



Government of **Western Australia**
Department of **Health**

WA FOOD REGULATION: GUIDELINE FOR THE MANAGEMENT OF THE REGULATORY FOOD SAFETY AUDITING SYSTEM

**The Management System used by the Department of Health to manage
Regulatory Food Safety Auditing under Part 8 of the Food Act 2008 (WA)**

Version 2

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Approved by Managing Scientist – Food

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1. Purpose

The purpose of this Guideline is to describe the Management System used by the Department of Health to manage regulatory food safety auditing under Part 8 of the *Food Act 2008* (WA) (the Food Act).

2. Scope

This Guideline is applicable to Western Australia (WA) only. It is based on the Food Act, National Food Safety Audit Policy, National Regulatory Food Safety Auditor Guideline and reflects the intent of AS/NZS ISO/IEC 17024 - 2013. This Guideline forms the overarching management system that is designed to ensure the integrity of the regulatory food safety audit process in WA. It specifically details how the Department of Health will manage consistency in, and the integrity of, regulatory food safety auditing performed by approved regulatory food safety auditors (RFSAs) in accordance with Part 8 of the Food Act.

3. Related documents

- [National Regulatory Food Safety Auditor Guideline \(PDF 412 KB external site\)](#)
- [National Food Safety Audit Policy \(PDF 224 KB external site\)](#)
- [WA Food Regulation: Food Safety Auditing – Guidelines for Regulatory Food Safety Auditors \(on the Approval Process\) \(PDF 541 KB\)](#)
- [WA Food Regulation: Food Safety Auditing – Guidelines for Regulatory Food Safety Auditors \(on the Audit and Reporting Requirements\) \(PDF 526 KB\)](#)
- [WA Food Regulation: Food Safety Auditing – Guidelines for Enforcement Agencies \(PDF 383 KB\)](#)
- [WA Food Regulation: Food Safety Auditing – Information for Food Businesses \(PDF 273 KB\)](#)
- [WA Food Regulation: Food Safety Auditing - Code of Conduct \(PDF 288 KB\)](#)
- [Food Act 2008 Regulatory Guideline No 6 - Regulatory Food Safety Auditing in Western Australia \(PDF 95 KB\)](#)
- [AS/NZS ISO/IEC 17024 - 2013 Conformity Assessment - General requirements for bodies operating certification of persons.](#)

4. Definitions

Term	Definition
AS/NZS ISO/IEC 17024 - 2013	AS/NZS ISO/IEC 17024 - 2013 Conformity Assessment - General requirements for bodies operating certification of persons
Audit	A systematic, independent and documented process for obtaining evidence and evaluating it objectively to determine the extent to which the audit criteria are fulfilled.
Audit Report	The report required under section 102 of the Food Act by which RFSAs report audit outcomes to enforcement agencies. The section 102 form for audit reports (approved by the CEO) is contained in WA Food Regulation: Food Safety Auditing Guidelines for Regulatory Food Safety Auditors (on the Reporting Requirements).

Term	Definition
Authorised officer	As defined in section 8 of the Food Act authorised officer means – <ul style="list-style-type: none"> a) a person appointed under Part 10 Division 3; or b) a person designated by a local government as an Authorised Officer under the Public Health Act 2016 section 24(1) for the purposes of this Act;
CEO	The Chief Executive Officer of the Department of the Public Service principally assisting in the administration of the Food Act (section 8). The CEO of the Department of Health is the “Director General”.
Compliance	Refers to a state when persons, food businesses or primary producers are operating within the regulatory requirements that apply to that person, food and associated inputs, food business or primary producer.
Critical non-compliance	Contraventions of the Food Act, regulations relating to food safety programs, or the Food Safety Standards detected during regulatory food safety audits that present an imminent and serious risk to the safety of food intended for sale or that will cause significant unsuitability of food intended for sale (section 102(5) Food Act).
Enforcement agencies	As defined in section 8 of the Food Act, an enforcement agency is <ul style="list-style-type: none"> (a) the CEO; or (b) a local government; or (c) a person or body, or a person or body within a class of persons or bodies, prescribed by the regulations for the purposes of this definition; <p>As prescribed in the Regulations, depending on the circumstances, an enforcement agency will be either the CEO or a local government.</p>
Food Act	Food Act 2008 (WA) (external site)
Food Business	As defined in section 10 of the Food Act, a “food business” is “a business, enterprise or activity (other than a business, enterprise or activity that is primary food production) that involves — <ul style="list-style-type: none"> (a) the handling of food intended for sale; or (b) the sale of food, regardless of whether, subject to section 6, the business, enterprise or activity concerned is of a commercial, charitable or community nature or whether it involves the handling or sale of food on one occasion only”. <p>Note that dairy primary producers are also a ‘food business’ in accordance with Regulation 6 of the Food Regulations which prescribes that any food production activity to which a standard in Chapter 4 of the Australia New Zealand Food Standards Code (Food Standards Code) applies is not primary food production for the purpose of section 10.</p>
Food Regulations	Food Regulations 2009 (WA) (external site)

