

21 February 2020

Discussion paper – Proposal P1053: Food safety management tools for the food service and closely related retail sectors

Overall, Australia has a strong food safety management system in place, which ensures a safe food supply. However, foodborne illness continues to be a concern.

In June 2018, Ministers¹ proposed a package of food safety management tools intended to strengthen food safety in the food service and closely related retail sectors. Ministers then referred these proposed tools or regulatory options to Food Standards Australia New Zealand (FSANZ) for its assessment.

FSANZ has prepared Proposal P1053 to consider whether to amend the Australia New Zealand Food Standards Code (Code) to mandate the use of these food safety management tools in the food service and retail sector.

The purpose of this paper is to seek views from stakeholders in relation to these food safety management tools and whether or not the Code should be amended to mandate their use. In particular, we would welcome information on the potential impacts (positive and negative) on businesses of mandating these measures, including views on whether and how these tools – if mandated - will improve food safety outcomes. We are also seeking information to better understand the gap between current practice and the tools proposed by Ministers. The information will contribute to our consideration of costs, benefits, appropriateness and other criteria in the assessment of this Proposal.

In the event that FSANZ decides that the Code should be amended and prepares draft variations to the Code, there will be an opportunity to provide further feedback on that decision and on those draft variations through a Call For Submission report (CFS).

FSANZ will be accepting submissions on this discussion paper using the [procedure outlined on our website](#). Submissions in response to this discussion paper will not be published on our website; however they may be used in future reports, such as the CFS.

Deadline for comments is: 6pm (Canberra time) Friday, 27 March 2020

Please note the deadline has been extended from the previous date of 20 March 2020.

Comments can be made in writing, marked clearly with the words 'Comments on P1053 discussion paper'. Please send any comments you may have to submissions@foodstandards.gov.au.

For those wishing to submit comments in hard copy form, please send them to the following address:

Food Standards Australia New Zealand
PO Box 5423
KINGSTON ACT 2604
AUSTRALIA
Tel +61 2 6271 2222

¹ The Australia and New Zealand Ministerial Forum on Food Regulation (the Forum) comprises all Australian and New Zealand Ministers responsible for food, and the Australian Local Government Association. It was previously the Australia New Zealand Food Regulation Ministerial Council.

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1. Introduction

Ministers responsible for food regulation have requested FSANZ consider a package of regulatory and non-regulatory measures for business sectors identified in the 2011 Ministerial Policy Guideline on Food Safety Management for General Food Service and Closely Related Retail Sectors (the Policy Guideline) (Forum 2011).

In June 2018, Ministers agreed that food safety management in these sectors should be strengthened to reduce foodborne illness linked to these eight business sectors. A multi-jurisdictional food safety management working group (the FSM WG) was established to evaluate the adequacy of current measures. It concluded extra measures are needed to improve food safety outcomes (outlined in section 3.3 and Appendix 2). The FSM WG therefore proposed new measures, including regulatory tools that could be applied in a tiered approach based on businesses' level of risk. Together with non-regulatory tools, these measures are intended to improve skills and knowledge, food hygiene and high-risk food handling activities. Following stakeholder consultations, the FSM WG presented an 'all for all' package (tools to apply to all eight business sectors in the Policy Guideline) to the Food Regulation Standing Committee² (FRSC). This work and package was endorsed by Ministers and then referred to FSANZ for assessment.

Following the Ministers' request, FSANZ prepared Proposal P1053 to consider whether to amend the Australia New Zealand Food Standards Code (Code) to mandate the measures proposed by the working group and endorsed by Ministers.

The *Food Standards Australia New Zealand Act 1991* (FSANZ Act) requires FSANZ to assess the Ministers' proposed measures in accordance with that Act and makes its own decision on whether or not the Code should be amended to mandate these or other measures. If FSANZ's assessment is that the Code should be amended, FSANZ will be required to prepare a draft variation to the Code and seek public comment on that draft variation. Those public comments will inform any FSANZ decision on whether or how the Code should be amended.

FSANZ has yet to complete its assessment of the proposed measures. Nor has any decision been made by FSANZ to amend the Code.

This paper seeks input from stakeholders to inform FSANZ's assessment of the proposed measures.

1.1 The problem

While the vast majority of food in Australia is safe, foodborne illness is an ongoing, and sometimes serious, problem that is largely preventable. Circa 2010, foodborne illness accounted for an estimated:

- 4.1 million cases of foodborne gastroenteritis
- 5140 cases of non-gastrointestinal illnesses (e.g. toxoplasmosis)
- 35,840 cases of sequelae (conditions that arise following illness, e.g. reactive arthritis)
- 31,920 hospitalisations and 86 deaths (Kirk et al. 2014).

² FRSC is a committee under the Ministerial Forum responsible for developing food policy

Foodborne illness costs an estimated \$1.75 billion³ per year (Abelson et al. 2006) including medical costs and days of work lost.

