Domestic Food Review
Position paper
NZFSA Discussion Document
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1 Introduction

This is Paper 8 in a Review of government involvement in the domestic food sector.

The Review is a significant long-term project that is likely to run over at least five years. Its purpose is to create a food regulatory programme across all sectors of New Zealand’s domestic food industry that promotes and delivers safe and suitable food in New Zealand.

This is only the second time in the last 30 years that the Government’s role in the New Zealand domestic food sector has been critically examined at an official level. The last review was in the late 1980s, and led to the Food Amendment Act 1996 and eventually the establishment of the New Zealand Food Safety Authority (NZFSA).

This Paper provides a comprehensive package of proposals for the future food regulatory regime, as might be recommended to the Government by NZFSA. It addresses issues raised in the submissions on the seven Papers previously released for public discussion.

The Paper has been developed by NZFSA in conjunction with representatives from Public Health Units and Territorial Authorities.

Other Papers previously consulted on include:

- Paper 1: Introduction and context
- Paper 2: Regulatory roles, responsibilities and structures
- Paper 3: Food Control Plans
- Paper 4: Implementation of Food Control Plans
- Paper 5: Principles and possible methods for a cost recovery framework
- Paper 6: Compliance and sanctions: criteria and tools for the future
- Paper 7: Criteria and processes for various approvals.

Submissions

After public consultation on this Paper, NZFSA will analyse submissions and provide policy advice to the Government.

NZFSA’s policy position and principles are presented in this Paper, and it is primarily these on which submissions are sought. The principles will guide the development of the policy to underpin the Domestic Food Review.

NZFSA is particularly interested in the areas that impact on industry.

Submissions are sought from interested people and organisations. A response form is provided in Appendix 1, but submissions will be accepted in any format.

The closing date for submissions is 28 April 2006.

Submissions should be sent to:

Submissions - Domestic Food Review
c/o Policy Group
New Zealand Food Safety Authority
PO Box 2835
WELLINGTON

Email: dfrequisitions@nzfsa.govt.nz
Fax: (04) 463 2501

This Position Paper is available on the NZFSA website (www.nzfsa.govt.nz/policy-law/projects/domestic-food-review/index.htm). Following analysis of submissions, a summary of issues raised will be made available on the above website.

All submissions are subject to the Official Information Act 1982, which specifies that information is to be made available unless there are grounds for withholding it. If you wish your submission or any part of it to be withheld, please indicate the grounds in the Official Information Act that apply. NZFSA will take your request into account when determining whether or not to release information. Please note that any decision by NZFSA to withhold information is reviewable by the Ombudsman.
2 Executive Summary

This Position Paper invites public comment on a comprehensive package of proposals for the future food regulatory programme, as might be recommended to the Government by NZFSA. This is Paper 8 in the series of Papers that have been released for public discussion. The Paper brings together all the proposals and elements of a proposed future food regulatory programme and addresses issues raised in the submissions on all the previous Papers.

In summary, the key problems the review intends to address are:

- a continued high reported incidence of foodborne illnesses and a rise in some areas (such as statistics for campylobacteriosis, salmonellosis, gastroenteritis, yersiniosis and listeriosis)
- inconsistencies and interface issues across the various pieces of food legislation and their application across the New Zealand food chain.

This Paper seeks public comment on the full package of proposals that are designed to deliver safe and suitable food into the future.

Section 3: Context

Building from Domestic Food Review (DFR) Paper 1, this section discusses in more detail NZFSA’s functions as a regulator, options for government involvement in food safety and suitability issues, and the three-tier regulatory model. Seven policy principles are proposed to underpin regulator decisions and controls imposed.

Section 4: Regulatory roles, responsibilities and structures

This section outlines the problems in the current structural arrangements and the options that were canvassed in DFR Paper 2. Taking into account the views of submitters, a modified form of Option 2 is preferred, retaining the current structure (NZFSA at central government, Public Health Units in District Health Boards, and Territorial Authorities), but reallocating roles and responsibilities across these three groups.

This section describes each function of the regulator and how the functions are allocated among the agencies. The aim is to be clear on roles and responsibilities, to enable clear lines of accountability, and to promote a seamless, coherent and consistent food regulatory programme.

Territorial Authorities are to provide a single point of entry for new food businesses. Businesses that already deal directly with NZFSA may continue to do so. New businesses will be dealt with by the Territorial Authorities, or channelled through to NZFSA where appropriate. An overarching framework will be established for this approach, including a benchmarking or calibration process, improved communication and information lines, and adequate guidance material.

Section 5: Food Control Plans and Food Handler Guidance

This section provides detail on Food Control Plans (FCPs) that were proposed in DFR Paper 3. Two types of FCPs are now proposed: off-the-peg and custom-made. Custom-made FCPs would be utilised by more complex businesses, such as food manufacturers. Off-the-peg FCPs would be used by simpler businesses, such as retail outlets and food services that are not primarily involved in manufacturing. This section also details the newly proposed tool, namely Food Handler Guidance (FHG) to be used for generally one-off events such as barbecue fundraisers and food stalls. The application, criteria, content, approaches and the development of both FCPs and FHG is outlined in this section.

Section 6: Implementation of Food Control Plans and Food Handler Guidance

This section considers the issues involved in implementing FCPs and FHG. In relation to FCPs, it discusses evaluation, registration and verification, and the accreditation and recognition of third-party evaluators and verifiers. The section then discusses FHG, explaining how and why it is different from FCPs and its design.

Section 7: Other Approvals

This section deals with approvals undertaken by NZFSA, such as for relevant compounds, documents, equipment, persons, premises or systems (but not FCPs or FHG). It proposes specific policy principles for the criteria and process for various approvals. It also proposes general criteria to govern all approvals and the approval system.

Section 8: Education and training

Appropriate education and training are seen as crucial to ensure safe and suitable food in New Zealand. This section proposes a number of principles to be applied to education and training for food safety and suitability.
Section 9: Cost recovery
DFR Paper 5 proposed a framework for cost recovery for services provided by central government. The framework is based on Treasury and Audit Office principles for charging for government services, namely equity, efficiency, justifiability and transparency. Submitters who commented on cost recovery generally supported the framework, and this Position Paper proposes to adopt it as a basis for allocating costs and determining charging mechanisms.

Section 10: Performance monitoring
This section proposes a five-step framework for measuring the performance of the food regulatory programme in order to ensure it is contributing to the Government’s desired outcomes, and to identify potential improvements.

Section 11: Compliance and sanctions
This section outlines the tools available to assist the regulator, (NZFSA, Territorial Authorities and Public Health Units) to respond more effectively to non-compliance or omissions with the food regulatory programme. The Position Paper proposes that the set of potential responses be expanded to include incentive schemes, public notification and grading schemes, public apologies, and a universal system of improvement notices, infringement notices and prohibition notices.

It also proposes that assessment criteria for classifying non-compliance need to be developed to provide useful guidelines for regulators.

Section 12: Next Steps
This section outlines the next steps in the policy process, including the submission period and the analysis of submissions. Following these steps, recommendations on all elements of the package (as might be amended taking account of submissions) are expected to be made to Government in the third quarter of 2006. The drafting on any legislative changes necessary to reflect Government’s decisions on the package is expected to commence in the latter part of 2006.

3 Context

3.1 Introduction
Since May 2003, NZFSA has been working on a comprehensive review of the Government’s role in the New Zealand food sector. This Domestic Food Review (DFR) is only the second such review in 30 years, and seeks to respond to a number of problems and issues that have arisen with the existing regulatory framework applying to food in New Zealand.

The first two years’ work on the review involved developing and then consulting on the principles and key components that would shape the proposed new programme. A series of public discussion papers covered:

- Introduction and context
- Regulatory roles, responsibilities and structures
- Proposed Food Control Plans
- Implementation of Food Control Plans
- Principles and possible methods for a cost recovery framework
- Compliance and sanctions
- Criteria and processes for various approvals.

Apart from written submissions, NZFSA also held public workshops around the country, met with various interest groups, and regularly discussed ideas and progress with co-regulators (Territorial Authorities and Public Health Units).

Having completed consultation and analysis of the oral and written submissions,1 NZFSA, with input from representatives of Public Health Units and Territorial Authorities, has prepared this Position Paper, which presents the intended elements of the New Zealand food regulatory programme for the future, along with its rationale.

NZFSA now wants to hear your views on this proposed regulatory model.

The Glossary of Terms is in Appendix 2.

3.2 Problem definition:
Why a Review is needed
NZFSA has specific functions as New Zealand’s primary food regulator. The Authority is required, among other things, to administer all food legislation and food safety and suitability matters. NZFSA also has to deliver on two closely aligned areas:

- reducing the incidence of foodborne illness in New Zealand
- providing a coherent and seamless food regulatory programme.

In effect, NZFSA is required to administer food requirements under the relevant primary legislation, and in so doing to focus and deliver on those two areas.

Public Health Units have contributed to food administration by way of contract to the Ministry of Health and, latterly, to NZFSA. Territorial Authorities have largely undertaken implementation of the Food Hygiene Regulations under the Food Act. In both cases, there has been limited direction from central government. When initiatives have been taken by individual Territorial Authorities, there have been limitations that would not arise if the 74 authorities worked more collectively or collaboratively, or if there was a centralising agency.

Paper 1 in the Domestic Food Review noted that there are problems with the approach to government involvement. These problems can be summarised into two broad categories:

- the continuing high reported incidence of foodborne illnesses, and a rise in some areas (such as statistics for campylobacteriosis, salmonellosis, gastroenteritis, yersiniosis and listeriosis)
- inconsistencies and interface issues across the various pieces of legislation that regulate food in New Zealand.

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1 A detailed Summary of Submissions has been prepared by NZFSA and is publicly available in hard copy and on the NZFSA website.
Some submissions challenged the importance of some of these problems, and others suggested they could be addressed without a wholesale review. For example, some suggested that the high reported incidence of foodborne illness could be addressed with public education. Others suggested that the problem was primarily with commercial operators failing to meet appropriate standards.

Having considered these submissions, NZFSA decided that on balance there were strong grounds for continuing with the Review. The rationale for this is elaborated within this document.

3.3 Scope of the Review
In DFR Paper 1, the Glossary of Terms defined food. The term has now been redefined because the original definition was too broad. It covered substances that, in many other countries’ definitions, were beyond what was understood to be food. The definition has been clarified to better define what the Review is covering and what it is not covering. Food is any thing or article, whether processed, semi-processed or raw, which is intended for human consumption and includes drink, chewing gum and any substance which enters into or is used in the composition, manufacture, preparation, and preservation, of any food or drink, but does not include cosmetics or tobacco, or substances used only as medicines and drugs. It includes bottled water, primary produce (eg, live shellfish, fruit on a tree), water used in manufacture of a food, and by-products of animals if they go into food. It may include live animals and plants (depending on intent). It excludes cookware and related products eg, a pie dish, and packaging (except for edible packaging).

In DFR Paper 1, the scope of the Review was described both in terms of what it includes and what it excludes (page 9 of Paper 1). However, concern and/or confusion were conveyed in some submissions about the scope of the review, particularly the status of imported food.

The Review covers all food sold in New Zealand, whatever its source and whatever the processes by which it reached the point of sale. At its point of entry into New Zealand, all imported food will fall within the scope of the regulatory regime that applies to New Zealand food. Food produced in New Zealand for export (ie, that at no stage enters the New Zealand food supply) will not fall within the ambit of the Domestic Food Review. It is important to note, however, that food produced in New Zealand for export must meet the same standards of safety and suitability as apply to New Zealand food.

Paper 1 noted that the Imported Food Review is an entirely separate exercise from the Domestic Food Review, but that the outcomes of the former may be implemented together with the outcomes of this Review.

3.4 Principles underpinning regulation decisions and controls imposed
DFR Paper 1 set out seven Policy Principles. These were proposed as the foundation for all aspects of the Review, and to underpin decisions both on whether to regulate and on the form of any control. These principles have guided NZFSA’s consideration of everything arising in the Review and the response to submissions. The Principles are:

Policy Principle 1: Government involvement and compliance costs imposed on the food sector will be minimised, consistent with government policies and the need for food to be safe and suitable.

Policy Principle 2: New Zealand’s food regulatory model will be based on application of the current ‘Regulatory Model’ (ie, the three-tier model in Figure 2).