Term	Definition
Food Safety Program (FSP)	<p>As defined at section 103(1) Food Safety Program means, “for a food business, the food safety program required by the regulations to be prepared for the food business”.</p> <p>Standard 3.2.1 states a food safety program must –</p> <ul style="list-style-type: none"> a) systematically identify the potential hazards that may be reasonably expected to occur in all food handling operations of the food business; b) identify where, in a food handling operation, each hazard identified under paragraph (a) can be controlled and the means of control; c) provide for the systematic monitoring of those controls; d) provide for appropriate corrective action when that hazard, or each of those hazards, is found not to be under control; e) provide for the regular review of the program by the food business to ensure its adequacy; and f) provide for appropriate records to be made and kept by the food business demonstrating action taken in relation to, or in compliance with, the food safety program.
Food Safety Standards	<p>As defined at section 8 of the Food Act to mean: the Standards contained in Chapter 3 of the Food Standards Code.</p>
Food Standards Code	<p>Australia New Zealand Food Standards Code (external site)</p> <p>Under section 8 of the Food Act means the Australia New Zealand Food Standards Code as defined in the Commonwealth Food Standards Australia New Zealand Act 1991 and as adopted or incorporated by the regulations.</p> <p>The Food Standards Code has been adopted under Regulation 7 of the Food Regulations. The Code sets out in Chapters, the Standards that apply to food.</p>
List of Approved Regulatory Food Safety Auditors in WA	<p>The list of regulatory food safety auditors, as required by section 105 of the Food Act, to be prepared and maintained by the CEO. The publicly available list of RFSAs in WA is located on the Department of Health website</p>
National Food Safety Audit Policy	<p>The policy endorsed by the Australian and New Zealand Food Regulation Ministerial Council on 25 October 2006 for the approval and management of RFSAs and regulatory food safety audits in Australia. This policy is available on the Food Regulation website (external site).</p>

Term	Definition
National Regulatory Food Safety Auditor Guideline	The Implementation Sub Committee (of the Food Regulation Standing Committee) endorsed guideline which outlines the recommended minimum elements of a regulatory auditor system to enable food regulators to demonstrate compliance with the National Food Safety Audit Policy. This guideline is available on the Food Regulation website (external site)
Non-compliance	A non-compliance against the FSP, the Food Safety Standards (or if applicable Standard 4.2.4) or the Food Act that is not considered to pose an imminent and serious risk to food intended for sale or that will cause significant unsuitability of food intended for sale. Compare to “critical non-compliance”.
Priority Classification	The Priority Classification of a food business as determined by an enforcement agency in accordance with the WA Priority Classification System approved by the CEO under section 100 of the Food Act.
Regulatory Food Safety Audit	<p>An audit (by an RFSA) arranged by a food business proprietor to satisfy the requirements imposed by section 99(2) of the Food Act.</p> <p>Regulatory food safety audit means an evaluation, by an RFSA, of a food business’ verified food safety program or other aspect of a food business to determine compliance with relevant aspects of the Food Act, the Food Regulations and associated policies applicable in WA.</p>
Regulatory Food Safety Auditor (RFSA)	<p>A food safety auditor approved or authorised by the CEO in accordance with Part 8 Division 1 of the Food Act.</p> <p>RFSA means a person formally approved or authorised by the CEO to conduct audits of food businesses or other premises requiring food safety audits (e.g. any business required by the Food Standards Code to implement a food safety program that complies with Standard 3.2.1 i.e. hospitals, child care centres etc.).</p>
Regulatory Food Safety Auditor – Code of Conduct	Sets out standards of conduct that all RFSAs are required to demonstrate in their practice as RFSAs. All RFSAs are required to commit to abide by the Code of Conduct as a condition of their approval. The Code of Conduct imposes an obligation on RFSAs to notify the CEO of any direct or indirect interest in any food business (section 96 of the Food Act). The RFSA Code of Conduct can be found on the Department of Health website .
Standard 3.2.1	Standard 3.2.1 (Food Safety Programs) of the Food Standards Code (external site)
Standard 4.2.4	Standard 4.2.4 (Primary Production and Processing Standard for Dairy Products) of the Food Standards Code (external site)
Verification	The application of methods, procedures, tests and other tools for evaluation, in addition to monitoring, to determine compliance of the food business’s FSP with the Food Standards Code or appropriate regulation.

