services
DH	Department of Health
EHO	environmental health officer
FSP	food safety program
LGPRF	Local Government Performance Reporting Framework
LGV	Local Government Victoria
VAGO	Victorian Auditor-General's Office

Glossary

This glossary includes an explanation of the types of engagements we perform:

Term

Reasonable assurance	<p>We achieve reasonable assurance by obtaining and verifying direct evidence from a variety of internal and external sources about an agency's performance. This enables us to express an opinion or draw a conclusion against an audit objective with a high level of assurance. We call these audit engagements.</p> <p>See our assurance services fact sheet for more information.</p>
Limited assurance	<p>We obtain less assurance when we rely primarily on an agency's representations and other evidence generated by that agency. However, we aim to have enough confidence in our conclusion for it to be meaningful. We call these types of engagements assurance reviews and typically express our opinions in negative terms. For example, that nothing has come to our attention to indicate there is a problem.</p> <p>See our assurance services fact sheet for more information.</p>

Appendix C:

Audit scope and method

Scope of this audit

Who we examined

We examined DH and the following councils:

Agency or council

Their key responsibilities

DH

DH administers the Food Act. Its food safety roles and responsibilities include promoting the objectives and the consistent administration of the Food Act through the provision of information and guidance to councils and publishing annual reports on food regulation.

Casey, Geelong, Hepburn, Kingston, Manningham

Under the Food Act councils are responsible for the day-to-day regulation of most food premises in the state including registration, educational, enforcement, sampling and monitoring responsibilities.

Our audit objective

This audit asks whether councils are complying with their legislative responsibilities for food safety to protect public health.

What we examined

We examined whether councils effectively fulfil their legislated roles as food safety regulators. DH monitors council's performance and provides guidance and training on food safety regulation. As part of the audit we:

- focused on food safety regulation information and data for the calendar years 2018 to 2022 to compare performance over time and the impact of COVID-19 in 2020 and 2021
- selected councils to represent a range of different sizes and service delivery models and to include metropolitan, regional and a smaller council with high tourist traffic.

Parliamentary inquiry

The Parliament's August 2020 *Inquiry into the closure of I Cook Foods Pty Ltd* identified significant issues with Dandenong City Council's performance of its role as a food safety regulator.

The October 2021 *Inquiry into the closure of I Cook Foods Pty Ltd: Second report* recommended that VAGO undertakes an audit of food safety regulation in local councils. In particular, the report recommended our audit to examine:

- the guidance resources, training and advice provided by DH to councils to promote the consistent administration of the Food Act
- whether the investigation of food safety incidents by councils and DH is consistent, provides procedural fairness to food businesses and protects public safety and wellbeing
- whether councils are consistently complying with their legislative responsibilities.

Conducting this audit

Assessing performance

To form our conclusion against our audit objective we used the following lines of inquiry and associated criteria.

Line of inquiry	Criteria
1. Audited councils are effectively regulating food safety.	1.1 The DH provides guidance, training and advice to councils that promotes the consistent administration of the Food Act.
	1.2 Audited councils consistently administer the Food Act by: <ul style="list-style-type: none"> • employing appropriately qualified or trained staff • timely registering of food premises and monitoring compliance • providing education and advice • taking timely enforcement action.
	1.3 Audited council and DH investigations of food safety complaints: <ul style="list-style-type: none"> • are timely and consistent • provide procedural fairness to food premises • protects public safety and wellbeing.
	1.4 Audited councils and DH regularly monitor and report on food safety performance.

Our methods

As part of the audit we:

- reviewed food safety legislation, policies and guidelines
- assessed key data used to monitor food safety
- attended a selection of food inspections and sampling
- interviewed key staff.

Compliance

We conducted our audit in accordance with the *Audit Act 1994* and ASAE 3500 *Performance Engagements* to obtain reasonable assurance to provide a basis for our conclusion.

We also provided a copy of the report to the Department of Premier and Cabinet and the Department of Treasury and Finance.

We complied with the independence and other relevant ethical requirements related to assurance engagements.

Cost and time

The full cost of the audit and preparation of this report was \$655,000.

The duration of the audit was 12 months from initiation to tabling.

Appendix D:

In-depth background information

Key Food Act responsibilities

Council responsibilities	<p>Councils have primary responsibility for administering and enforcing the Act. This includes:</p> <ul style="list-style-type: none">• ensuring food premises within their municipality are registered (Part VI)• promoting the objectives of the Act, such as by educating owners and the public (Section 7A)• enforcing the requirements of the Act such as imposing conditions on registration (Section 39A), issuing orders (sections 19 and 19B) and infringement notices (Section 56A) and referring prosecutions (Section 45AC)• monitoring food premises including undertaking assessments (sections 19H and 19I), inspections (section 38B(c)) of food premises and food sampling (sections 22, 23 and 32)• reporting to DH (Section 7D).
DH responsibilities	<p>DH administers the Food Act. Section 7B states that its role is to facilitate the exercise of the powers and functions of the Secretary under the Act, promote the objects of the Act and its consistent administration and publish an annual report.</p>

DH and LGV statewide reporting

DH's annual report Figure D1 shows the information the Food Act requires DH to collect from councils and publish in an annual report on food safety.