Policy Principle 3: Any government involvement and regulatory controls will be risk-based and science-based as far as possible.

Policy Principle 4: ‘Persons’ will take responsibility for producing safe and suitable food.

Policy Principle 5: Regulatory requirements will be applied consistently and equitably across sectors and groups. (The regulatory response will be used reasonably and fairly when identified as the appropriate option).

Policy Principle 6: The food regulatory programme will be seamless and coherent.

Policy Principle 7: Trade and commerce in food and associated products will be facilitated.

3.5 Government involvement in the food sector - the framework
This section outlines the key aspects of the framework for government involvement in food safety and suitability, which are:

- options for government involvement
- how the decision on government involvement is made
- how we propose to regulate.

3.5.1 Options for government involvement
DFR Paper 1 described the options for government involvement in food safety and suitability issues. Those options, outlined in Figure 1, represented the possible paths the food regulator takes or may take in dealing with food safety and suitability issues.
3.5.2 How the decision on government involvement is made

The decision on government involvement includes consideration of the risk-management framework and the Government's Code of Good Regulatory Practice. The risk-management framework is a scientific, risk-based approach to government involvement in food safety that will help to ensure that any interventions are rational and proportionate.

Any decision on government involvement is aligned with the Government's Code of Good Regulatory Practice, which requires policy makers to consider and balance efficiency, effectiveness, transparency, clarity and equity in deciding whether and how to regulate.

3.5.3 How we propose to regulate

The three-tier model referred to in Policy Principle 2 (see 3.4) above received a mixed response in submissions, with half of Territorial Authority submissions commenting on it. This has been the Government's preferred regulatory model, on the basis that regulation and verification or audit are separate but aligned functions, each of which is required to maintain appropriate standards.

This three-tier model (see Figure 2 on page 10) recognises that regulation and verification are closely related. The verifier undertakes verification functions on behalf of the regulator, and the verifier's first obligation (and line of accountability) is to the regulator, not to industry. This maintains the appropriate separation between the verifier and industry, ensuring consistent verification standards and addressing conflict of interest.

Some submissions specifically referred to recent issues involving Building Certifiers under the Building Act 1991, and suggested that any proposal to apply a similar model to the food industry would give rise to similar issues.

However, there are significant differences between third-party building inspections and the third-party verification model proposed for food. After certifying a building, Certifiers became responsible for problems arising during the life of that building. By contrast, under the food proposal herein, the 'person' producing the food retains responsibility for its safety and suitability: the responsibility of the verifier is to ensure that standards are being met during the food's production.

The three-tier model is well established and works successfully in other areas of New Zealand's food regime, such as in Food Safety Programmes under the Food Act.

Another theme was the implications of a three-tier model for small-to-medium businesses. It is accepted that the three-tier model must accommodate the wide variety of food businesses in terms of size, scale of operation, resources, capacity and geographical isolation. Therefore, to ensure verification services are available across the country, it is proposed that Territorial Authorities will have a role in providing such coverage.

3.6 The existing regulatory framework

Paper 3 of the DFR series outlined the current regulatory regime that applies to food manufactured, processed, produced and sold in New Zealand. In this structure, NZFSA is the principal regulator in relation to food legislation. NZFSA contracts Public Health Units to deliver a broad range of food safety and suitability activities, and 74 Territorial Authorities undertake inspections for food safety and of premises.

Paper 3 also outlined the primary, secondary and tertiary legislation that applies to the production, manufacture and sale of food in New Zealand. These include the Food Act 1981, the Animal Products Act 1999, the Dairy Industry Act 1952 (now repealed), the Agricultural Compounds and Veterinary Medicines Act 1997, the Wine Act 2003, the Food Hygiene Regulations 1974, and the Australia New Zealand Food Standards Code under the Food Act.
Paper 3 noted that the legislation is disparate; that requirements under various Acts are not consistently applied; that the current mix of direct and indirect accountabilities is failing to achieve the Government's desired outcomes; and that the food regulatory programme is neither coherent nor seamless.

Further, the food regulatory programme produces inconsistent and inequitable effects on business (for a given degree of risk). This is because it is very prescriptive and specific for some sectors, but in others the rules provide only guidance. In some areas the Government actively engages with industry groups, but other sectors are in effect self-regulating.

Finally, the roles of industry, ‘persons’, third-party providers and regulators are either not defined or ill-defined in some legislation, while elsewhere roles are set out very clearly.

This situation was confirmed in the feedback received on the Papers. Themes emerged in the feedback, often according to the sector from which the submissions were made:

- there was an observable urban/rural divergence on how particular activities should be regulated (the rural sector suggested that fundraising and some charitable events involving the sale of food should be treated differently from other commercial activities. These activities were seen as part of community cohesion and a factor that should not be regulated. Urban submitters did not draw this distinction)
- many submissions raised compliance cost issues. A general tenor was that large businesses have the infrastructure and resources to accommodate regulatory requirements, while small-to-medium businesses, particularly those which have to buy in outside expertise to meet regulatory requirements, bear obligations disproportionate to risk
- views were also expressed that a ‘one size fits all’ regulatory framework is inappropriate, but that the current regime seems generally to serve New Zealand's interest in the overall safety of food.

Submissions also put forward some contrary arguments. Submissions from organisations and businesses in relatively heavily regulated sectors raised issues about equity and consistency. Others saw no strong grounds to exclude fundraisers or informal catering arrangements from regulation, on the basis that such events are not necessarily associated with lower risk.

It is important to dispel the misunderstanding in some submissions that certain activities do not and have never fallen within a regulatory framework. The food regulations apply to all food sold in New Zealand - whether in a corner dairy, at a church fair, from a mobile takeaway, at a barbecue fundraiser, or in a restaurant.

3.7 Discussion
The fundamental problems discussed above are generally recognised, yet the legislation covering New Zealand’s food production has some internal consistency in that each Act requires a risk-management process. For example, the Food Act provides for Food Safety Programmes, the Animal Products Act requires Risk Management Programmes, the Dairy Industry Act had for many years required Product Safety Programmes (now Risk Management Programmes under the Animal Products Act) and the Wine Act makes provision for Wine Standards Management Plans.3

This regulatory model places a duty of care on particular ‘persons’ to produce food that is safe and suitable, and to demonstrate how this will be achieved. Typically, the requirements and the duty of care are made explicit by requiring the ‘person’ to prepare a risk-based management plan (or equivalent) - although this requirement does not apply universally.

While the Food Act imposes a general duty of care on all manufacturers and sellers of food, in some areas there is no explicit requirement on how to demonstrate that this will or can be achieved. This has apparently contributed to the misunderstanding that certain food manufacturing, preparation or selling activities can be undertaken without any explicit duty or express requirement to sell ‘safe’ food.

3 These plans and programmes document in one place all of the applicable requirements that a ‘person’ needs to follow in order to provide safe and, in some cases, suitable food.
Policy Principle 5 (as noted in paragraph 3.4 above) proposes that regulatory requirements will be applied consistently and equitably across sectors and groups. This need not mean that ‘one size fits all’ and this Position Paper proposes considerable flexibility. For example, Food Control Plans can come in the form of custom-made or off-the-peg Plans.

3.8 Proposed structure for government involvement in safety and suitability issues

The proposed structure for government involvement in food safety and suitability in New Zealand (see Figure 3) aligns with the regulatory response option for government involvement in the food sector (see Figure 1 on page 9). The fundamental difference is that the new regime will explicitly incorporate obligations on all ‘persons’ to meet safety and suitability requirements (Principle 4) through the application of the current ‘regulatory model’ (ie, the three-tier model in Figure 2 on page 10 (Principle 2)).

Certain food businesses will be required to prepare or to complete more or less documentation that describes how the relevant food will meet safety and suitability requirements.

In summary, the proposed structure divides food types, and the context in which each is sold, into categories on the basis of defined criteria. There will be five broad categories of government response. These will range from no regulatory response needed to a response:

- information on voluntary quality systems
- public education
- other educational programmes (Food Handler Guidance - also risk-based)
- national regulatory programmes (for example, Regulated Control Schemes)
- risk-based management programmes (Food Control Plans) that, depending on the food type and food-sale context (ie, type of business), will be template-based (off-the-peg) or custom-made.

The decision on the type of response required will be underpinned by the overarching principles and align with the Government’s Code of Good Regulatory Practice. The response will also align with the risk management framework set out in section 3 of the Paper, and could include criteria set out in section 5.

It is proposed that NZFSA will continue to take principal responsibility for all regulatory functions, while Public Health Units will continue to have contracted roles in certain areas and Territorial Authorities will have legislative requirements (see section 4).

3.9 The responsibilities of ‘persons’

Submissions indicated that Policy Principle 4 (that ‘persons’ will take responsibility for producing safe and suitable food) required elaboration. It means that:

- all persons involved with the production or manufacture (including the packaging or repackaging) of food have a duty of care to ensure that the food is fit for its intended purpose and is labelled accordingly
- persons involved in all other food-related businesses (eg, transportation, storage, warehousing, wholesale selling of food) have a duty of care to ensure that the fitness for intended purpose, safety and/or suitability of the food is not compromised.

These responsibilities are intended to be explicit in law administered by NZFSA except for FHG activities which will be administered by Territorial Authorities.

3.10 Alignment with international best practice

The intended regulatory framework aligns in key ways with other countries’ approaches to food safety and is consistent with international guidelines including the United Nations Codex Alimentarius Commission (Codex) general principles on food hygiene. The framework also aligns closely with the Codex working principles for risk analysis. Further, the intended framework will assist New Zealand to meet its obligations under World Trade Organization agreements (a rules-based international trading environment, with rules underpinned by scientific justification).
4 Regulatory Roles, Responsibilities and Structures

Summary of Section 4
This Position Paper proposes retaining the current three levels of food regulation in New Zealand, but reallocating roles and responsibilities among the regulators. This is a modified form of Option 2 as presented in Paper 2 of the Domestic Food Review.

NZFSA and Public Health Units will improve their mutual alignment on compliance, investigation, calibration, systems audit, and evaluating and approving Food Control Plans. Territorial Authorities are to provide a single point of entry for new food businesses, undertake registrations and any permitting, investigations, enforcement and verification.

The proposal is aimed at improving accountability and reporting lines while still ensuring an active role for local government. It is also aimed at providing a more focused role for Public Health Units (which would work more closely with NZFSA) and improving communication.

4.1 Background
In September 2004, NZFSA released DFR Paper 2, Regulatory Roles, Responsibilities and Structures. This described how the regulator currently operates at each level of government, identified issues associated with that operation, described the functions and responsibilities of the regulator, and explored options for the future regulatory regime for the food sector.

4.2 Current situation
As described in Paper 2, regulatory control of food safety and suitability in New Zealand is spread across three levels:

- central Government through NZFSA
- regionally through 12 Public Health Units in District Health Boards
- locally through 74 Territorial Authorities.

Public Health Units currently contribute to food administration in many areas, including consideration of food safety programmes, recalls, investigations, inspection of certain types of food businesses, and inspections of imported food. This is managed by contract between NZFSA and Public Health Units. As a result of this direct contractual relationship, there is opportunity for direction and leadership and NZFSA will look to enhance this over time.

Territorial Authorities currently implement the Food Hygiene Regulations under the Food Act without the benefit of any central support or guidance. Efforts to make the system work and frustrations with problems have been largely worked out at a local level. When initiatives have been taken by individual Territorial Authorities, the benefits have been limited to the particular Territorial Authority. This would not have arisen if the 74 authorities had been able to work collectively or collaboratively through a central coordinating agency.

4.3 Current problems
There are a number of problems with the current arrangements across local and central Government and across Public Health Units. These include:

- inconsistent compliance, registration and inspection
- variation and range of local food bylaw requirements across Territorial Authorities
- overlap between some local bylaws and national law
- a lack of defined roles and responsibilities
- a lack of central guidance or co-ordination
- a lack of clear lines of accountability
- inconsistency across sectors in NZFSA’s involvement in developing Codes of Practice
- no clear criteria to guide the level of involvement of NZFSA, leading to frequent confusion about when the Government will get involved.

4.4 Principles
A number of the Policy Principles set out in section 3.4 above are directly relevant to the roles and responsibilities of the regulator - in particular, Principle 1 (minimising government involvement), Principle 2 (the three-tier regulatory model), Principle 5 (consistency and equity) and Principle 6 (seamlessness and coherence).