About two-thirds of all reported foodborne illness outbreaks in Australia have been linked to food service and closely related retail businesses, including restaurants, takeaways, commercial caterers, camps, cruise/airline, national franchised fast food restaurants and delicatessens (OzFoodNet⁴). Outbreaks continue to be linked to these settings (OzFoodNet data 2004 to 2015).

Food handling errors such as improper temperature control, poor personal hygiene and cross contamination are consistently identified as contributing factors to foodborne illness outbreaks (Ashbolt et al. 2003; Todd 2007). Food regulators have identified that a lack of skills and knowledge of food handlers, especially for high-risk activities, is commonly linked to outbreaks in food service and closely related retail sectors.

FSANZ will assess if improvements can be made within food service and closely related retail sectors to strengthen the food regulatory system and reduce foodborne illness. These business sectors are a priority area under Australia's Foodborne Illness Reduction Strategy 2018–2021⁵. Implementing nationally consistent arrangements to improve food safety management in these sectors is an identified action in the strategy.

1.2 Scope of the Proposal

Ministers identified eight business sectors in which they consider food safety management could be improved. These business sectors have been assigned Priority 1 (P1) and Priority 2 (P2) classification using the national Risk Profiling Framework⁶ (DoHA 2007; Ross et al. 2009), the endorsed national methodology for the risk classification of food businesses. The sectors are:

- on-site and off-site caterers
- food service for ready-to-eat (RTE) food prepared in advance (e.g. takeaway businesses that hot-hold RTE food and restaurants that prepare RTE food)
- retailers that process bakery products containing potentially hazardous foods (PHF) as fillings
- food service for express order (e.g. eating establishments or takeaway businesses that do not prepare food in advance)
- retailers of bakery products containing PHF
- retailers of RTE perishable, packaged food (e.g. sandwiches)
- retailers of RTE processed seafood products
- retailers of RTE delicatessen products

³ 2004 costs indexed to 2018 prices using the [Consumer Price Index](#).

⁴ OzFoodNet is a national health network to enhance the surveillance of foodborne diseases in Australia. [OzFoodNet surveillance data reports](#)

⁵ Australia's Foodborne Illness Reduction Strategy 2018-2021+ identifies three priority areas for 2018 to 2021 and beyond to further strengthen the food regulatory system

<https://foodregulation.gov.au/internet/fr/publishing.nsf/Content/aus-foodborne-illness-reduction-strategy-2018-2021-Jun-2018>

⁶ Risk classification for these business was assessed by a working group of technical experts and endorsed by the Australia Department of Health. See Appendix 2, section 3

FSANZ considers these businesses to be in scope for the purposes of this Proposal and its assessment. Our summary of key food handling characteristics for these businesses is provided in Table 1. Further details are provided in section 2.

1.3 Request for stakeholder input

Through this discussion paper, FSANZ is seeking further information to inform its assessment of the measures proposed by Ministers and, in particular, to better understand the:

- gap between current practice and the possible regulatory measures outlined in section 4
- imposts of implementing the potential requirements
- benefits of implementing the potential requirements, including stakeholders views on whether and how these tools – if mandated - improve food safety outcomes and reduce the incidence of foodborne illness.

FSANZ welcomes information from businesses who:

- are already required by state or territory food law to implement food safety management tool/s in addition to the Code requirements
- have voluntarily implemented one or more of these tools even though there is currently no legislative requirement to do so
- do not implement any of the identified food safety management tools.

We are especially interested in the specific information listed in question boxes throughout the paper.

2. Characteristics of in-scope businesses

2.1 Food handling activities

Under the national Risk Profiling Framework, businesses are characterised by the type of activities they engage in. Some of these characteristics are provided as examples in Table 1.

Both P1 and P2 businesses handle potentially hazardous food (PHF) involving at least one step where control measures must be taken to ensure the safety of the food.

PHF is food with certain characteristics that support the growth of pathogenic microorganisms or the production of toxins that may cause foodborne illness. Examples of PHF include products containing eggs, poultry, meat, seafood, fruit, vegetables, and cooked rice and pasta.

P1 businesses generally prepare food in advance and often have challenging scales of production/service. P2 businesses generally handle final product, or make food for immediate consumption.

Food service and related retail food businesses provide consumers with PHF that will be either eaten raw or is ready to eat without further cooking — there is no further step before consumption that would destroy any pathogens present (FSANZ 2016). These foods are higher risk (because of potential pathogen growth), especially if not immediately consumed. As such, they require careful handling to avoid contamination. They must also be kept under stringent temperature control to minimise the growth of any pathogens that may already be present in the food, and to prevent formation of toxins.