5. Principles of the Regulatory Food Safety Auditor Management System

Part 8 of the Food Act sets out requirements relating to food audits. The Department of Health recognises that the overall aim of the Regulatory Food Safety Auditing Management System is to ensure as far as is possible that food provided by food businesses within WA is safe by assessing the integrity of the assessed FSPs, and compliance with the FSP, Food Safety Standards, and where applicable Standard 4.2.4. More particularly the overall aim of the Management System is the generation and maintenance of public confidence and trust that the food provided by food businesses is safe.

The audit system comprises three major elements: the regulatory food safety auditor (RFSA) approval process, the audit process and the audit management system. Annex A of AS/NZS ISO/IEC 17024 - 2013 details general requirements for bodies operating certification of persons and these principles can be applied to the regulatory food safety auditing process:

- responsibilities clearly defined,
- impartiality and preventing conflicts of interest,
- confidentiality and openness,
- competence,
- responsiveness to complaints, appeals and disputes.

5.1 Responsibilities

Responsibility for managing the food regulatory audit process is shared between local government enforcement agencies and the CEO, acting through the Department of Health. While the Department of Health's role is primarily about ensuring the integrity of, and consistency in, the regulatory food safety audit system, local government enforcement agencies together with the Department of Health (in its capacity as an enforcement agency) also have a key role in relation to responding to evidence collected by RFSAs during audits. RFSAs are not permitted to undertake enforcement action – these powers are reserved for authorised officers from the relevant enforcement agency.

Enforcement agencies also have a role in reporting concerns about the conduct of RFSAs and providing support to the Department of Health for such investigations.

The **CEO** is responsible for:

- overall management of the food regulatory system in WA and more specifically the overall management of the Regulatory Food Safety Auditing System,
- approval or authorisation of RFSAs,
- monitoring regulatory food safety audits and RFSAs through review of submitted audit reports and on-site assessments of auditing performance and competency (i.e. check audits and witness audits, refer to Food Safety Auditing – Guidelines for Enforcement Agencies),
- investigating complaints made against RFSAs by food businesses and/or enforcement agencies.
- Setting performance standards e.g. conditions on approval

Enforcement agencies are responsible for:

- determining the priority classification of a food business,
- performing verification assessment of a food business' FSP to assess if it contains the elements prescribed in clause 5 of Standard 3.2.1 of the Food Standards Code,
- assigning initial audit frequencies to businesses that require regulatory food safety auditing,

- responding to audit findings where they require a compliance and/or enforcement response (i.e. where issues have been identified that relate to non-compliance with the Code),
- investigating complaints made about food businesses by RFSA's,
- preliminary investigation of complaints made by food businesses regarding an RFSA and where necessary referred to the Department of Health,
- reporting to the Department of Health substantiated complaints/concerns about the performance and/ or capabilities of RFSA's or issues that indicate a breach of the Code of Conduct, RFSA's Guidelines or this document,
- review any changes in audit frequencies determined by the RFSA and notify the food business in writing of this change to their audit frequency,
- meeting the performance standards documented in the WA Food Regulation: Food Safety Auditing "Guidelines for Enforcement Agencies".