Following these principles, the Paper proposed a number of criteria for judging the best arrangement. These were that the regime:

- must deliver on food safety and suitability outcomes
- must be cost-effective and efficient
- should provide a single point of contact for business and consumers as far as possible

4 The term ‘regulator’ is used generically to describe central government, Public Health Units in District Health Boards and Territorial Authorities/local government with food safety responsibilities
5 A full list of problems is included in DFR Paper 1.
• must promote consistency and equity
• must promote a seamless and coherent regulatory programme
• should remove unnecessary duplication in roles, responsibilities and activities as far as possible
• must maximise resources available across New Zealand and their effectiveness
• must provide clear lines of accountability and transparency of operation
• must provide accessibility and geographical coverage across New Zealand
• must ensure capability and capacity for delivery
• must maximise the connections among the communicable disease and public health outcomes Public Health Units are required to deliver
• must ensure ease and low cost of implementation and transition to any new regime.

On the whole, submitters agreed that these criteria were appropriate. One submitter suggested, for example, that “problems at the field inspection level are most likely to arise because of inconsistency of interpretation due to a lack of training and/or confusion of policy objectives and standards at a higher level”. Another offered that NZFSA should have the authority “to impose performance standards to which all local authorities should be subject. In the absence of a degree of uniformity, there is no level playing field for food business across the country.” Effective reporting chains were seen in submissions as crucial to the function of the future regulatory system. A submitter suggested that local authorities should “provide NZFSA with an annual report detailing work undertaken, similar to (their) reporting to the Liquor Licensing Authority”.

Accountability to the Ministers for Food Safety and Local Government was also seen as needing to be addressed in order to clarify roles and responsibilities. Several submitters noted that food safety roles are enhanced by elements of other roles in Public Health Units (especially communicable disease investigation) and in Territorial Authorities. Views were expressed that resources taken out of these units and centralised would have a large effect on the capacity and capability of public and environmental health roles, and would also impact on the other roles of Public Health Units and Territorial Authorities. Many submissions advocated a continued local authority role in food safety. Some favoured Territorial Authorities being the entry point for all operators, with one arguing that “the local knowledge and skills of the EHO [Environmental Health Officer] can often be used to deal with small issues before they become national nightmares”.

4.5 Preferred regulatory roles, responsibilities and structure

DFR Paper 2 presented six options for the structure of food regulation in New Zealand. These are summarised in Appendix 3.

The majority of submitters who commented on the options supported Option 2, which proposed that NZFSA and Public Health Units align on compliance, investigation, calibration, systems audit and complex Food Control Plan evaluations and approvals, with Territorial Authorities operating as entry points and dealing more broadly across their own communities.

This option was supported largely because it was the least disruptive of the options entailing change. Other reasons given were that this option clarifies the roles of each of the agencies and that it offers communities continued access around New Zealand. Under this option, both the Territorial Authorities and Public Health Units continue to be involved in food safety and suitability.

There was some support for alternatives that would fully or partially centralise food safety activities, thereby drawing resources out of Public Health Units and/or Territorial Authorities. These options would be costly for central government (eg, in creating and funding regional or local offices) and for Public Health Units or Territorial Authorities. Surveys undertaken by NZFSA for the DFR showed that Public Health Officers and Environmental Health Officers work on average around half of their time on food issues. This breadth of roles, which enhances their food safety roles, would not be available in a fully centralised system. If resources were lost from these agencies it would impact on the agencies’ ability to perform public and environmental health roles and other legislative functions.

Submitters identified ways that Option 2 could be improved by reallocating responsibilities and roles, in line with decisions in other areas of the DFR (notably in relation to Food Control Plans (FCPs)) and the more generic Food Handler Guidance (FHG) discussed in section 56. The suggestions were aimed at improving accountability and reporting lines while still ensuring an active role for local government, a more focussed role for Public Health Units (which would work more closely with NZFSA) and improved communication.

The following tables describe the functions of the regulator and the how the roles and responsibilities are to be assigned to regulator agencies. The responsibilities and roles for each agency are described as ‘required’, ‘designated/contracted’ or ‘optional’. The most significant distinction is between ‘responsibility’ and ‘role’. Responsibility entails direct accountability for the function - ie, ‘where the buck stops’. The term ‘role’ describes who may or must undertake the function.

These terms are defined as follows and are all competency-based to some degree.

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6 The DFR Papers proposed that all businesses, including those which are currently operating risk-based management programmes and those which are not, would be required to operate a FCP. It is now proposed that another type of programme, Food Handler Guidance (FHG), will apply to very small, lower-risk food operations.
A ‘required’ role or responsibility is one where the agency in question cannot opt out but where, for competency or other reasons, an alternative arrangement may be put in place to deliver the function under the oversight of the relevant agency. Employees of NZFSA may also be ‘designated’ to undertake a role in certain circumstances.

Note: This table is only about food-regulator functions, not about the functions of other key players in the food system.

<table>
<thead>
<tr>
<th>TERM</th>
<th>DEFINITION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Responsibility</td>
<td>direct accountability</td>
</tr>
<tr>
<td>Role</td>
<td>direct undertaking in the specified area</td>
</tr>
<tr>
<td>Required</td>
<td>where there is a requirement in law to undertake the activity or to arrange for the activity to be undertaken (such as by contract)</td>
</tr>
<tr>
<td>Designated/contracted</td>
<td>either designated in law or contracted between parties</td>
</tr>
<tr>
<td>Optional</td>
<td>where a Territorial Authority or Public Health Unit may select or choose to undertake a function for which it has sufficient capacity and competence; costs of taking on activities to be borne by the agency involved</td>
</tr>
</tbody>
</table>

Table 1: Regulation terminology

<table>
<thead>
<tr>
<th>FUNCTION</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Setting performance standards/criteria</td>
<td>Performance standards of the regulator, including determining the systems and skills required to undertake any part of the regulatory function. Reporting of data on regulator activities and collection of nationwide data on all food businesses.</td>
</tr>
<tr>
<td>Setting standards for food safety and suitability</td>
<td>Standards for food safety and suitability, including the development of templates and Codes of Practice for FCPs and content of FHG.</td>
</tr>
<tr>
<td>Systems audit</td>
<td>Audits across a sector or of single operators to ensure that the food regulatory system is operating effectively, efficiently and consistently. Also includes auditing third-party providers, and national programmes.</td>
</tr>
<tr>
<td>National regulatory programmes</td>
<td>Development of national programmes, such as Regulated Control Schemes.</td>
</tr>
<tr>
<td>Evaluation of custom-made FCPs</td>
<td>FCPs that are personalised to a business require independent evaluation.</td>
</tr>
<tr>
<td>Registration of FCPs</td>
<td>All FCPs will be registered, with the information held on a public register.</td>
</tr>
<tr>
<td>Delivering FHG and issuing any permits for FHG activities</td>
<td>TAs can continue to choose to permit or not activities subject to FHG.</td>
</tr>
<tr>
<td>Approval of recognised agencies or ‘persons’ and other things</td>
<td>Requirements/approvals for recognised third-party verifiers, evaluators, laboratories and equipment.</td>
</tr>
<tr>
<td>Investigations (safety and suitability)</td>
<td>Investigations of non-compliance and general complaints. Issues for investigation may be escalated. The intention is that a single regulatory agency is involved or takes the lead.</td>
</tr>
<tr>
<td>Enforcement (safety and suitability - sanctions and prosecutions)</td>
<td>Enforcement of New Zealand food regulation. Enforcement action may be escalated where necessary.</td>
</tr>
<tr>
<td>Emergency response and recall</td>
<td>Emergency response and recall of food products at both local and national levels.</td>
</tr>
<tr>
<td>Verification of FCPs</td>
<td>Regular verification of all FCPs.</td>
</tr>
<tr>
<td>Education</td>
<td>Government and non-government education of businesses, industry and consumers.</td>
</tr>
<tr>
<td>Facilitation of training</td>
<td>Facilitating regulator and business/industry training. Much of the training will come under the auspices of the relevant Industry Training Organisation (ITO).</td>
</tr>
<tr>
<td>Monitoring and surveillance</td>
<td>Monitoring and surveillance of food safety and suitability in New Zealand (eg, New Zealand Total Diet Survey).</td>
</tr>
<tr>
<td>Foodborne illness response</td>
<td>Foodborne illness investigations of products/premises and response as appropriate.</td>
</tr>
</tbody>
</table>

Table 2: Regulator functions
REGULATOR ROLES AND RESPONSIBILITIES

Note: This table reflects roles and responsibilities of the food regulator. The phrase ‘& 3rd parties’ is intended to signal a broader role for private businesses in a contestable area. The phrase ‘& other govt/non-govt agencies’ reflects other key players who have roles in particular functions.

Table 3: Regulator’s roles and responsibilities

<table>
<thead>
<tr>
<th>FUNCTIONS</th>
<th>REQUIRED</th>
<th>DESIGNATED/ CONTRACTED</th>
<th>OPTIONAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Setting performance standards/criteria for regulatory service providers in relation to roles and responsibilities. Monitoring and auditing Public Health Units (PHUs), Territorial Authorities (TAs) and NZFSA’s Verification Agency (VA) against those standards/criteria.</td>
<td>NZFSA responsibility</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Setting standards for food safety and suitability, including development of templates, Codes of Practice for FCPs and content of FHG</td>
<td>NZFSA responsibility</td>
<td>PHUs contracted role</td>
<td>TAs Provide input</td>
</tr>
<tr>
<td>Systems audit (ie, to ensure the system is effective, efficient and consistent). Consists of audits across a sector or of single operators. Also includes auditing third-party providers.</td>
<td>NZFSA responsibility</td>
<td>PHUs contracted role</td>
<td>--</td>
</tr>
<tr>
<td>Developing national regulatory programmes (eg, national residue programme)</td>
<td>NZFSA responsibility</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Verification of national regulatory programmes</td>
<td>--</td>
<td>NZFSA VA &amp; 3rd parties</td>
<td>--</td>
</tr>
<tr>
<td>Evaluation of custom-made FCPs</td>
<td>NZFSA responsibility</td>
<td>NZFSA VA &amp; 3rd parties</td>
<td>PHU role TA role</td>
</tr>
<tr>
<td>Registration of FCPs</td>
<td>NZFSA overall responsibility</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Registration of custom-made FCPs</td>
<td>NZFSA role</td>
<td>PHU contracted role for assessment</td>
<td>TA role</td>
</tr>
<tr>
<td>Registration of off-the-peg FCPs (NZFSA-approved templates/models)</td>
<td>TA role</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Delivering FHG and issuing any permits for FHG activities</td>
<td>TA responsibility</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Approval of recognised agencies or ‘persons’ and other things (eg, verifiers, labs, equipment etc.)</td>
<td>NZFSA responsibility</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Investigations (safety and suitability)</td>
<td>NZFSA overall responsibility</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Non-compliance going beyond the resources or legal boundaries of TAs</td>
<td>NZFSA responsibility</td>
<td>PHU contracted role</td>
<td>--</td>
</tr>
<tr>
<td>Non-compliance of national significance</td>
<td>NZFSA responsibility</td>
<td>PHU contracted role</td>
<td>--</td>
</tr>
<tr>
<td>Non-compliance where there is otherwise a conflict of interest</td>
<td>TA role</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Non-compliance within TAs’ boundaries not covered by the above</td>
<td>TA role</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Complaints within TAs’ boundaries not covered by the above</td>
<td>TA role</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Enforcement (safety and suitability - sanctions and prosecutions)</td>
<td>NZFSA overall responsibility</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Enforcement action going beyond the resources or legal boundaries of a TA</td>
<td>NZFSA responsibility</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Enforcement action of national significance</td>
<td>NZFSA responsibility</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Enforcement action re custom-made FCPs</td>
<td>NZFSA responsibility</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Enforcement where there is otherwise a conflict of interest</td>
<td>NZFSA responsibility</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>General enforcement action</td>
<td>NZFSA responsibility</td>
<td>PHU contracted role</td>
<td>TA role</td>
</tr>
<tr>
<td>Localised enforcement action</td>
<td>NZFSA responsibility</td>
<td>PHU contracted role</td>
<td>TA role</td>
</tr>
<tr>
<td>Enforcement action re off-the-peg FCPs</td>
<td>NZFSA responsibility</td>
<td>--</td>
<td>--</td>
</tr>
</tbody>
</table>

7 NZFSA will involve Territorial Authorities in the work of NZFSA
8 NZFSA Verification Agency
9 NZFSA Verification Agency
### 4.5.1 Discussion

The proposed arrangements, with their improved clarity in roles and responsibilities, will enable service provision to be as seamless as possible. Territorial Authorities will be supported and promoted as the ‘front door’ for the food industry, regardless of the type of business concerned. This will provide a single, accessible point of first contact for businesses, and will enable Territorial Authorities to provide information on food safety and suitability alongside their other regulatory requirements (such as liquor licensing, building consents and trade waste).