Table 1. Example food handling characteristics and classification notes for in-scope business

Food Business sector	Characteristics	Example controls	Classification notes
P1			
Off-site catering and on-site catering	High risk, processed, pre-prepared ready-to-eat (RTE) food that is either eaten on-site or transported to another location	Refrigerated storage, cooking, cooling, reheating or hot-holding	Handle raw food, food prepared in advance (time delay before consumption), scale of production/service
Food service: RTE food prepared in advance (e.g. eating establishments such as restaurants and café's)	High risk, processed, RTE food, time delay before serving	Refrigerated storage, cooking, cooling, reheating, hot or cold holding	Handle raw food, food prepared in advance (time delay before consumption), scale of production/service
Retailer which is also a processor of: bakery products containing PHF fillings	High risk, RTE food, consumed cold or hot	Refrigerated storage, cooking, cooling	Handle raw food, food prepared in advance (time delay before consumption)
P2			
Food service: express order (e.g. eating establishments or take-away businesses that do not prepare food in advance)	High risk, processed, direct cook-serve	No ambient holding	No time for pathogen growth
Retailer of: RTE bakery products containing PHF (not made on site)	High risk food, RTE food, consumed cold or hot, packaged product	Refrigerated or hot storage	Handle final product
Retailer of: RTE perishable, packaged food (e.g. sandwiches, pies, pre-cut fruit)	High risk, RTE food, consumed cold or hot, as a packaged product	Refrigerated or hot storage	Handle pre-packaged final product
Retailer of: RTE processed seafood products	High risk, not processed on site	Refrigerated storage	Handle final product
Retailer of: RTE delicatessen products	High risk, not processed on site, RTE food	Refrigerated storage or reheating	Handle final product

RTE: ready-to-eat.

PHF: potentially hazardous food.

P1 and P2: Food service and closely related retail businesses classified as Priority 1 (P1) and Priority 2 (P2) are in-scope of this Proposal. These businesses have been classified using the national Risk Profiling Framework, which has been endorsed by Ministers as the national methodology for the risk classification of food businesses.

FSANZ welcomes suggestions and feedback on what the key food handling activities and characteristics are for these in-scope businesses in section 2.1 and Table 1.

2.2 Challenging work environments

By their nature, food service businesses and related retailers are challenging environments for adequately controlling food safety risks. For instance, food may be handled in a relatively uncontrolled setting (with minimal supervision) and food handlers may be doing multiple tasks, often in a fast-paced setting. Where PHF is involved, these conditions can lead to poorly managed risks and potential foodborne illness incidents.

Food businesses have reported challenges dealing with competing and often complex priorities including staffing, managing suppliers, increasing costs, remaining competitive, providing high quality products at affordable prices and working long hours (Davies et al. 2014). Many small businesses (including many franchisees) in these sectors have proprietors 'wearing many hats'.

Compounding these issues, food service sectors are characterised by high staff turnover and relatively high proportions of workers who are inexperienced, casual staff and/or migrants from cultural and language diverse backgrounds.

Many staff employed in these sectors do not have a thorough understanding of the processes required to safely handle food (Byrd-Bredbenner et al. 2007) or why such processes are necessary. Reasons for this include:

- Casual workers may not have received adequate training or experience.
- Healthy workers may not have personally experienced serious foodborne illness.
- People with language barriers may have difficulty understanding requirements or instructions.
- Stress, fatigue and limited access to training (Davies et al. 2014).
- Business operating hours in this sector mean that food handlers work during evenings and on weekends. As authorised officers generally do not inspect businesses at these times, inappropriate food handling may not be detected and these staff may miss out on the learning opportunity that the inspections provide.
- Time pressure and resource barriers can also hinder food handlers from effectively carrying out appropriate food safety actions (Todd 2007).

Given these challenges, even where a business has appropriate procedures in place, there is no guarantee food handling staff will follow the procedures without adequate supervision.

2.3 Number of businesses and food handlers

In 2002 there was an estimated 97,978 food service and retail businesses in Australia, according to a study by the Allen Consulting Group (Allen Consulting Group 2002). The same study found that on average, food service businesses employed eight food handler staff each, while retail businesses each employed four. This indicates that, at that time, around 700,000 (698,916) staff were employed in businesses within the scope of this proposal. It is likely that this number has increased today.

Table 2. Australian food businesses by state and industry category

	NSW	Vic	Qld	WA	SA	ACT	NT	Tas	Total
Retail	7175	5264	3927	2080	1677	340	233	531	21227
Food service	25942	19034	14199	7521	6063	1228	844	1919	76750
Total									97,977

Source: Allen Consulting Group 2002

FSANZ welcomes information in submissions that can further inform us of the number, size and location of the food business sectors identified in Table 1.

3. Current status of food safety management

In Australia, state and territory food regulators use a wide range of food safety management tools aimed at reducing foodborne illness. Tools can be regulatory or non-regulatory and include legislation, guidance material, education and training. Tools are used to varying degrees in different jurisdictions to require or encourage food businesses to manage their food safety risks and strengthen their food safety culture.

3.1 Current regulatory measures

Food safety is referred to in several standards in the Code, including the Food Safety Standards of Chapter 3.

Chapter 3 provides minimum food safety requirements intended to ensure that a food business handles and sells safe and suitable food. In particular, Standard 3.2.2 outlines base-level food safety requirements for each step of the food handling process: food receipt, storage, processing, display, packaging, transport, disposal and food recall. Other requirements relate to the skills and knowledge of food handlers and their supervisors, the health and hygiene of food handlers, and the cleaning, sanitising and maintenance of equipment.