Food businesses are responsible for:

- ensuring that they operate their business in compliance with the Food Act, the Food Standards Code and their verified FSP,
- ensuring that their FSP is audited in accordance with the appropriate audit frequency for their food business (within the applicable Priority Classification) and retaining copies of all written reports of the results of all audits of the FSP conducted by an RFSA within the last four years. The reports should be available for inspection upon request by an RFSA who audits the FSP or an Authorised Officer,
- directing any complaints against RFSA's to the appropriate enforcement agency in the first instance,
- notifying the appropriate enforcement agency of any change in ownership of the food business,
- notifying the appropriate enforcement agency of any substantial changes to food-handling operations,
- reviewing their FSP at least annually.

Regulatory food safety auditors are responsible for:

- ensuring that regulatory food safety audits are performed in accordance with the WA Food Regulation: Food Safety Auditing - Guideline for RFSA's (on the reporting requirements), the Food Act and the WA Food Regulation: Food Safety Auditing Code of Conduct,
- reporting auditing and assessment outcomes to the food business and appropriate enforcement agency in a timely fashion in accordance with section 102 of the Food Act,
- assessing whether the food business has appropriately remedied deficiencies in their FSP as identified during the audit process,
- making determinations as to the appropriate audit frequency of an FSP for a food business (within the applicable priority classification),
- report to the enforcement agency if the RFSA thinks that the priority classification of a food business should be changed,
- assessing a food business's compliance with the Food Safety Standards, and standard 4.2.4 if applicable, and reporting any non-compliance to the appropriate enforcement agency,
- only conducting audits within their scope of approval,
- complying with any conditions of approval imposed on the RFSA e.g. attending any training requested by the Department of Health over the term of approval,

- submitting any audit reports and witness audit reports to the Department of Health when requested,
- applying for renewal of RFSA approval, prior to expiry,
- obtaining a professional indemnity insurance policy for the duration of their approval that will provide adequate coverage for any loss that may be suffered if harm is caused to another and the RFSA is liable.

5.2 Maintaining impartiality and preventing conflicts of interest

The Department of Health understands the importance of, and is committed to, impartiality in carrying out its approval of RFSAs, managing conflicts of interest and ensuring the objectivity of activities carried out within the Regulatory Food Safety Auditing System.

The integrity of this system is promoted by impartiality, management of conflicts of interest and objectivity at two levels. The first is the overarching management of the system and approval of RFSAs, and the second is the impartiality of RFSAs in the performance and reporting of audits.

5.2.1 Ensuring impartiality at the system level

The Department of Health and all of its employees are bound by the WA Public Sector Standards. In accordance with these Standards the Department of Health has adopted its own WA Health Code of Conduct which applies to all Department of Health employees. Similarly, RFSAs have a Code of Conduct they must comply with.

In addition to these general requirements, specific procedures are in place to ensure that this commitment to integrity, impartiality and the disclosure and management of conflicts of interest are managed in specific contexts where these risks are more likely to occur.

An RFSA that does not comply with professional conduct provisions may jeopardise the integrity of the food regulatory audit system and put public health at risk. The Code of Conduct provides a basis against which the Department of Health may review, impose conditions, or suspend or cancel an RFSA's approval.

5.2.2 Ensuring impartiality of regulatory food safety auditors

There are a number of measures in place to ensure that RFSAs act impartially when carrying out their duties under the Food Act.

Section 96(1) of the Food Act requires an RFSA to notify the CEO of any direct or indirect interest in any food business. The penalty for breach of this section is a fine of \$5000. However, subsection (2) recognises that *“Payment to a food safety auditor for performing the functions of a food safety auditor does not constitute a direct or indirect interest in a food business for the purpose of subsection (1).”*

Section 97(2) of the Act provides that the CEO can suspend or cancel the approval of an RFSA if the CEO is satisfied that the RFSA has a direct or indirect interest in a food business that could affect the performance of the RFSA's functions under the Food Act.