To manage this operationally, it is envisaged that an overarching framework will be established, including competency standards and a benchmarking process. Liaison and communication arrangements will need to be established among Territorial Authorities, Public Health Units and NZFSA.

Businesses that have historically dealt with NZFSA, such as primary processors covered by the Animal Products Act, will continue to do so. Registration information on those businesses will be provided to Territorial Authorities in due course (once systems are established) so that Territorial Authorities have, or have access to, a complete record of all businesses in their area. For new businesses entering the system through a Territorial Authority, the Territorial Authority would identify whether that business should go to NZFSA.

<table>
<thead>
<tr>
<th>Activity</th>
<th>NZFSA responsibility</th>
<th>PHU contracted role</th>
<th>TA role</th>
</tr>
</thead>
<tbody>
<tr>
<td>Emergency response and recall (NZFSA lead)</td>
<td>NZFSA responsibility TA role</td>
<td>PHU contracted role</td>
<td>--</td>
</tr>
<tr>
<td>Verification of FCPs</td>
<td>NZFSA VA &amp; 3rd parties</td>
<td>--</td>
<td>TA role</td>
</tr>
<tr>
<td>Custom-made FCPs</td>
<td>--</td>
<td>--</td>
<td></td>
</tr>
<tr>
<td>Off-the-peg FCPs</td>
<td>--</td>
<td>--</td>
<td></td>
</tr>
<tr>
<td>Education</td>
<td>NZFSA role &amp; other govt/ non-govt agencies</td>
<td>--</td>
<td>PHU role TA role</td>
</tr>
<tr>
<td>Business/industry</td>
<td>NZFSA role &amp; other govt/ non-govt agencies</td>
<td>--</td>
<td>PHU role TA role</td>
</tr>
<tr>
<td>Consumer</td>
<td>NZFSA role &amp; other govt/ non-govt agencies</td>
<td>--</td>
<td>PHU role TA role</td>
</tr>
<tr>
<td>Facilitation of Training</td>
<td>NZFSA responsibility &amp; other govt/ non-govt agencies</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Regulator training</td>
<td>--</td>
<td>--</td>
<td></td>
</tr>
<tr>
<td>Business/industry training</td>
<td>NZFSA responsibility &amp; other govt/ non-govt agencies</td>
<td>--</td>
<td>PHU role TA role</td>
</tr>
<tr>
<td>Monitoring and surveillance (eg, New Zealand Total Diet Survey)</td>
<td>NZFSA responsibility</td>
<td>PHU contracted role</td>
<td>--</td>
</tr>
<tr>
<td>Foodborne illness response (investigations of products and premises, and follow-up)</td>
<td>NZFSA responsibility TA role</td>
<td>PHU contracted role</td>
<td>--</td>
</tr>
</tbody>
</table>
5 Food Control Plans and Food Handler Guidance

Summary of Section 5
This Position Paper proposes two types of Food Control Plans (FCPs), plus a new tool, namely Food Handler Guidance (FHG), in order to improve and simplify food safety in New Zealand.

‘Custom-made’ FCPs apply to more complex businesses, such as food manufacturers. ‘Off-the-peg’ FCPs are for simpler businesses, such as retail outlets. FHG apply to generally very small, one-off events such as barbecue fundraisers and food stalls.

This proposal is expected to produce more consistent and equitable effects on businesses that share similar risks, while simplifying procedures and continuing to promote food safety and suitability.

5.1 Introduction
Paper 3 of the DFR detailed proposals for introducing Food Control Plans (FCPs). This section discusses the proposals set out in that paper, some of the comments made by submitters on those proposals, and suggests a way forward.

The proposals take into consideration submissions, as well as the general guidance for regulatory intervention in the Government’s Code of Good Regulatory Practice. This section details the FCPs that are intended to be introduced. It also covers the newly proposed Food Handler Guidance (FHG), and includes detail on the criteria, application, content, approaches to and the development of FCPs and FHG.

Section 6 of this document, which deals with implementation issues, discusses whether or not FCPs will require evaluation, registration and/or verification and details on FHG.

5.2 Problem definition
NZFSA has a responsibility to the Government to reduce the incidence of foodborne illness in New Zealand through ensuring safe and suitable food. The DFR has found that the food regulatory programme is very prescriptive in some sectors, while in others there are gaps. In some areas the requirements are not transparent, leading to a misconception that certain activities do not fall within a regulatory framework. The overall result is that the food regulatory programme is producing inconsistent and inequitable effects on businesses that share a similar risk.

5.3 Types of regulatory response
Paper 3 proposed that there be three levels of regulatory intervention. These are national programmes, Food Control Plans and other regulatory programmes (see Figure 4).

National Programmes\(^\text{10}\) are developed where it is more feasible or practicable for risks to be managed nationally rather than by an individual business. Where there is no existing national programme, the regulatory response would generally be a requirement for a FCP.

A key benefit of introducing FCPs is that they provide, in one place, all the information and references on how a food operator will comply with the various requirements a food business needs to ensure safe and suitable food. Given the multiple Acts, standards and regulations that cover food safety and suitability, the FCP approach is expected to simplify compliance and address the misconception that some areas are not covered by food regulations. FHG will deliver similar, simplified information for very small food activities.

Food Control Plan Principle 1
DFR Paper 3 proposed Food Control Principle 1, that “All ‘persons’ will have and implement a documented Food Control Plan unless agreed alternative mechanisms are in place”. Submitters who commented on this principle indicated that they supported it.

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\(^\text{10}\) National Programmes are initiated and developed by regulation. For example, the existing Animal Products (Regulated Control Scheme-Contaminant Monitoring and Surveillance) Regulations 2004.

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Submitters expressed some concerns on how FCPs might be implemented. Concerns centred mainly around the need for flexibility to cater for different sectors - for example, ‘persons’ preparing and selling food in small and medium-sized enterprises; volunteer and fundraising groups; farming families providing food for workers; volunteers who do commercial catering; and the produce sectors (fruit and vegetable growers). Individual submitters argued that ‘persons’ should be required to have FCPs where they are involved in activities such as transporting food, importing food\textsuperscript{11}, storing food (warehouse operators), and offering guest and hosted accommodation. Other submitters indicated that FCPs were particularly important for dairies, takeaways and restaurants. Submitters indicated that they supported alternatives to FCPs.

As already noted, NZFSA is proposing an addition to the intended framework - namely the tool Food Handler Guidance (FHG). This tool falls under the ambit ‘Other Programmes’ a non-regulatory response (see Figure 4). FHG would essentially be educational guidance. This would be developed by NZFSA but delivery will be the responsibility of Territorial Authorities. Although the concept of educational guidance was originally intended to be included under FCPs, the change of name is expected to make it clear - especially for events such as barbecue fundraisers and cake stalls - that this guidance will be tailored to the needs of the smallest operators, yet is intended to achieve a similar outcome in terms of safety and suitability. NZFSA considers that FCPs and FHG together will provide flexibility and clarify the requirements for the various food sectors.

### Food Control Plan Principle 2

Paper 3 proposed Food Control Plan Principle 2, namely that “Food Control Plans will cover all relevant safety and suitability issues”. Submitters who commented on this principle supported it. Some submitters, however, sought clarification of the term ‘suitability’. This term is included in the glossary in Appendix 2. It is not expected that NZFSA would mandate suitability requirements outside of those mandated under current legislation. These mostly relate to food labelling and composition. It is also important to note that some labelling is safety-related and falls within the definition of food safety (see the definition of ‘food safety’ in the glossary). In general, most food safety and suitability issues would be covered under Good Operating Practice (see section 5.6). FHG would also cover relevant safety and suitability issues.

#### 5.4 Application of Food Control Plans

FCPs would either be custom-made by businesses (where the business takes responsibility for the development of the FCP and evaluation is necessary) or off-the-peg (in which case NZFSA would have approved a FCP template). NZFSA will provide advice on which is appropriate in which circumstances. As already outlined in section 3 the advice will be informed by the overarching DFR Principles, the risk-based management framework and the Government’s Code of Good Regulatory Practice. For example, the key criterion in the Code is efficiency. If there are a large number of businesses operating a similar process, NZFSA may determine that in the interest of efficiency it is preferable to develop an off-the-peg FCP for those businesses. On the other hand, it would be unlikely to do so if there were only one or two businesses operating a particular type of process.

In general, custom-made FCPs are for more complex businesses, such as food manufacturers, because they are likely to have variable processes. Many businesses that would likely be required to have a custom-made FCP already operate a risk-based management programme. Such existing programmes would be deemed equivalent for a specified period to enable a smooth transition to FCP requirements (if in fact there is any difference in requirements). Any minor differences will be addressed as part of the regular review cycle (ie, at re-registration).

Some businesses may need some degree of customisation even when they utilise an off-the-peg FCP. For example, corner dairies are likely candidates for an off-the-peg FCP, but an individual dairy may be required to develop a custom-made safety and suitability procedure for any operation that varies significantly from the standard scope or practices in an off-the-peg FCP.

In general, off-the-peg FCPs would be prepared for businesses of moderate complexity; for example, if a business was deemed medium-risk and NZFSA considered it more efficient to develop an off-the-peg FCP for its type of business. Such businesses will tend to be those that are currently registered under the Food Hygiene Regulations.

#### Criteria for determining whether an off-the-peg FCP or a custom-made FCP is appropriate

As already noted, the criteria will be informed by the overarching DFR Principles, the risk-based management framework and the Government’s Code of Good Regulatory Practice. NZFSA will consider a number of different criteria when deciding whether to develop an off-the-peg FCP for an activity, or whether instead a custom-made FCP would be required for an industry or individual business. NZFSA will weigh up the benefits and disadvantages of each criterion in deciding which is appropriate. Table 4 shows examples of the sorts of criteria that could be considered, and their impact in determining which FCP might be appropriate.

\textsuperscript{11} The importing of food is subject to a separate review and is not covered by the DFR.
5.5 Content of Food Control Plans (FCPs)

DFR Paper 3 outlined a range of components that a FCP would cover at a level appropriate to each business. Submitters considered that a key issue was simplicity. They commented that the FCPs must be practicable, use simple language and avoid complexity. Submitters suggested minimal documentation should be required.

The content of custom-made FCPs and off-the-peg FCPs would be similar. The content would include: responsibilities; administrative details of relevant authorities; scope; relevant regulatory requirements; training and external verification; documentation and record-keeping, including details on Good Operating Practice, Hazard Analysis and Critical Control Point (HACCP) principles; and suitability requirements where relevant. Off-the-peg FCPs may be template-like and operators would likely need to fill in specific information according to their individual circumstances.

An example of an off-the-peg FCP for a corner dairy is provided in Appendix 4.

5.6 Approaches to FCPs - Good Operating Practice and Hazard Analysis and Critical Control Point

Food Control Plan Principle 3

DFR Paper 3 proposed Food Control Plan Principle 3, namely that “Food Control Plans will be based on Good Operating Practice (GOP) covering both safety and suitability, and on HACCP principles for food safety related to the process and intended use of the product”.

GOP covers all aspects of satisfactory processes relevant to food safety and includes elements of Good Agricultural Practice, Good Hygienic Practice and Good Manufacturing Practice currently used across the various industries. The key elements were covered in DFR Paper 3.

The Food Hygiene Regulations prescribe some basic, generic hygiene processes that must be met. These Regulations are now out of date, and the requirements are not consistently enforced by Territorial Authorities. The Food Hygiene Regulations would be updated to provide a starting point for Good Operating Practice. Good Operating Practice is the basic building block in preparing a FCP, and HACCP principles should be applied after Good Operating Practice components of the FCP are in place. HACCP “identifies, evaluates, and controls hazards which are significant for food safety”\(^\text{12}\) and focuses on specific hazards that are significant for food safety. The HACCP principles are set out in Appendix 5.