A complementary guide to the food safety standards, Safe Food Australia (FSANZ 2016), provides information for food regulators and businesses on how the requirements may be met.

In addition to standards in the Code, several jurisdictions have implemented extra food safety requirements in their food acts to manage risks associated with the food service and closely related retail sectors. Four jurisdictions (Victoria, NSW, Queensland and ACT) have requirements for food safety supervisors (FSS) with competency-based training. Victoria and Queensland also have template-based food safety programs, which include record-keeping requirements for key activities.

There are differences in how these extra requirements are implemented in each jurisdiction, including the risk classifications used and attainment and duration of FSS qualifications.

3.2 Other measures

Other measures used by jurisdictions to improve food safety include:

- voluntary food safety training offered by states/territories/councils
- performance rating schemes (public display of food safety performance, such as 'Scores on Doors')
- requests for evidence that high-risk activities have been managed; with templates provided to help businesses meet this expectation
- food safety culture education (e.g. regulators working with businesses to improve awareness of their food safety risks and commitment to managing those risks).

Further details of each measure are provided in Appendix 1.

3.3 Adequacy of current measures

Given ongoing foodborne illness linked to food service businesses and related retailers, food regulators have recognised that current risk-management measures (above) are not enough for these sectors. Ministers responsible for food regulation have prioritised the implementation of nationally consistent arrangements for these sectors, under the national foodborne illness reduction strategy.

Considerable work has been done to review the existing measures and identify best options for moving forward. This work has included government-commissioned research, technical analyses and stakeholder consultations. Much of the work has been completed by a working group (the FSM WG) under FRSC.

Key activities have included:

- developing ministerial policy guidelines:
 - Ministerial Policy Guideline on Food Safety Management in Australia (2003)
 - Ministerial Policy Guideline on Food Safety Management for General Food Service and Closely Related Retail Sectors (2011)
- risk profiling work, identifying food service and related retailers as priority business sectors
- evaluating the adequacy of existing measures to manage food safety in these sectors
- identifying potential additional tools to improve food safety in these sectors
- consulting with stakeholders on these tools
- development of Australia's foodborne illness reduction strategy.

Further details of these activities are provided in Appendix 2.

These activities have culminated in the package of tools proposed by Ministers to improve food safety management in food service and related retailers.

4. Additional food safety management tools proposed by Ministers

The package of food safety management tools that FSANZ has been requested to consider includes the following regulatory measures:

1. Evidence of skills and knowledge (acquired through non-competency based mandatory training) — regulated food safety training for all food handlers. Further information is outlined in section 4.1.
2. Evidence of skills and knowledge (acquired through mandatory training with nationally agreed competencies) — a certified FSS. See section 4.2.
3. Evidence that key activities and processes are being controlled — evidence of essential control measures. See section 4.3.

Two non-regulatory tools were also included in the package proposed by Ministers (Appendix 2). While FSANZ will consider these tools in applying the statutory assessment criteria (section 6.1), non-regulatory tools would not be enacted by an amendment to the Code.

The proposed regulatory tools are further explained below, including their current context, and expected benefits and implementation issues identified by the FSM WG (see Appendix 2.4). A summary of key points is provided in Table 3.

Table 3: Summary of regulatory food safety management tools proposed by Ministers

Management tool	Food safety training for all food handlers	Certified FSS	Evidence of controls
Likely benefits (FSM WG)	base level of information, increased awareness, less supervision	FSS has an important role in imparting skills and knowledge, improving awareness of foodborne illness and its impacts, and fostering a positive food safety culture	enables monitoring, detection of issues, helps to demonstrate compliance
Implementation issues (FSM WG)	resource sharing/promotion, training frequency, culturally diverse/rural needs	certification currency, FSS coverage within business, regulation of registered training organisations	identification of controls needing evidence, example templates

FSM WG is the Food Safety Management Working Group

4.1 Regulated food safety training for all food handlers

Current situation

The Code requires food businesses to ensure persons undertaking or supervising food handling operations have skills and knowledge in food safety and food hygiene matters commensurate with their work activities (Standard 3.2.2 clause 3). There are no specific training requirements. However, in practice, a food handler would typically complete some form of training to acquire the appropriate skills and knowledge.

Regulatory measure

Ministers' proposal is that in-scope businesses would require their food handlers to have completed food handler training to demonstrate the skills and knowledge requirements in Standard 3.2.2 clause 3.

Likely benefits

The FSM WG proposed that mandated food handler learning programs would ensure all food handler employees receive consistent and relevant information.

Regulated food safety training is expected to:

- provide a base level of information on key areas of skills and knowledge, supporting requirements in Standard 3.2.2
- increase awareness of the importance of, and techniques for, safe food handling
- reduce the need for close supervision
- supplement information from supervisors or peers.