As part of the RFSA approval process (refer to WA Food Regulation: Food Safety Auditing – Guideline for Regulatory Food Safety Auditors on the Approval and Renewal Process) RFSAs are required to sign their commitment to abide by the Code of Conduct. Clause 7 of the *Code of Conduct* requires that RFSAs avoid conflicts of interest and identifies some situations which may constitute an actual or perceived conflict of interest. Clause 8 enforces obligations on the RFSA regarding the non-acceptance of benefits such as the offering of gifts.

5.3 Confidentiality and openness

The Department of Health recognises that it is important to maintain a balance between confidentiality and openness as this balance affects stakeholders' trust and perception of the value of the system.

Clause 4.8 of the WA Food Regulation: Food Safety Auditing - Code of Conduct requires that RFSAs maintain confidentiality in their dealings with food businesses and only disclose findings to the recipients, relevant enforcement agency and legal entities as required under the Food Act.

Section 105 of the Food Act requires the CEO to prepare and maintain a publically available list of food safety auditors which must be revised at least annually.

The Department of Health will:

- verify and provide information on request, as to whether an individual holds a current, valid approval as an RFSA and the scope of that approval,
- make publically available, without request, information regarding the scope of the RFSA approval scheme and a general description of the approval process,
- list all prerequisites of the approval scheme and the list shall be made publicly available without request,
- manage the maintenance and release of information regarding the Regulatory Food Safety Auditing System through guidelines and standing operating procedures.

5.4 Competence of regulatory food safety auditors

Central to ensuring confidence in the auditing system is the process of an RFSA's initial assessment for approval and assessment upon renewal. This is achieved by ensuring competence of the personnel assessing RFSAs' applications and having the procedures in place (e.g. checklist, dual officer checks on approval etc.) to ensure a robust system. In addition, RFSAs are required to be (and to continue to be) appropriately qualified and competent to undertake the auditing functions that they perform.

Assessing the competence of RFSAs is achieved by having clearly defined processes for:

- approval of RFSAs,
- renewal of approval of RFSAs,
- cancellation or suspension of approval of RFSAs,
- placing conditions on approvals of RFSAs,
- requiring RFSAs to actively maintain their competencies,
- monitoring the competence and performance of RFSAs.

The process for approval of RFSAs and placing conditions on approvals is documented in the WA Food Regulation: Food Safety Auditing – Guideline for RFSAs (on the Approval and Renewal Process).

The scheme for monitoring RFSAs' competence, integrity and performance during their term of approval and upon renewal is also documented in the Guideline mentioned above. This includes a criminal history check and the submission of recent audit reports and a witness audit report and reviewing RFSA's performance through a range of monitoring activities such as check audits, witness audits, investigation of complaints etc.

In addition, in order to ensure that audits of FSPs are undertaken in a competent and consistent manner it is essential that RFSAs use consistent auditing and reporting procedures. In WA

RFSA's shall follow the document WA Food Regulation: Food Safety Auditing – Guideline for RFSA's (on the Reporting Requirements) when conducting and reporting on audits of FSPs.

5.5 Complaints, appeals and disputes

There will be times when disputes arise between the different stakeholders with responsibilities under the system. A food business may disagree with the findings or decisions made by an RFSA or enforcement agency. There may be occasions where an RFSA lodges a complaint against a food business, for instance if obstructed during an audit. Auditors may disagree with decisions made by the CEO with respect to approval as an RFSA. An enforcement agency may disagree with an RFSA's determination regarding a food business' audit frequency or have concerns regarding an RFSA's behaviour or potential conflict of interest.

Section 98 of the Food Act provides a mechanism for dealing with a review of specified decisions relating to approval of RFSA's. Under section 98(1) an applicant applying for approval or an RFSA may apply to the State Administrative Tribunal for a review of certain decisions relating to their approval. Under section 98(2), an applicant for or holder of approval can also apply to the CEO for a review of some decisions relating to that approval.

An effective and efficient complaints management process enables enforcement agencies and Department of Health to resolve disputes, obtain feedback from food businesses and RFSA's and provide strategies for the quality improvement cycle.

The Department of health has an overarching complaints policy relating to all public health service providers detailed in the WA Health Complaints Management Policy (MP0130/20) and recognises that a complaints management process is an important strategy for engaging with stakeholders.