Most submitters who commented on this aspect supported the principle that FCPs be based on Good Operating Practice. The large majority of submitters who commented on HACCP supported using such principles for food safety according to the process and intended use of the product.

However, some considered that HACCP was very complex and should be required of large businesses only. NZFSA proposes to deal with this concern by applying the relevant HACCP principles to off-the-peg FCPs and to FHG. Under the intended framework, only those businesses that operate a custom-made FCP (or develop a custom-made section of a FCP) will be required to apply HACCP principles themselves and, sometimes, approved Codes of Practice will assist this.

NZFSA-approved Codes of Practice

NZFSA-approved Codes of Practice may be developed and ‘owned’ either by industry or by NZFSA. They set out a means of meeting regulatory requirements for safe and suitable food, and can be used as reference documents for FCPs. Such documents may be industry-specific (eg, the Ice Cream Code of Practice) or process-specific (eg, the Code of Practice for the Supply of Colostrum).

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\(^{12}\) Codex General Principles of Food Hygiene. Available from Codex Alimentarius Commission website: [www.codexalimentarius.net](http://www.codexalimentarius.net)
5.7 Development of FCPs - Custom-made, and off-the-peg approved by NZFSA

DFR Paper 3 proposed a number of ways for ‘persons’ to have choice in arriving at an appropriate FCP. As noted above, there is now a distinction between the two types of FCPs and a new tool, FHG. While NZFSA will provide guidance on who requires which tool, there will be some choice in arriving at the solution appropriate to business needs. For example, a business may innovate by varying markedly the standard scope or practice, provided this is done through a customised and NZFSA-approved FCP. However, if NZFSA determines that a business should operate a custom-made FCP, it would not be able to downgrade to an off-the-peg FCP or FHG. Likewise, if NZFSA determined that a business should operate an off-the-peg FCP, it would not be able to downgrade to FHG.

Businesses would be responsible for developing their own custom-made FCPs and for the associated cost, but NZFSA may provide guidance or assistance as appropriate. In doing so, NZFSA would look to adapting material previously developed in other areas, such as the Animal Products Act’s Risk-Management Programme Manual.

Industry or consultants may wish to develop their own non-approved FCP templates. These would be considered custom-made because they would not be pre-evaluated by NZFSA. These will require evaluation (see section 6.5.1) each time they are registered for a new business. The benefit to the consultant or industry of a non-approved template is that it would remain the intellectual property of the consultant or industry that developed it.

The development of off-the-peg FCPs may be led by NZFSA in consultation with relevant stakeholders. They could also be developed and led by industry in consultation with NZFSA. Either way, if NZFSA approves them, the intellectual property remains the property of NZFSA and the FCPs would be publicly available and at no cost.

Resource material such as Codes of Practice from other countries may be useful guides or examples for developing off-the-peg FCPs.

5.8 Food Handler Guidance (FHG)

Food Control Plan Principle 4

DFR Paper 3 proposed Food Control Plan Principle 4 namely that: “Alternative methods to meet requirements set in law may be used where equivalent control of hazards, safety and suitability issues can be demonstrated to the regulator’s satisfaction”.

FHG is guidance material covering essential food safety and suitability requirements and intended to be used as an alternative mechanism for very small food activities.

FHG will consist of guidance material in the production, processing, preparation and/or storage of food for sale. FHG will be delivered by Territorial Authorities to the people running events such as barbecue fundraisers and food stalls. The current practice will continue whereby Territorial Authorities have the option of operating a permit system in order to deliver food safety information to people running events such as barbecue fundraisers and food stalls (see section 6.6).

The criteria for determining who might need FHG will be informed by the overarching DFR Principles, the risk-based management framework and the Government’s Code of Good Regulatory Practice (as outlined in section 3).

FHG is generally suitable for very small operations selling food:

- that have a small sphere of impact - that is, they serve or sell food to a comparatively small number of people
- that are at the lower end of the risk scale
- that are involved with community and/or fundraising activities (eg, charitable organisations) and
- where operational frequency is minimal.

The aim of FHG is to achieve similar outcomes to FCPs in food safety and suitability.

It is proposed that FHG will be simple-to-follow guidance material, probably consisting of not more than one double-sided page. It will include information to explain why certain practices should be undertaken. An example of what FHG may look like for a barbecue fundraiser is provided in Appendix 6.
5.9 Content, approaches and development of FHG

Different types of FHG will be created for various types of food businesses. Many will be generic, with room for adjustment to the particular situation of the food business. Territorial Authorities will have responsibility for delivering FHG.

The essential elements FHG will contain are as follows:
• Good Operating Practice
• any food or process controls
• any applicable labelling or composition requirements.

Good Operating Practice relates to the management of hygiene, contamination, pests etc. It is expected that all FHG will contain generic guidance on Good Operating Practice, plus specific Good Operating Practices appropriate for the circumstances.

The food process or control section will contain any information about how the specific food(s) need(s) to be managed safely, indicating the processes used or the controls put in place to manage hazards and risks (this may be as simple as keeping food on ice or refrigerated below 4°C). This section will tell persons to check that the ingredients or foods were sourced from registered premises, were within expiry dates etc.

The labelling/composition section will refer to the Food Standards Code and to guidance material to assist food businesses to meet the needs of consumers in relation to such things as allergenic ingredients.

5.10 Interim measures while off-the-peg FCPs are being developed

The implementation of FCPs and FHG is likely to be phased in over a period of at least five years. In order to manage this transition, a default mechanism is likely to be used to ensure food safety while off-the-peg FCPs are developed. This could take the form of any of the following:
• national programmes (for example, regulated control schemes)
• specifications developed by NZFSA outlining basic food safety and hygiene requirements
• updated Food Hygiene Regulations.

5.11 Conclusion

All ‘persons’ will be required to operate a FCP unless FHG is identified as being appropriate (if they are not already covered by a national programme). NZFSA will determine whether ‘persons’ will require a FCP or be eligible for FHG.

There are two main types of FCPs - off-the-peg and custom-made. In general, custom-made FCPs will be for more complex businesses. Many businesses that would be required to have a custom-made FCP already operate a risk-based management programme. Custom-made FCPs will also include those who operate a food business that varies significantly from the standard scope or practices in an off-the-peg FCP.

In general, off-the-peg FCPs will be for those businesses that are of moderate complexity. The types of businesses that will operate an off-the-peg FCP are likely to be those that are currently registered under the Food Hygiene Regulations.

FHG is suitable for very small food selling operations:
• that have a small sphere of impact - that is, they serve or sell food to a comparably small number of people
• that are at the lower end of the risk scale
• that are involved with community and/or fundraising activities (eg, charitable organisations) and
• where operational frequency is minimal\(^{14}\).

The transition period for implementing FCPs and FHG is likely to be at least five years. Off-the-peg FCPs and any FHG will be provided by the local Territorial Authority.

FCPs and FHG will cover safety and suitability issues. Suitability mostly relates to food labelling and composition and the requirements would be of the type mandated under current legislation.

NZFSA will apply HACCP principles to FHG and off-the-peg FCPs where relevant. Only those businesses that are required to operate a custom-made FCP or develop their own custom-made section of a FCP will be required to apply HACCP principles themselves. That will often be assisted by Codes of Practice that incorporate HACCP principles.

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\(^{14}\) Minimal is defined as: less than 10 days (in total) per annum at any location having no storage of food on site of the event between days of operation.
6 Implementation of Food Control Plans and Food Handler Guidance

Summary of Section 6

This Position Paper proposes a number of steps to ensure that FCPs meet food safety objectives equitably and efficiently. These include:

- developing Codes of Practice to establish basic standards
- evaluating each FCP to ensure it is suitable for the intended purposes
- registering each FCP before it is put into use
- verifying that each FCP is being properly implemented in the relevant business.

It is proposed that verification may be undertaken by either third parties (ie, non-government businesses), or Territorial Authorities (ie, local government), who must be accredited to international standards or similar and registered within New Zealand. Delivery of FHG is to be the responsibility of Territorial Authorities.

6.1 Introduction

This section discusses the implementation of the proposed FCPs and FHG. The section describes the elements of the proposed regulatory structure and processes, including the design and development of FCPs and FHG, evaluation, registration and verification of FCPs. The discussion includes the accreditation and recognition of evaluators and verifiers.

6.2 Problem definition

This Position Paper proposes to clarify and simplify how food businesses meet New Zealand’s standards for food safety and suitability.

Though many businesses would be likely to transfer to the proposed FCP system fairly smoothly (through deemed recognition of risk-based management plans as FCPs), a greater challenge is that some sectors of food production are not currently explicitly required to control risks and hazards.

6.3 Proposals to date

During 2004, Papers in the DFR suggested a number of ways to improve food safety regulation in New Zealand. These documents included ‘implementation principles’, including:

- **Principle 1: Design and development** - Codes of Practice containing templates and/or models will be developed by NZFSA, sometimes in conjunction with industry groups, to support the design and development of FCPs. These guides will be approved by NZFSA.

- **Principle 2: Evaluation** - Independent evaluation of custom-made FCPs will be required.

- **Principle 3: Registration** - All registrations of FCPs are to be time-limited, and only a significant change to the Plan will trigger re-registration before the end of the set time limit. Other conditions may apply to the registration of FCPs when appropriate.

- **Principle 4: Verification** - External verification will be performed by recognised agencies and individuals, with the verification costs borne by food businesses. Food businesses that demonstrate high levels of compliance with FCPs will undergo less frequent or less intensive verification than those with a lower level of compliance.

- **Principle 5 Accreditation and recognition of verifiers** - NZFSA’s recognition of third-party agencies performing external verification and evaluation will be based on accreditation to ISO 17020 or similar and relevant secondary criteria set by NZFSA. Duties will be applied to recognised individuals and agencies that undertake external verification and/or evaluation functions.

Full explanations of the background to these policy principles can be found in Paper 4 of the DFR consultation series, Implementation of Food Control Plans.

6.4 Implementation of FCPs

6.4.1 Types of FCPs

There are two types of FCP: custom-made and off-the-peg. Each has different implications on the need for evaluation, and which bodies undertake registration and verification.

It will be possible for food operators to upgrade from using FHG to off-the-peg FCP, or from an off-the-peg FCP to custom-made FCP. It will not, however, be possible to downgrade a FCP because a downgrade would not manage the risks appropriately.

Table 5 sets out the type of FCP and outlines what will be required in terms of evaluation, registration and verification of FCPs.

A custom-made FCP will allow a food business to design a FCP to manage the risks and hazards particular to its specific processes. Where the template does not cover part of a food business, the template can be adapted by adding a custom-made component. An off-the-peg FCP will allow a food business to adopt a template FCP for managing food safety and suitability.
6.5 FCP Codes of Practice

FCP Codes of Practice\(^\text{15}\) will set out:

- acceptable or agreed practices (e.g., GOP, see section 5.6) for a specific industry, labelling and composition requirements, etc
- regulatory requirements for that industry
- FCP Codes of Practice may also contain sample FCPs or FCP templates to guide food businesses on the risks relevant to their processes.

If a NZFSA-approved Code of Practice contains a FCP template, the template will be considered an approved off-the-peg FCP and will not be required to undergo the evaluation phase.

NZFSA is committed to working collaboratively with industry to develop these tools, and proposes to have Codes of Practice freely available. Codes will be developed in an open and transparent manner, with opportunities for third parties to contribute to the process.

Not all industries or food businesses may wish to develop a Code of Practice.

Table 5: Types of Food Control Plans

<table>
<thead>
<tr>
<th>TOOL</th>
<th>EVALUATION?</th>
<th>REGISTRATION?</th>
<th>VERIFICATION?</th>
<th>EXAMPLES</th>
</tr>
</thead>
<tbody>
<tr>
<td>FCP Custom-made</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>NZFSA Verification Agency (VA), private third-party evaluators, Public Health Units (PHUs) or Territorial Authorities (TAs)</td>
</tr>
<tr>
<td>FCP Off-the-peg, with some custom-made sections</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>NZFSA, PHUs (some steps) or TAs</td>
</tr>
<tr>
<td>FCP Off-the-peg</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>TAs, third-party verifiers or NZFSA VA</td>
</tr>
</tbody>
</table>

6.5.1 FCP Evaluation

All off-the-peg FCPs will be pre-evaluated by NZFSA for meeting regulatory requirements. The scope and suitability of the FCP to the business will be checked during the first verification visit.