Implementation issues

Issues identified include:

- promotion and sharing of existing resources
- use of online training 'DoFoodSafely' and 'I'm Alert'
- frequency of training
- catering for culturally diverse and rural employees

4.2 Certified food safety supervisor

Current situation

The Code does not currently include requirements for any businesses to have a FSS. Four jurisdictions have implemented their own FSS requirements for some in-scope businesses.

Regulatory measure

Ministers' proposal is that in-scope businesses would be required to have at least one FSS certified. Certification would require successful completion of training that is competency verified (i.e. including formal assessment).

Expected benefits

FSSs are trained to recognise and prevent risks associated with food handling in a retail food business. Although all personnel have a responsibility to handle food safely and must have the skills and knowledge relevant to their food duties, the FSS needs to understand the overall food safety processes of the business as it applies to all staff.

The FSM WG proposed that FSSs would impart relevant skills and knowledge to other staff and strengthen food safety culture (through improving food safety behaviour and increasing business's commitment to managing food safety risks). The aim of a FSS is to prevent consumers from becoming ill from incorrect handling and preparation of food.

Studies have assessed whether there is any correlation between the presence of suitably trained and certified supervisors and critical food safety violations, as well as foodborne illness risk factors. Although results are mixed, they suggest that having a certified person on site can help reduce critical violations that could have resulted in foodborne illness, at least in certain circumstances (Cates et al. 2009; Kassa et al. 2010).

Stakeholder consultations (through the FSM WG) indicated stakeholders generally saw existing jurisdictional FSS requirements resulted in some improvements in food safety.

Implementation issues

Issues identified include:

- length of certification currency
- adequate coverage of FSS within a business
- regulation of registered training organisations.

4.3 Evidence of essential control measures

Current situation

Standard 3.2.2 outlines base-level food safety requirements to be satisfied at each step of the food handling process. This standard provides a food business with the basis for identifying key risks and activities that need to be managed to ensure safe food. While keeping documentation or other evidence is not mandated, Safe Food Australia notes that businesses may find it useful to monitor and record the management outcome of these steps (e.g. PHF stored at 5°C).

Regulatory measure

Ministers propose that in-scope businesses keep, and be able to demonstrate, evidence to support the management of key activities that are essential to producing and maintaining safe food.

The four broad areas critical to food safety are:

- food processing (including the 2 hour/4 hour rule)
- temperature control (including receipt of food, storage, cooking, cooling and display)
- cleaning and sanitising
- calibration and maintenance of equipment.

Some of the target businesses also engage in additional high-risk activities (e.g. sous vide, raw egg products). In these cases evidence should also be provided to demonstrate that the activity is well managed (e.g. monitoring pH or water activity). Ministers' proposed requirement is distinct from a small-scale food safety program and targets the activities of the food business.

Expected benefits

The FSM WG proposed that keeping evidence would better enable businesses to monitor potential hazards, higher risk or critical safety activities, and to detect if safety parameters are breached. It would help the business make sure their process meets the specified requirement in the Code, and demonstrate compliance to an authorised officer if required.

Implementation issues

Identified issues include:

- guidance for food business and authorised officers to identify key risks and control processes for which evidence would be required
- provision of example templates.

5. Assessing the proposed tools

In assessing whether to mandate additional nationally regulated food safety management tools, Proposal P1053 will consider the status quo, as well as a risk-based approach for applying the potential tools to in-scope businesses. The assessment will be in accordance with the FSANZ Act and the criteria set by that Act, including consideration of costs and benefits of proposed changes. Section 6.1 below list the assessment criteria that FSANZ must have regard to when assessing this Proposal. FSANZ will also refer to the work of the FSM WG where relevant to FSANZ's assessment (see section 6.1.2 below).

5.1 Status quo

When considering changes to regulation, the status quo must be a part of FSANZ's assessment. For this Proposal, the status quo is that the current regulatory settings would continue. If FSANZ's assessment leads to the decision to retain the status quo, P1053 would be abandoned.

5.2 Nationally regulated food safety management tools

This alternative to the status quo would involve amendment of the Code to mandate one or more of the three additional tools proposed by Ministers. FSANZ will take a risk-based approach to assessing which businesses should be subject to which mandatory regulatory measures, if enacted.

Section 1.2 lists the businesses in scope for this Proposal and its assessment. Each of the eight business sectors have been classified high priority by the food regulatory system using the national Risk Profiling Framework, with P1 businesses classified higher risk than P2 businesses.

Given the two risk classifications, it may be appropriate to apply different tools or combinations of tools to the P1 and P2 businesses. An aim of our assessment is to determine the most appropriate regulatory response to manage the food safety risks effectively.

In terms of the three tools proposed by Ministers, FSANZ notes the following:

- Their inclusion in the Code would ensure nationally consistent management of the businesses and risks to which they apply.
- They appear to complement current requirements in Standard 3.2.2.
- They would not be as onerous as the HACCP-based requirements of Standard 3.2.1, which require food safety programs.

FSANZ welcomes comments on each of the three food safety management tools proposed by Ministers and their impact (positive and negative) on each of the in-scope business sectors (section 1.2) to help inform the assessment.