Figure D1: Food Act reporting requirements

Activity	Statistics required to be reported
Fixed food premises	<p>Registration of food premises including the number of food premises:</p> <ul style="list-style-type: none">• newly registered• for which registration was renewed• registrations under each class of registration• for which registration was revoked or suspended.
Temporary and mobile food premises	<p>Registration of food premises operating from temporary food premises, mobile food premises or food vending machines.</p>
Food samples	<p>Analysis of food samples submitted by each council under Section 32 of the Food Act.</p>
Enforcement action	<p>Enforcement action taken by DH and each council, including:</p> <ul style="list-style-type: none">• the number and nature of infringement notices issued• the number of prosecutions and the nature of the alleged offences• the number of cases that resulted in either a conviction or a finding of guilt• the nature of any sentences or other orders imposed by the court.

Source: VAGO, based on the Food Act.

LGPRF

The LGPRF is a mandatory system of performance reporting for all Victorian councils managed by LGV. There are 58 service performance indicators across 15 common service areas, including food safety. The food safety indicators are:

- time taken to action food complaints – the average number of days it has taken for the council to action food complaints received from members of the public about the safety or handling of food for sale
- food safety assessments – the percentage of registered class 1 food premises and class 2 food premises that receive an annual food safety assessment
- cost of food safety service – the direct cost of the food safety service per food premises registered by the council, or of which the council has received notification, during the year
- critical and major noncompliance outcome notifications – the percentage of critical and major noncompliance outcome notifications followed up by the council.

From the 2023–24 reporting period, councils will also have to report on food safety samples – the percentage of required food samples obtained.

Public reporting of LGPRF performance

Councils publish the results of their performance against LGPRF food safety indicators in their annual reports. Results for all councils are available through LGV's website.

Appendix E:

Assessment and inspection of food premises

Food premises class structure and assessment or inspection requirements

Legislative requirements

Council must inspect all class 1, 2 and 3 premises, to assess whether they comply with all relevant requirements in the Food Act, before making a decision on the registration application. Additionally, councils do annual assessment or inspections depending on the class. Prior to 1 July 2022:

Class 1 food premises that use a ...	Must have ...
standard FSP	2 food safety assessments conducted within the registration period.
non-standard FSP	one food safety audit and one food safety assessment conducted within the registration period.

Class 2 food premises that use a ...	Must have ...
standard FSP	a food safety assessment conducted once within the registration period.
non-standard FSP	a food safety audit conducted once within the registration period.

Councils must inspect all Class 3 food premises annually.

Class 4 food premises do not require an inspection.

Following July 2022 and August 2022 regulatory changes DH introduced a new class 3A, which require an annual inspection, and removed the requirement for an FSP for most class 2 food premises – such as restaurants and cafes – depending on the food handling activities occurring at the premises. The changes do not impact class 1 food premises.

Auditor-General's reports tabled during 2022–23

Report title	Tabled
<i>Results of 2021 Audits: Technical and Further Education Institutes</i> (2022–23: 1)	July 2022
<i>Results of 2021 Audits: Universities</i> (2022–23: 2)	July 2022
<i>Follow-up of Protecting Victoria's Coastal Assets</i> (2022–23: 3)	August 2022
<i>The Effectiveness of Victoria Police's Staff Allocation</i> (2022–23: 4)	September 2022
<i>Quality of Major Transport Infrastructure Project Business Cases</i> (2022–23: 5)	September 2022
<i>Major Projects Performance Reporting 2022</i> (2022–23: 6)	September 2022
<i>Quality of Child Protection Data</i> (2022–23: 7)	September 2022
<i>Follow-up of Maintaining the Mental Health of Child Protection Practitioners</i> (2022–23: 8)	September 2022
<i>Regulating Victoria's Native Forests</i> (2022–23: 9)	October 2022
<i>Victoria's Alcohol and Other Drug Treatment Data</i> (2022–23: 10)	October 2022
<i>Auditor-General's Report on the Annual Financial Report of the State of Victoria: 2021–22</i> (2022–23: 11)	October 2022
<i>Regulating Private Pool and Spa Safety</i> (2022–23: 12)	February 2023
<i>Results of 2021–22 Audits: Local Government</i> (2022–23: 13)	February 2023
<i>Maintaining Railway Assets Across Metropolitan Melbourne</i> (2022–23: 14)	March 2023
<i>Fair Presentation of Service Delivery Performance 2022</i> (2022–23: 15)	March 2023
<i>Understanding Victoria's Contaminated Land</i> (2022–23: 16)	March 2023
<i>Supporting Sexual and Reproductive Health</i> (2022–23: 17)	May 2023
<i>Regulating Food Safety</i> (2022–23: 18)	June 2023

All reports are available for download in PDF and HTML format on our website at <https://www.audit.vic.gov.au>

Our role and contact details

The Auditor-General's role

For information about the Auditor-General's role and VAGO's work, please see our online fact sheet [About VAGO](#).

Our assurance services

Our online fact sheet [Our assurance services](#) details the nature and levels of assurance that we provide to Parliament and public sector agencies through our work program.

Contact details

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