The objective of evaluation is to determine whether a custom-made FCP complies with regulatory requirements and is appropriate to the particular business. The evaluator will usually assess the FCP with an on-site inspection of the premises. This evaluation considers whether the proposed FCP:

- contains the necessary information
- is based on GOP (see section 5.6)
- is consistent with HACCP principles
- appropriately identifies and manages the risks of the particular food business.

Evaluation of FCPs may be undertaken by third-party evaluators who are recognised by NZFSA for this function. Their qualifications, accreditation and recognition are discussed later in this section.

Evaluation may also be undertaken by NZFSA’s Verification Agency (VA), Public Health Units or Territorial Authorities depending on arrangements.

Evaluators will issue the FCP-holder with an evaluation report confirming the key details of the FCP evaluation. This will be submitted with other documentation for FCP registration.

Table 6: Evaluation of Food Control Plans

<table>
<thead>
<tr>
<th>TYPE OF FCP</th>
<th>Custom-made</th>
<th>Off-the-peg, with some custom-made sections</th>
<th>Off-the-peg</th>
</tr>
</thead>
<tbody>
<tr>
<td>EVALUATION</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>WHAT IS BEING EVALUATED</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• meets regulatory requirements</td>
<td></td>
<td>• custom-made and off-the-peg parts fit together</td>
<td></td>
</tr>
<tr>
<td>• appropriate to the business</td>
<td></td>
<td>• meet regulatory requirements</td>
<td></td>
</tr>
<tr>
<td>• covers scope of the business</td>
<td></td>
<td>• appropriate to the business</td>
<td></td>
</tr>
<tr>
<td>• scope and applicability checked at first verification visit</td>
<td></td>
<td>• covers scope of the business</td>
<td></td>
</tr>
</tbody>
</table>

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\(^{15}\) Other Codes of Practice already in existence will contain different components, depending on the purpose of the Code of Practice and the regulatory regime it currently sits under. The Codes of Practice described here are those that may be created specific to the new FCP regime. Existing Codes of Practice may require updating over time.
6.5.2 FCP registration

The FCP registration process confirms that the FCP meets regulatory requirements. This will involve steps including:

- checking that the FCP contains all the necessary information, is accompanied by an evaluation report, and is generally appropriate to the business.
- a check to determine if the FCP holder is a ‘fit and proper person’ (eg, as for a liquor licence, whether a person holds any relevant criminal convictions). This could be done in two parts - the initial part may involve the ‘person’ completing a form outlining any relevant criminal convictions. The actual police check may be done at a later stage. This is to ensure registration will not be delayed.

The FCP registration records information such as the name of the FCP holder, the nature of the food business, the location of the food business and the period for which the FCP is valid. The information collected by NZFSA or the Territorial Authority will be entered into a public register, similar to the Risk Management Programme register that NZFSA currently operates. The FCP register will let members of the public know who is responsible for a FCP; assist in the management of an emergency situation, such as a major foodborne illness outbreak; and facilitate administrative functions.

A range of bodies will undertake the registration processes, as Table 7 shows. The way businesses operate, and what they produce and how they produce it, changes over time. Therefore, FCP registrations will be time-limited and non-transferable.

Processes for dealing with minor and significant amendments to FCPs in relation to registration will be provided by way of guidelines, principles or essential elements in law. These processes will be pragmatic and will reflect the policy principle that compliance costs to the food sector will be minimised.

It will not be necessary or appropriate to re-register a FCP for every minor change that occurs in the operation of the food business. However, re-registration will be required when:

- there is a change of ownership of the business (with re-registration requirements flexible, according to the impact of the change of ownership);
- a significant change in the FCP is to take place or is proposed;
- a series of minor changes in the FCP together constitute a significant change;
- the registration has lapsed or is about to lapse.

Commensurate with the registration process there will be the ability to suspend or withdraw a FCP.

<table>
<thead>
<tr>
<th>TYPE OF FCP</th>
<th>Custom-made</th>
<th>Part custom-made</th>
<th>Off-the-peg</th>
</tr>
</thead>
<tbody>
<tr>
<td>REGISTRATION</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>BY WHOM?</td>
<td>NZFSA, PHUs (some steps) or TAs</td>
<td>NZFSA, PHUs (some steps) or TAs</td>
<td>TAs</td>
</tr>
</tbody>
</table>
6.5.3 FCP verification
 Verification is designed to ensure that the business operations comply with the FCP.

Verification will involve a physical inspection of the premises and a review of all related records. Verification checks that the FCP is being followed, is appropriate to how the business operates, and is managing and minimising food risks adequately. This includes Good Operating Practices being followed, risks and hazards being managed, and safe and suitable food being produced, manufactured, processed or prepared.

Verification costs will be paid for by each food business, in accordance with Implementation Principle 4 (see section 6.3) that verification will be performed by recognised agencies and individuals, with costs borne by the food business, and Policy Principle 4 (see section 3.4) that food businesses are responsible for producing safe and suitable food.

Verification of FCPs may be undertaken by a range of different bodies, including third-party verifiers, Territorial Authorities and NZFSA VA.

Rationale for the range of verifiers
 Many Territorial Authorities expressed a willingness to continue to provide verification services to local businesses. They emphasised the important role their staff play in assisting local businesses to achieve food safety and suitability, and NZFSA acknowledges this.

Food businesses will generally have the choice of using either Territorial Authorities or third-party verifiers. Territorial Authorities’ continued involvement in registering and verifying food businesses addresses concerns in submissions about:

- costs to small-medium businesses
- the geographical spread and therefore potential non-availability of third-party verifiers in rural areas.

Territorial Authorities will have a role in verifying off-the-peg FCPs and can choose to have a role in verifying customised FCPs (for more information on roles see section 4 Regulatory roles, responsibilities and structures). In both cases, Territorial Authorities will need to meet the accreditation requirements of ISO 17020 or a similar standard and NZFSA’s recognition requirements for verification activities. A graduated transition programme to reach this level of accreditation and recognition will be developed, running alongside the DFR’s other transitional and implementation programmes. This will allow Territorial Authorities to establish a phased programme to develop the skills and competencies for any continued role in FCP verification.

This arrangement will permit many of the alternative regimes that are in place across New Zealand Territorial Authorities - for example, where a Territorial Authority undertakes food activities for its own area and that of an adjacent Territorial Authority, or where such activities are contracted out.

ISO 17020 addresses conflict-of-interest concerns expressed by submitters. The ISO 17020 standard has very strict criteria around the management of any conflict of interest situation (potential commercial pressure, individuals involved in the development of FCPs may not verify the same FCP etc).

Verification of custom-made FCPs would normally require specialist skills and competencies, and is expected to be reserved for those agencies (not necessarily excluding Territorial Authorities) that are fully accredited and recognised as specialists.

Performance-based verification
 The verification of FCPs will be performance-based. This means that the frequency and intensity of verification will depend on the quality of a food business’s compliance with its FCP.

Generally, a food business will be required to undergo annual verification. However, this frequency may increase or decrease depending on whether:

- the business is at ‘entry-level’ (ie, operating under a FCP for the first time), and/or
- the business has failed to comply with its FCP in some way, and/or
- the business is a high-risk, complex food business.

Any of these scenarios may increase both the frequency and intensity of verification - for example, examining the business and its processes in more detail or over a longer period of time.

This fits with the Implementation Principle 4 (see section 6.3) that businesses that demonstrate a high level of compliance with their FCPs will undergo less frequent or less intensive verification than those with a lower level of compliance. They will however not drop to a level that is inadequate.

The cost of each verification visit would be charged to the food business, so it is in the business’s interests to ensure it follows its FCP. This is based on the policy principle that ‘persons’ (ie, food businesses) will be responsible for producing safe and suitable food.
6.5.4 Accreditation and recognition

Third-party evaluators and verifiers will need to be ‘accredited’ to ISO 17020 or a similar standard and other NZFSA criteria, if any, in order to be ‘recognised’ by NZFSA to undertake evaluation or verification functions. In order to be recognised, an agency must demonstrate relevant technical knowledge and experience (competencies). Responsible persons (eg, the business owner, production manager) would be required to undergo a fit-and-proper-person test that reviews a person’s character and reputation. The recognition process would also require adequate documented procedures to manage potential conflicts of interest, maintenance of staff technical competencies and adequate resourcing. An agency must be independent of the business whose FCP is being evaluated or verified. An agency may be made up of only one person.

Both evaluators and verifiers would have certain duties and obligations to NZFSA, even though they are private, commercial businesses. These duties and obligations would be prescribed in legislation.

Certain conflict-of-interest provisions would be put in place to ensure the individual/agency who designed a custom-made FCP for a food business could not evaluate that FCP, nor could the individual/agency who evaluated the FCP verify the FCP. These conflict-of-interest provisions would be time limited. For example, the evaluator of a FCP would not be allowed to verify the FCP for, say, a two-year period.

ISO accreditation

Some submissions to the DFR suggested ISO 17020 might be too onerous and that ISO Guide 65 would be more appropriate. However, ISO Guide 65 is a standard relating to product certification systems. ISO Guide 65 is not an inspection or auditing standard, and does not contain independence and conflict-of-interest provisions, nor requirements for technical competencies of personnel as in ISO 17020.

The proposed FCP system is not based on certification of products or consignments, but is based on verifiable compliance with an overall food safety and suitability management system appropriate to a particular food business. Accrediting verification businesses to a product certification standard would not be appropriate.

ISO 17020 is an accreditation standard for inspection bodies, and includes requirements for independence; conflicts of interest; non-discriminatory service; staff training and resourcing; and ensuring the competencies of staff.

ISO 17020 also allows for a ‘team-leader’ approach, with an agency’s team leader supervising other staff, without each staff member needing a witness audit (onsite observation). This is a particularly useful provision for evaluation and verification agencies entering the market.

NZFSA will work with the accreditation body to allow team leaders to lead transitional staff (ie, staff not yet recognised, but on the track for recognition). This will be on a case-by-case basis, depending on each verification business’s arrangements for ensuring consistency, transparency and training for transitional staff.

The Animal Products, Food, and Wine Acts, together with the Official Organic Assurance Programme, each set out criteria that must be met by an applicant who wants to become a third-party verifier. The criteria are similar under each of the Acts - each includes impartiality, independence and a ‘fit and proper person’ test. The application processes are also similar (made in writing, accompanied by a fee and relevant documentation). It is intended that these be harmonised and set out in legislation for agencies that evaluate and verify FCPs.

Legislation will also provide for some form of appeal or complaint process where an application to be a recognised evaluator or verifier is declined.

Applications from verifiers under the existing systems must include an assessment from an accreditation body against ISO 17020 or similar, together with any supplementary NZFSA requirements.

As part of the process of granting recognition to an evaluation or verification agency, NZFSA will list the specific activities, functions or classes of business that the applicant is recognised to evaluate or verify, along with any conditions that apply. The recognition will include a renewal or expiry date. Processes will be outlined for the surrender, suspension or revocation of recognition.

Evaluators and verifiers recognised by NZFSA will be listed on a public register so that food businesses can choose an appropriate recognised evaluator or verifier.

6.6 Implementation of FHG

FHG will consist of information and guidance for managing food safety and suitability. FHG will be available from Territorial Authorities in accordance with Territorial Authority procedures. To encourage national consistency NZFSA will develop and post a ‘model’ FHG on its website. Responsibility for these very small food activities will rest exclusively with Territorial Authorities. Territorial Authorities will have the flexibility of devising ways to deliver FHG.

6.7 Timing of implementation

The implementation of this proposed new regulatory structure will be phased in. A detailed implementation plan with appropriate timeframes for different sectors is in development pending Government’s decisions on the proposed changes to the regulatory regime.

Implementation would include transitional arrangements for food businesses that already have some form of risk-based management programme under existing legislation.
7 Other Approvals

Summary of Section 7
Within the food safety programme are a number of ‘approvals’ (excluding FCPs and FHG) that must be managed by NZFSA. These cover compounds, documents, equipment, persons, premises and systems.

This Position Paper proposes that a consistent approach should apply to approvals, based on the following principles:

- the regulator will have the legal authority to require approvals for certain compounds, documents, equipment, persons, premises and systems
- unnecessary duplication of approval systems should be avoided
- approvals should be time-bound; may be subject to conditions; may be surrendered, suspended or withdrawn with proper cause; will be subject to cost recovery; and decisions may be subject to review and appeal
- regulator approval systems will be published to enable the clear identification of what items have been approved by the regulator.