Do you consider that adoption of the proposed food safety management tools will improve food safety outcomes and reduce the incidence of foodborne incidence? Please provide the reasons for your view.

Additional submissions would be welcome from businesses who have implemented the following tools (as described in section 4):

Food handler training:

- Are there constraints that prevent businesses and employees from accessing particular/preferred methods and modes of training?
- Is the general food handler training currently available from the jurisdictions' food regulatory agencies (e.g. I'm Alert and DoFoodSafely) adequate in providing a base level of food safety knowledge?

Food safety supervisor:

- Has the presence of a food safety supervisor reduced incidences of food handling errors?

Evidence of managing activities essential for food safety:

- Have you found it assists with monitoring risks and prompting corrective actions?
- Have you found keeping evidence time consuming?
- Are templates easily accessible and appropriate for your business?

6. Assessment criteria

FSANZ must assess Proposal P1052, including the proposed additional tools, in accordance with the FSANZ Act. As explained below, this requires us to have regard to specific matters when making that assessment. If our assessment concludes that mandating regulated food safety management tools is the preferred option, under the FSANZ Act we are required to publish a summary of our assessment and draft variations to the Code, and seek public submissions on both. Those public submissions will inform our decision whether to approve or amend the draft amendments to the Code.

6.1 Statutory assessment criteria

6.1.1 Section 59 considerations

Section 59 of the FSANZ Act requires FSANZ to have regard to the following matters when assessing Proposal P1053 and each of the three potential food safety management tools summarised above:

- whether costs that would arise from a food regulatory measure developed or varied through the Proposal outweigh the direct and indirect benefits to the community, government or industry that would arise from that measure
- whether other measures (whether available to FSANZ or not) would be more cost-effective and could achieve the same end
- any relevant New Zealand standards
- any other relevant matters (see section 6.1.2 below).

Other relevant considerations for the purpose of FSANZ's P1053 assessment include:

- the recommendations of the food safety management working group and
- the subsequent request by Ministers to consider the potential regulatory measures⁷.

However, FSANZ is not bound by the working group recommendations or the Ministers' request. While FSANZ must have regard to them during the assessment (to the extent that they are relevant), we must make our own independent assessment in accordance with the FSANZ Act.

6.1.2 Section 18 considerations

Relevant matters include the matters listed in section 18 of the FSANZ Act. Section 18 requires FSANZ to have regard to specific objectives when developing food standards or amendments to the Code. The objectives (in descending order of priority) are:

- the protection of public health and safety
- the provision of adequate information relating to food to enable consumers to make informed choices
- the prevention of misleading or deceptive conduct.

⁷ <https://foodregulation.gov.au/internet/fr/publishing.nsf/Content/forum-communique-2018-June>

Section 18 also requires FSANZ to have regard to each of the following:

- the need for standards to be based on risk analysis using the best available scientific evidence
- the promotion of consistency between domestic and international food standards
- the desirability of an efficient and internationally competitive food industry
- the promotion of fair trading in food
- any relevant ministerial policy guidelines issued by the Forum expressly for the purposes of section 18. These ministerial guidelines are not binding on FSANZ. They remain one consideration among others that FSANZ must have regard to in making its assessment.

For the purposes of P1053, the 2011 Ministerial Policy Guideline on Food Safety Management for General Food Service and Closely Related Retail Sectors is a relevant matter which FSANZ will have regard to. It was developed to provide a framework for food safety management in Australia in food service/retail sectors. The aim of these policy guidelines is to ensure that food safety management:

- reduces foodborne illness by ensuring food is safe;
- targets food safety risk in a cost-effective manner; and
- is consistent with international best practice

FSANZ welcomes comment on the application of the above statutory assessment criteria to the three tools and their use in managing food safety risk for the in-scope business sectors.

To achieve our objectives, FSANZ needs to determine whether food safety management tools should be mandated by the Code and if so, which tools apply to which business sectors. To assist the assessment of costs and benefits, the following questions have been developed (next page).

FSANZ would welcome information to inform its assessment of the cost and benefit of each of the three potential food safety management tools listed in this paper. Including information:

- from all stakeholders, but particularly consumers:
 - potential improvement in wellbeing as a result of safer food (i.e. avoided illness)
- from government:
 - costs to implement and enforce new regulation
 - reduction in government costs as a result of reduced outbreaks, incidents and illness
 - numbers, types, size, number of employed food handlers, and locations of in-scope businesses
 - how compliance with Chapter 3 Standards is currently verified, the cost of doing so, and if the additional tools would change this process?
 - numbers or proportions of in-scope businesses that have adopted the voluntary evidence for activities where PHF is handled
 - numbers or proportions of in-scope businesses that make use of the government provided voluntary food handler training
- from businesses:
 - how each of the three potential food safety management tools listed in this paper may increase costs (some of which may end up being transferred to consumers)
 - if the reduced foodborne illness incidents would reduce business costs
 - does your business currently employ a FSS
 - for those businesses that do employ a FSS, why do you employ a FSS (e.g. due to government requirements or for other purposes) and what costs were involved to train them and how often do you incur these costs (either for recertification or due to staff turnover)?
 - do you provide food safety training to general food handlers or specify that staff must have completed food safety training?
 - for those businesses that do provide food safety training, is this training developed in-house, obtained from a jurisdictional food regulatory agency, or another source? Why do you provide this training (e.g. due to government requirements or for other purposes)? What costs do you incur to provide this training to your staff and how often would you incur these costs?
 - do you keep evidence of essential control measures? Is this a requirement in your jurisdiction, an expectation during audits, or for your own purposes?
 - for those businesses that do keep evidence of essential control measures, what time or costs are involved in creating and maintaining this evidence?
 - for those businesses that do keep evidence of essential control measures, do you obtain benefits from doing so (such as quicker audit times)?