Complaints provide the CEO, as the manager of the regulatory food safety auditing system, a means to identify areas in need of improvement from the perspectives of RFSA's, food businesses and enforcement agencies.

Any feedback, concerns and complaints regarding the regulatory food safety auditing system will be actioned in an open, receptive and transparent manner. The process for lodgement of complaints is via an email to foodsafety@health.wa.gov.au. Each complaint will be addressed in an equitable, objective and unbiased manner, be treated as legitimate and investigated without prejudice.

Complaints will be acknowledged and addressed in a timely manner in accordance with the established timeframes documented in the [Environmental Health Directorate's customer service and stakeholder engagement charter](#) and be appropriate to the nature of the complaint (risk). In addition, complainants are to be kept informed throughout the process.

It is important to note that not all complaints warrant a full investigation. Likewise, not all complaints are able to be resolved by the Department of Health despite a full investigation.

6. Reviews of the management system

Internal audits and reviews of this management system will provide an opportunity to identify improvements and will allow for any appropriate adjustments to be made. It will also allow for the detection of any shortcomings, deficiencies or inconsistencies that may affect the integrity of the audit system. Any such review should be carried out in accordance with AS/NZS ISO/IEC 17024:2013 and AS/NZ ISO/IEC 9001:2008.

7. Documentation and records

It is imperative that procedures and policies critical to the efficacy of the regulatory food safety auditing system are documented and that these documents are controlled. The Department of Health will ensure that current written procedures and policies are available to RFSAs, food businesses and relevant government officers. Appropriate updates should be provided when any changes occur. Document control processes are set out in the EHD Quality Management System.

Appropriate record keeping by enforcement agencies and RFSAs is necessary to facilitate internal audit and management review of the audit system. Records are also necessary for legal purposes, to prove that due process has been observed in the auditing of food businesses. These records should be of sufficient detail to demonstrate that the audit procedures have been effectively fulfilled. Record keeping practices must ensure that commercial in confidence material is handled and stored appropriately. All records must be kept for the appropriate length of time, as required by law.

The record control procedure is set out in the EHD Quality Management System and conforms with the Department of Health's record keeping plan, in line with the *State Records Act 2000*.

8. Performance standards

The Department of Health (CEO) in its system manager role oversees, monitors and promotes improvements in the regulatory food safety auditing system and may take remedial action when performance does not meet the expected standards. The CEO is required to take measures to ensure that the Food Act is complied with, and to advise the Minister with regards to any necessary or appropriate changes to the Food Act and Food Regulations (section 116(2)). The CEO is assisted by the Department of Health in exercising these functions.

The legislated functions of the CEO (exercised through the Department of Health), enforcement agencies and RFSAs are complemented by performance standards written into the associated stakeholder guidelines. The stakeholder specific guidelines for RFSAs and enforcement agencies consolidate policy for system performance reporting, monitoring, evaluation and management (including interventions and remediation). The Department of Health undertakes performance monitoring and evaluation primarily against the standards set in the guidelines together with annual reporting regarding RFSA's activities as required under section 121 of the Food Act.

To be effective as the system manager the CEO must regularly evaluate the effectiveness of the performance standards in achieving the desired outcomes. The evaluation component is not only an aspect of good governance but continuous improvement in policy setting. Engagement with the enforcement agencies and RFSAs, as the implementers, must form an essential part of an evaluation process.

Similarly, the local government enforcement agencies, their council and chief executive have their own functions and responsibilities in relation to performance monitoring and evaluation of their operations under the Food Act and under the *Local Government Act 1995*.

System performance management supports the prevention and remediation of poor performance through early detection of performance concerns and risks. Effective performance management needs to be able to ensure that enforcement agencies and RFSAs are achieving the level of service specified in their respective guidelines.

An example of performance standards used by the CEO is under Part 8 of the Food Act, where the CEO may approve an individual to be an RFSA, subject to conditions. These conditions include a number of performance standards for RFSAs as described in the guidelines. These

mechanisms enable the CEO to achieve consistency and system cohesion. Integral to the CEO's role as managing the system is holding RFSAs to account for complying with the required performance standards and having assurance that enforcement agencies and RFSAs are complying with the standards.