7.1 Introduction
This section deals with approvals undertaken by NZFSA of certain compounds, documents, equipment, persons, premises and systems (but not FCPs and matters already discussed in this Paper).

What are approvals?
An ‘approval’ is recognition by the regulator that the relevant compound, document, equipment, person, premises or system has met all regulatory requirements at the time of the approval. It is expected that the new approval process will bring together the best of the existing systems in various Acts and remove unnecessary elements. For many businesses, the revised approvals system will be similar to what already applies.

7.2 Problem definition
The current regime for the types of approval and their justification is inconsistent. There is also a measure of unnecessary and inefficient duplication in databases and administrative systems.

7.3 Principles
The following Policy Principles are an extension of the ideas and concepts developed in Paper 4 of the Domestic Food Review (DFR), which focused primarily on proposals around Food Control Plans. The four Policy Principles are specific to the criteria and processes for various approvals:

Principle 1: The regulator should have the legal authority to require approvals for certain compounds, documents, equipment, persons, premises and systems:
- when justified according to specified criteria, including that the approval addresses an identified food safety and suitability risk and builds credibility and confidence in the food supply
- using administrative tools that ensure the approvals system is efficient and can be clearly understood.

Submitters supported this principle. However they stated that it is important that the system be centrally administered by NZFSA to ensure national consistency. Some submitters were interested in the ‘whole of government’ approach and the avoidance of duplication. The new system was supported, provided it does not duplicate or replace the current approval or registration processes with less cost-effective ones. Credibility and confidence in the food sector will be maintained by ensuring that the approval system is robust and based on applicable internationally-acceptable standards and performance criteria.

Principle 2: The regulator should avoid unnecessary duplication of approval systems.

Submitters supported this principle. One submitter noted that any system that is introduced needs to take account of existing or soon-to-be-implemented systems to which Territorial Authorities will be required to have accreditation.

Principle 3: Approvals should be time-bound; may be subject to conditions; may be surrendered, suspended or withdrawn with proper cause; will be subject to cost recovery; and decisions may be subject to review and appeal.

The basic framework for cost recovery was considered in submissions to be appropriate. However, there was a general view that cost recovery principles and mechanisms should be considered in more depth, with a view to minimising costs and additional administration. Concern was raised about basing cost recovery on an hourly rate set by legislation, because different regulatory agencies may have different costs for performing the service.
Principle 4: Regulator approval systems should be published (via a website) and enable the clear identification of what items have been approved by the regulator.

Most submitters supported this principle. A few noted that relying solely on a website could exclude a large number of interested parties, especially those in rural areas, who do not have internet access, or where it is too difficult or costly to access. NZFSA considers that printed copies of the approval systems could be made available from a commercial publisher, updated to the time of the request.

7.3.1 Revocation of approvals
NZFSA can revoke any approval, however, a Territorial Authority can only revoke approvals it has issued.

7.3.2 Criteria for approvals
DFR Paper 7 proposed general criteria to govern all approvals and the approval system for compounds, documents, equipment, people, premises and systems. These criteria were generally supported in submissions, but it was noted that it is imperative that the approvals process be consistent and equitable. The criteria to be applied are:

Criterion 1: The approval provides or improves the credibility and confidence in the food supply because the approval reflects one or more of the following:
- matters that relate directly to food safety and suitability
- standards that can be more easily met because of the approval
- process checks (such as testing) that are more comparable, reliable and defensible
- improved clarity of the competence of persons performing critical activities
- industry standardisation that relates directly to food safety or suitability
- consistency with international standards
- fostering continuous improvement.

Criterion 2: The approval improves efficiency because the relevant approval will be applied widely, and/or consistency or standardisation will be increased.

Criterion 3: The approval is clear and delivers transparency because it ensures system accountability, and/or improves industry understanding.

7.3.3 Legislative processes for approvals
Some submissions asked whether it is necessary for the approval process to be written into legislation. NZFSA intends that legislation provide for approvals, but not prescribe processes. While the approvals concept was supported, some submitters were concerned about the costs for smaller and less developed businesses. It is intended that industries or businesses will themselves initiate approvals as necessary. Thus costs will only be incurred where the end user perceives an approval as being desirable.

7.3.4 Proposed treatment of laboratories
Submitters who commented on the laboratories appendix in DFR Paper 7 supported the process as outlined in the Paper.
8 Education and Training

Summary of Section 8
Appropriate education and training are seen as crucial to ensuring safe and suitable food in New Zealand. This Position Paper proposes a number of principles to be applied to education and training:

• training will build upon a foundation of basic food safety and suitability education taught in schools and delivered to New Zealanders in the home through public education campaigns and programmes
• NZFSA will encourage voluntary training schemes for people involved in the preparation, processing, storage and handling of food
• mandatory recognition of competencies will be required by some individuals and businesses subject to FCPs. New Zealand Qualification Authority qualifications may satisfy these requirements in some cases.

8.1 Introduction
This section outlines the overall approach of NZFSA to food safety education and training, both for the general public and for the food industry.

Education and training were not the subject of a Paper within the Domestic Food Review (DFR), but they were raised repeatedly in submissions on the Papers and at workshops. Appropriate education and training are seen as crucial to ensure safe and suitable food in New Zealand. There is a variety of views on the nature of education and training needed, who needs it, and who should be responsible for providing it.

NZFSA considers that everyone in New Zealand should receive public education on basic food safety, delivered through the school curriculum and targeted to the home through public education campaigns. Training for people in food businesses should build upon this basic food safety education, be relevant and specific to the risks involved, and be based on best international practice.

NZFSA proposes that training in the food industry should focus on recognising competency, rather than requiring that specific training be undertaken (although there will be some circumstances that require specific training). The required competencies (and any specific training) will be the minimum needed to ensure safe and suitable food.

8.2 Status quo
Safe food-handling practices are offered in the Health and Physical Education and Technology Learning curriculum in New Zealand schools. Government-sponsored public education campaigns (eg, the Foodsafe Partnership) are a key non-regulatory approach to support food safety.

The Food Act is silent on training for all except Food Safety Programme-holders. Around a third of Territorial Authorities have by-laws requiring training in food safety. The general approach in other food laws is to recognise competences, rather than requiring specific training for food safety.16

8.3 Problem definition
Submissions on the DFR show that the public expects adequate education and training on food safety and suitability. However, submissions indicated the need for clarity on what education and training is needed, who needs it and who should have responsibility for its provision.

8.4 Proposals to date
• DFR Paper 1 indicated that NZFSA was also involved in a review of educational and promotional activities, and that this would both influence and be affected by the DFR
• DFR Paper 2 indicated that education was the primary non-regulatory responsibility in the food regime. Education and training could also be used as a tool to manage risk (for example, as used in the gas and electrical industries)
• DFR Paper 3, while noting that training was an essential aspect of food safety and suitability, proposed training in relation to FCPs be the responsibility of the ‘person‘ in charge.

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16 For example, the Specifications for Products Intended for Human Consumption under the Animal Products Act 1999 indicates competencies that must be recognised.
8.5 NZFSA’s approach to food safety education and training

8.5.1 Principles
NZFSA considers the following principles should apply to education and training for food safety and suitability:

- the appropriate way to manage food safety risks in the home is through public education, delivered as part of the school curriculum and through targeted public education campaigns
- any required training for ‘persons’ who prepare, process, store and handle food will be commensurate with risk, and be reasonable for the relevant activity
- training required of the food industry should be tailored to need, rather than ‘one size fits all’
- training will cover Good Operating Practice (GOP), relevant sections of the Food Standards Code and, where necessary, Hazard Analysis and Critical Control Point (HACCP) principles
- people in the voluntary sector who are involved in the sale of food will not all be required to undergo specific training, but key people in the sector would be trained in order to provide leadership and supervision.
- where it is necessary to require training in law, this will generally be competency-based.

8.5.2 Public education
Everyone should have some basic food education. Everyone handles food and almost everyone stores and prepares food. Poor personal hygiene, poor storage and cross-contamination of other food (by raw meat, for example) are causes of foodborne illness, and everyone should know how to manage these risks.

It is neither practical nor appropriate to use the law to manage food risks where they arise in the home. The Government’s role is to ensure that public education makes people aware of food safety risks and how to manage them.

Education on food storage, preparation and hygiene is provided to children in schools as part of the Health and Physical Education and Technology Learning curriculum. However, not all adults will have had such instruction and there will be children who do not, for various reasons, receive this food safety education in school. Public education campaigns aiming to ‘correct’ risky behaviours, where they are known to occur, will continue to reinforce education in the school for children and young people. Public education should also cover suitability issues and ensure people understand how to read food labels.

8.5.3 People who prepare, process, store and handle food for sale
Adequate training is a mechanism for managing identified risks. The Government has a role in ensuring that people involved in preparing, processing, storing, handling and selling food are appropriately and adequately trained. This does not mean that the law must always set the specific training to be undertaken.

The key points of NZFSA’s proposals for food sector training are:

- training should build on basic food safety education, be relevant and specific to the risks involved, and be based on best international practice
- in general, training should be a matter for the industry and be included in Codes of Practice
- where risk warrants regulation, this will generally be through recognising competency
- in certain limited circumstances, specific training and/or qualifications will be required in law. It is envisaged that Approved Competency Options may be developed to enable training to be delivered in-house, and to meet the specific needs of an individual business
- NZFSA expects food safety training to be based on best international practice (eg, Codex Recommended International Code of Practice - General Principles of Food Hygiene).

8.5.4 Food Handler Guidance
Individuals subject to FHG will not be required to undergo formal training. Basic public food safety and suitability education supplemented by the provision of GOP information in FHG will be sufficient to ensure risks are managed. For example it is expected that most volunteers at fundraisers, such as barbecue fundraisers, will be provided with essential GOP information.

8.5.5 Food Control Plans
A FCP may include minimum requirements for recognition and training.
9 Cost Recovery

Summary of Section 9
This Position Paper proposes that the costs of implementing the food safety programme should be recovered in accordance with Treasury and Audit Office principles for charging for government services: namely equity, efficiency, justifiability and transparency.

Where practicable:
• the cost of services that are primarily ‘public goods’ will be met by central Government
• the cost of services that more directly benefit industry collectively, or businesses individually, will be met by the relevant industry or ‘persons’.

NZFSA may recover costs through industry levies, one-off fees or charges, or fees based on hourly rates or on a formula. The amount recovered may be the actual or estimated cost. Actual and reasonable service costs may be recovered without being prescribed in regulation. NZFSA will consult on setting cost recovery charges.

Territorial Authorities are to be free to set their own charges within the limits of reasonableness established by the Local Government Act 2002. Guidance on charging for specific and common services is to be considered.

9.1 Introduction
In December 2004, NZFSA released DFR Paper 5, Principles and Possible Methods for a Cost Recovery Framework. That Paper:
• described the current regulatory environment for cost recovery in the food sector
• outlined the current best practice guidelines and criteria used by central government for assessing options for cost recovery
• proposed principles and methods for a cost recovery framework for the domestic food sector.

DFR Paper 5 dealt with cost recovery at a conceptual level only, with a focus on the activities of central government. It did not seek to address cost recovery for local authority activities; nor did it discuss the actual level of costs that might be faced by food industry participants.

9.2 Current provisions in law for cost recovery

9.2.1 NZFSA
The Food Act 1981 and Agricultural Compounds and Veterinary Medicines Act 1997 provide for NZFSA’s fees and charges to be prescribed in regulations.

Regulations made under the Food Act 1981 include the Food (Fees and Charges) Regulations 1997.

Regulations made under the Health Act 1956 include the Food Hygiene Regulations 1974 and the Health (Registration of Premises) Regulations 1966.

The Animal Products Act 1999 and the Wine Act 2003 both include principles and methods for cost recovery and provide regulation-making powers for setting fees and charges. The methods include fixed fees or charges, fees based on hourly rates or formula, and levies. The amount recoverable can be actual or estimated. Both Acts also provide for actual and reasonable service costs to be recovered without the need to prescribe them in regulations (section 120 of the Animal Products Act; section 91 of the Wine Act).