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Appendix 1 Current measures to manage food safety risks

1. Regulatory measures

Food safety is managed by a number of standards in the Australia New Zealand Food Standards Code, including Food Safety Standards (Chapter 3).

Chapter 3 of the *Australia New Zealand Food Standards Code* (the Code)⁸ provides minimum food safety requirements to ensure that a food business handles and sells safe and suitable food. *Safe Food Australia – A guide to the Food Safety Standards*⁹ (the Guide); provides information on how a business may meet Chapter 3 requirements. The document is primarily intended to assist food enforcement agencies enforce the Code.

Standard 3.2.1 enables states and territories to require food businesses to implement a food safety program based on HACCP (hazard analysis and critical control points) principles. The HACCP concept is a systematic approach to identifying and controlling risks.

Standard 3.2.2 outlines base food safety requirements for good hygienic practices for all food businesses. This standard specifies process control requirements to be satisfied at each step of the food handling process: receipt, storage, processing, display, packaging, distribution disposal, and recall of food. Other requirements relate to the skills and knowledge of food handlers and their supervisors, the health and hygiene of food handlers, and the cleaning, sanitising and maintenance of equipment.

Standard 3.2.3 provides requirements relating to the food premises, food transport vehicles and associated fixtures and fittings used by food businesses.

2. Other food safety tools

2.1 Voluntary food safety training

Many states and territories and local councils provide some form of voluntary training to food businesses. The training can be general food safety training, or targeted to food businesses, to address specific food safety issues.

2.2 Performance rating scheme

Performance rating schemes include the public display of inspection ratings of food businesses; for example, the 'Scores on Doors' scheme. Almost all states have at least some councils that have implemented a voluntary performance rating system. These schemes are designed to encourage food businesses to comply with food hygiene requirements, as they enable the public to 'vote with their feet' by choosing businesses that receive higher ratings.

2.3 Monitoring templates

In many jurisdictions, authorised officers request businesses provide evidence for activities where PHF is handled (e.g. temperature control), although record keeping is not mandatory.

⁸ [Food Standards Code](#), FSANZ website

⁹

<http://www.foodstandards.gov.au/publications/Documents/Safe%20Food%20Australia/STANDARD%203.2.2%20Food%20Safety%20Practices%20and%20General%20Requirements.pdf>

Templates have been developed (by jurisdictions and in Safe Food Australia) to help businesses meet this expectation.

2.4 Food safety culture

Food safety culture in a food business is how everyone (owners, managers, employees) thinks and behaves in their daily job to make sure the food they make or serve is safe. Food safety culture is one of the focal areas in Australia's Foodborne Illness Reduction Strategy 2018–2021⁺ with several initiatives already underway. Regulators are working closely with authorised officers and selected food businesses (including businesses in-scope of this Proposal), to promote the importance of a strong culture, supported through resources and training. The aim is to encourage behavioural change, improve awareness of food safety risks and strengthen commitment to managing those risks.

Appendix 2 Food regulatory activities and decisions

Taking into account population changes and improved knowledge and methodologies, rates of foodborne gastroenteritis did not change significantly between 2000 and 2010 (Kirk et al. 2014). Many outbreaks continue to be linked to the food service and closely related retail settings (OzFoodNet data 2004 to 2015). Food regulators have agreed food safety is difficult to manage in these sectors and that improvements are needed.

Significant work has been done to identify the high-risk sectors and come up with options to strengthen food safety management in these sectors. Key activities and decisions by the food regulatory system aimed at improving food safety management and public health outcomes are described below.

1. Ministerial policy guideline (2003)

In the early 2000s, ministers responsible for food regulation recognised the need for stronger food safety management in certain sectors. The 2003 Ministerial Policy Guideline on Food Safety Management in Australia (FRSC 2003) was subsequently developed and endorsed by food ministers (the then Australia New Zealand Food Regulation Ministerial Council). This guideline requested FSANZ implement food safety programs in four sectors in Australia:

- food service to vulnerable persons (e.g. hospitals, aged care facilities, delivered meals organisations and childcare centres)
- producers, harvesters, processors and vendors of raw RTE seafood
- producers of manufactured and fermented meats
- catering operations servicing food to the general public.