In addition, the Code of Conduct (applicable to Department of Health employees under the Public Sector Management Act 1994) underpins all standards across the WA health system, including a requirement to act with integrity and demonstrate the highest standards of ethical conduct. Similarly, RFSAs are bound by the WA Food Regulation: Food Safety Auditing - Code of Conduct and the RFSA Guidelines, which are adopted by the CEO as the performance standard against which RFSAs are measured for suitability for approval, renewal of approval and any suspension or cancellation of approval.

9. Education and training of regulatory food safety auditors

Authorised officers and RFSAs must ensure they are up to date with any changes to the regulatory food safety auditing system and continue to have the required competencies to carry out their functions within the system. Attendance at training and or participation in online training and assessment when determined by the CEO will be made compulsory through conditions on the approval or renewal of RFSAs and through the guidelines.

Additionally, each RFSA will be subject to "witness auditing" upon initial approval and prior to renewal thus ensuring that RFSAs are maintaining their competency in the performance of audits.

The above measures will ensure that all RFSAs in the system continue to be competent.

10. Oversight and monitoring

The oversight and monitoring role of the CEO in the regulatory food safety auditing system is broader than performance monitoring against the standards set in adopted guidelines and encompasses monitoring and oversight of the entire system, for example governance, quality and integrity. A key function of the CEO is to oversee, monitor and promote improvements in the safety and quality of enforcement services provided by enforcement agencies and the quality of auditing services provided by RFSAs and to monitor their performance and take remedial action when performance does not meet the expected standards.

Oversight and monitoring must be a coordinated exercise undertaken by the Department of Health to effectively identify systemic trends, and early signs of underperformance, respond to concerns before a risk of systemic failure occurs, and facilitate the sharing of innovative practices and lessons learned across the system.

It is important to note that by far the majority of food safety auditing occurs with regard to FSP implemented by food businesses where the Department of Health is not the appropriate enforcement agency. That is local governments are the appropriate enforcement agency in most cases and are in the best position to oversee and monitor the ongoing day to day activities of RFSAs. So, in addition to the important role of ensuring that the food businesses meet their responsibilities under the Food Act, local governments have an important role in ensuring the integrity of the WA regulatory food safety auditing system by monitoring all RFSAs as they operate in their jurisdiction and reporting their findings to the Department of Health for further action if necessary. In addition, enforcement agencies have their own responsibilities in monitoring and reporting, and these responsibilities are detailed in the enforcement agency guideline.

The Department of Health is in a unique position where it not only manages the RFSA system, but it is also the appropriate enforcement agency for food businesses included in that system,

as set out in regulation 4 of the Food Regulations. This includes some of the highest risk businesses which are required to have FSPs in place and to be audited against, including public hospitals and dairy processors. This creates a conflict that needs to be carefully managed. The separation of the functions and powers of the Department of Health as the system manager from the delivery of enforcement services provides clear accountability and ensures issues in the management or delivery of enforcement services and auditing services are identified early and addressed.

11. Intervention

The CEO is responsible for monitoring the performance of enforcement agencies and RFSA's and taking remedial action when performance does not meet the expected standard.

Enforcement agencies are required to operate within a broad public sector accountability framework. In addition to the Food Act, enforcement agencies as statutory authorities will have obligations under other legislation including the Financial Management Act 2006, Local Government Act 1995, Public Sector Management Act 1994 etc., as well as Premier's Circulars, national accreditations, and may be subject to independent audit and review by agencies such as the Auditor General and Ombudsmen.

The Food Act does not override these responsibilities but operates in parallel, containing robust accountability mechanisms to provide the CEO with the powers, in respect of Food Act jurisdiction to:

- set the standards (through the adoption of guidelines)
- have oversight of enforcement agencies governance, operations and/or performance

The Department of Health's approach to intervention should have strong links to audit, system compliance monitoring and risk assessment. The types of interventions will include the Department of Health's power to issue binding guidelines to enforcement agencies.

Where the performance of an RFSA does not meet the required standards set out in the guidelines, the Code of Conduct or conditions of approval the CEO may take remedial action through varying conditions of approval and in more extreme circumstances suspend or cancel an RFSA's approval.

The primary focus of the regulatory food safety auditing management system is to ensure high standards to protect public health.

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