National standards are now in place for the first three sectors. FSANZ commenced Proposal P290 – Food Safety Programs for Catering Operations (P290) in 2004 to address the final sector. This Proposal was put on hold in 2008, largely due to difficulties specifying the businesses the proposed standard would apply to, and pending further ministerial consideration.

2. Risk profiling framework

Improved understanding of food safety risks led to development of a formal risk profiling framework (RPF). In 2007, this framework was endorsed as the nationally agreed tool for government to classify business sectors based on food safety risk (DoHA 2007). A ‘four-tier’ format indicating risk level was recommended – Priority 1, 2, 3 and 4. Example classifications accompanied the RPF, including for 32 business types in the food service and closely related retail sectors.

3. Revised ministerial policy guideline (2011)

Recognising foodborne illness’ ongoing association with the sector, and the difficulties identified in P290, the Ministerial Council agreed to review the 2003 policy guideline. The review considered if a broader range of risk management tools (other than mandatory food safety plans) was needed. Ministers noted that FSANZ deferred work on P290 pending outcomes of this review.

Independent experts reviewed the example classifications for the food service and closely related retail sectors accompanying the RPF (Ross et al 2009). The classification of eight high-risk business types (of the initial 32) was finalised by the then Department of Health and Ageing (DoHA).

These eight business types were included in the revised Ministerial Policy Guideline on Food Safety Management for General Food Service and Closely Related Retail Sectors (the Policy Guideline) (Forum 2011). This guideline provides a framework for developing nationally consistent food safety management arrangements in Australia for these sectors. A Strategy for Implementation of the Policy Guideline was also developed to provide guidance to FSANZ and the Implementation Subcommittee for Food Regulation (ISFR).

The Policy Guideline and associated implementation strategy introduced the principle of 'appropriateness', which is designed to work iteratively with 'risk' and 'cost–benefit' principles during analysis. The appropriateness concept requires consideration of whether a proposed risk management approach, including its verification, is likely to be practical and feasible in the context of the business type and setting. The guideline lists criteria to assist in evaluating the appropriateness of risk management tools.

4. Food Safety Management Working Group

To implement the Policy Guidelines, a government food safety management working group (FSM WG) was tasked with:

- a technical analysis of current Chapter 3 requirements
- identifying a range of food safety management tools proportionate to risk for the food service/retail sectors.

The FSM WG considered potential tools and justification for their use with P1 and P2 businesses based on risk, appropriateness and cost–benefit analysis (using case studies).

4.1 Technical analysis

The working group concluded that Standards 3.2.2 and 3.2.3 cover the food safety outcomes that must be achieved. However, these standards contain no requirement for documenting how those outcomes are to be achieved, and do not mandate that records demonstrating compliance are kept. Standards 3.2.2 and 3.2.3 were considered sufficient for businesses to identify food safety risks, but insufficient for managing those risks (for in-scope businesses).

4.2 Identified risk management measures

Additional tools to manage food safety risks were identified by the working group:

- Regulatory
 - evidence of skills and knowledge (acquired through mandatory training with nationally agreed competencies)
 - evidence of skills and knowledge (acquired through non-competency based mandatory training)
 - evidence that key activities and processes are being controlled
- Non-regulatory
 - food safety culture initiatives
 - comprehensive and integrated support and education package to guide both food businesses and local government as key regulatory partners

ISFR agreed these tools provide a broader range of risk management measures that should be nationally and consistently implemented.

4.3 Stakeholder consultation

During 2017, the FSM WG coordinated consultations to discuss and refine the identified tools. Over 400 stakeholders attended, including local government, in-scope businesses, industry bodies and registered training organisations.

There was a strong and consistent view from stakeholders that food safety remains a problem in the food service and closely related retail sectors. This is primarily due to a lack of basic skills and knowledge in hygiene, food handling, temperature control and cross-contamination, in addition to a lack of resources and high staff turnover.

Stakeholders agreed that additional food safety management tools such as FSSs would improve public health outcomes. Both industry and government were supportive of nationally consistent requirements, as this is crucial for food businesses operating across multiple jurisdictions.

Following the stakeholder consultations, the FSM WG proposed the package of regulatory and non-regulatory measures expected to have the greatest impact on managing food safety in the in-scope businesses. The Food Regulation Standing Committee agreed to seek ministers' endorsement for the package of measures.

5. National foodborne illness reduction strategy

Australia's Foodborne Illness Reduction Strategy 2018–2021⁺ was established to reduce foodborne illness, particularly related to *Campylobacter* and *Salmonella*. The strategy includes national and jurisdiction-level priorities and actions to achieve the vision of reduced levels of illness. Areas of focus include revision of standards, strengthening food safety culture, state actions to foster national consistency, research, monitoring and surveillance, and engagement activities. While action is needed at all points of the food supply chain, target areas include certain primary industries and the food service sector.

Ministers have agreed improvements can be made with food service sectors to strengthen the food regulatory system and reduce foodborne illness. Implementing nationally consistent arrangements to improve food safety management in these sectors is an identified action in the strategy.