The principles and methods of cost recovery in the Animal Products and Wine Acts provide a broad and consistent framework that NZFSA proposes to apply more generally to the regulation of food safety in New Zealand, as discussed below.

9.2.2 Territorial Authorities
The Local Government Act 2002 provides for Territorial Local Authority fees to be set in bylaws. Fees must not be higher than necessary to recover the reasonable costs of providing the relevant service.

However, NZFSA’s Survey of Territorial Local Authorities, published in March 2004 as part of the DFR, noted that fees and charges are highly variable across Territorial Authorities and that the charges set by Territorial Authorities are not necessarily linked directly to the actual cost of providing the service.

9.3 Problem definition
There are differences and inconsistencies in the cost recovery provisions and the basis for cost recovery in the various statutes covering NZFSA’s activities. For example, some sectors (processors of dairy, meat and fish) contribute to monitoring costs while others (plant products, food service and retail) do not. In some cases, a degree of cross-subsidisation has arisen from historic decisions by the contributing sectors. In some areas, costs are not fully recovered.

Cost recovery arrangements can:
• positively affect the behaviour and efficiency of regulatory agencies (through heightening firms’ or consumers’ interest in the efficiency of the regulator)
• negatively affect the behaviour and efficiency of regulatory agencies (through incentives for ‘regulatory creep’ and ‘gold plating’)
• influence innovation and product development in the regulated industry
• affect consumer behaviour.

Cost recovery policies can help achieve the key principle of the DFR that ‘persons’ will take responsibility for producing safe and suitable food.

For example, performance-based verification is an important incentive for ensuring that businesses ‘do things right’ the first time round. Where a business does not do things right, in a performance-based system, it pays more as a result of needing a return verification visit and has to accept increased frequency and intensity of follow-ups. If verification costs are subsidised, the incentive to improve performance is weakened or lost altogether.
9.4 Principles

Principles for the recovery of costs for services provided by government departments are set out in Treasury and Audit Office Guidelines, and are reflected in more recent legislation involving food\(^\text{17}\). These principles are:

- **efficiency**: costs should generally be allocated and recovered in a manner that ensures maximum benefits are delivered at minimum cost.
- **equity**: users or persons who benefit from a function, power or service will generally be required to pay the cost of providing the function, power or service at a level that reflects their use or benefit.
- **justifiability**: the costs (including indirect costs) of providing a function, power or service should be reasonable and justifiable.
- **transparency**: the cost of providing a service, function or power should be identifiable and allocated in a transparent manner.

The cost recovery proposals set out in Paper 5, and in this Position Paper, are based on these principles.

9.4.1 Views on the proposed framework

One submitter considered that the cost recovery framework should be based only on the single criterion of efficiency, as opposed to the four criteria of efficiency, equity, justifiability and transparency. However, where a government agency is supplying compulsory monopoly services, a pricing regime based solely on efficiency may not result in the Government achieving its wider objectives.

Where services can only be sourced from a monopoly government provider, the criteria of justifiability and transparency are essential to the setting of charges, as they provide some accountability in the absence of normal market (competitive) disciplines.

9.4.2 Local authority views on cost recovery

Some local authorities cross-subsidise the cost of services provided to business, rather than aligning charges to the costs of providing the service. This is done, for example, to promote local economic development. So long as cross-subsidisation does not mask incentives for behavioural change (eg, by setting charges at a level which removes incentives created by performance-based verification) it is not intended that this approach need change.

9.5 Cost recovery framework

DFR Paper 5 proposed a framework for cost recovery in line with Treasury and Audit Office Guidelines. This would:

- be principles-based
- recover the full cost of service provision, including overheads
- be as simple and consistent as possible
- provide flexibility to ensure charges continue to reflect costs, and that the most appropriate cost recovery mechanisms are employed for the service concerned.

The Treasury guidelines provide a framework for determining who should pay for government-provided services or activities:

- the Government (taxpayers) generally meets the cost of ‘public goods’ (activities that benefit the community as a whole)
- individuals (persons, businesses) pay for activities and services (‘private goods’) from which they specifically and solely benefit, generally through a fee for the service provided.
- where an identifiable group such as an industry sector benefits from the activity or service (‘industry goods’), the group meets the cost (for example, through an industry levy).

Submissions on cost recovery generally agreed with the proposed framework, but many stated that it was difficult to comment further in the absence of knowing the actual level of costs involved.

DFR Paper 5 did not aim to quantify costs, or to discuss in detail how fees and charges would be set or allocated to specific businesses or industry sectors. These decisions depend on first defining the roles and responsibilities of the various regulatory bodies concerned (eg, NZFSA, Public Health Units, Territorial Authorities) and the shape of future regulatory requirements for food safety.

9.6 Future approach

It is intended that the cost recovery framework specified in the Treasury Guidelines (see section 9.5) be adopted.

The following table sets out how cost recovery may apply (ie, who pays and what cost recovery mechanisms might apply). This is indicative only, and does not represent final decisions on cost recovery implementation. This table reflects the proposed responsibilities and functions set out in Section 4 of this Position Paper. It therefore covers broad functions, and does not itemise the full range of activities and services under each broad category. In addition, guidance on reasonable charges for specific but common services is being considered as a tool for Territorial Authorities and an indicator for businesses on what might be expected.

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<table>
<thead>
<tr>
<th>SERVICE</th>
<th>SERVICE PROVIDER</th>
<th>TYPE OF GOOD</th>
<th>WHO PAYS?</th>
<th>FORM OF PAYMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Setting performance standards/criteria for Regulatory service providers in relation to roles and responsibilities. Monitoring and auditing PHUs, TAs and NZFSA VA against those standards/criteria</td>
<td>Central government (NZFSA)</td>
<td>Public good</td>
<td>Government</td>
<td>Funded from general taxation</td>
</tr>
<tr>
<td>Setting standards for food safety and suitability, including templates, Codes of Practice for FCPs, and requirements for FHG.</td>
<td>Central government (NZFSA)</td>
<td>Public good</td>
<td>Government</td>
<td>Funded from general taxation</td>
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<tr>
<td></td>
<td>PHUs under contract to NZFSA</td>
<td>Public good</td>
<td>Industry or group</td>
<td>Industry levies or fees for service</td>
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<td></td>
<td></td>
<td>Private good</td>
<td>Food businesses</td>
<td>Fee for service</td>
</tr>
<tr>
<td>Systems audit (ie, to ensure the system is effective, efficient and consistent); audits across a sector or of single operators, and of third-party providers.</td>
<td>Central government (NZFSA)</td>
<td>Public good</td>
<td>Food businesses</td>
<td>Fee for service</td>
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<td></td>
<td>PHUs under contract to NZFSA</td>
<td>Private good</td>
<td>Food businesses</td>
<td>Fee for service</td>
</tr>
<tr>
<td>National regulatory programmes (eg, Regulated Control Schemes)</td>
<td>Central government (NZFSA)</td>
<td>Public good</td>
<td>Government</td>
<td>Funded from general taxation</td>
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<tr>
<td></td>
<td>PHUs under contract to NZFSA</td>
<td>Private good</td>
<td>Food businesses</td>
<td>Fee for service</td>
</tr>
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<td>Evaluation of custom-made FCPs</td>
<td>NZFSA Verification Agency</td>
<td>Private</td>
<td>Individual business or ‘person’</td>
<td>Admin-based fee and/or hourly charge</td>
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<td>Registration of FCPs:</td>
<td>Central govt (NZFSA)</td>
<td>Private</td>
<td>Individual business or ‘person’</td>
<td>Admin-based fee</td>
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<td>Registration of custom-made FCPs</td>
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<tr>
<td>Registration of off-the-peg FCPs (NZFSA-approved templates/model)</td>
<td>PHUs under contract to NZFSA</td>
<td>Private</td>
<td>Individual business or ‘person’</td>
<td>Admin-based fee</td>
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<tr>
<td>Delivery of FHG</td>
<td>TAs</td>
<td>Private</td>
<td></td>
<td></td>
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<tr>
<td>Approval of recognised agencies or persons and other things (eg, verifiers, labs, equipment)</td>
<td>Central govt (NZFSA)</td>
<td>Private</td>
<td>Individual business or ‘person’</td>
<td>Admin-based fee</td>
</tr>
<tr>
<td>Investigations (safety/suitability):</td>
<td>Central govt (NZFSA)</td>
<td>Public good</td>
<td>Central government</td>
<td>General taxation</td>
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<tr>
<td>Non-compliance beyond the resources or legal boundaries of a TA</td>
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<td>Public good</td>
<td>Central government</td>
<td>General taxation via contractual payments from NZFSA</td>
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<td>Non-compliance of national significance</td>
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<td>Public good</td>
<td>Central government</td>
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<tr>
<td>Non-compliance where there is otherwise a conflict of interest</td>
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<td>Public good</td>
<td>Central government</td>
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<tr>
<td>General non-compliance within TAs’ boundaries not covered by the above</td>
<td>TAs</td>
<td>Public good</td>
<td>TAs</td>
<td>TA general revenue</td>
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<tr>
<td>General complaints within TAs’ boundaries not covered by the above</td>
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<td>SERVICE</td>
<td>SERVICE PROVIDER</td>
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</tbody>
</table>
| Enforcement (sanctions and prosecutions):  
   Enforcement action beyond the resources or legal boundaries of a TA  
   Enforcement action of national significance  
   Enforcement action re custom-made FCPs  
   Non-compliance where there is otherwise a conflict of interest  
   General enforcement action | Central govt (NZFSA) | Public good | Government | General taxation |
| Localised enforcement action | PHUs (contracted by NZFSA) | Public good | Government | General taxation via contractual payments from NZFSA |
| Enforcement action re off-the-peg FCPs | TAs | Public good | TAs | TA revenue |
| Emergency response and recall | Central government (NZFSA) | Public good | Government | General taxation |
|  
   PHUs under contract to NZFSA | Public good | Government | General taxation via contractual payments from NZFSA |
|  
   TAs | Public good | TAs | TA revenue |
| Verification of FCPs:  
   Custom-made FCPs | NZFSA Verification Agency  
   Third parties | Private good | Individual business or ‘person’ | Fee for service |
|  
   Off-the-peg FCPs | TAs  
   Third parties  
   (NZFSA as last resort) | Private good | Individual business or ‘person’ | Fee for service |
| Checking of FHG where necessary | TAs | Private good | Individual business or ‘person’ | Fee for service\(^{18}\) |
| Education:  
   Business/industry | Regulator  
   (NZFSA and other govt agencies) | Public good and/or industry good | Government/industry | General taxation and/or funded by industry on industry initiative |
|  
   TAs | Public/private good | TAs | TA revenue | |
|  
   PHUs | Government | Contractual payments via NZFSA | |
| Consumer | Central govt (NZFSA and other govt agencies)  
   PHUs | Public good | Government | General taxation |
|  
   TAs | TAs | TA revenue | |

\(^{18}\) Territorial Authorities could use a proportion of permit fee
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<tr>
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<th>TYPE OF GOOD</th>
<th>WHO PAYS?</th>
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<td>Facilitation of training:</td>
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<td>Regulator training</td>
<td>Central government (NZFSA and other govt agencies)</td>
<td>Public good</td>
<td>Government</td>
<td>General taxation</td>
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<td>Non-govt agencies</td>
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<tr>
<td>Business/industry training</td>
<td>Central government (NZFSA and other govt agencies)</td>
<td>Private good and/or industry good</td>
<td>Business and/or industry</td>
<td>User charge</td>
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<td>Non-govt agencies</td>
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<td>Monitoring and surveillance</td>
<td>Central government (NZFSA)</td>
<td>Public good and/or industry good</td>
<td>Government and/or industry</td>
<td>General taxation or industry charge/levy</td>
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<td>(eg, New Zealand Total Diet Survey)</td>
<td>Non-govt agencies</td>
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<td>Public</td>
<td>Government</td>
<td>General taxation</td>
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<td>(product/premises):</td>
<td>PHUs (under contract to NZFSA)</td>
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<td>Contractual payments via</td>
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10 Performance Monitoring

Summary of Section 10
This Position Paper proposes a five-step framework to measure the performance of the food regulatory programme in order to ensure it is contributing to the Government’s desired outcomes, and to identify potential improvements. The five steps are:

• determine measurable objectives (targets), based on the Government’s desired outcomes
• measure the baseline (starting point) in each target area
• define the indicators to be measured, and implement monitoring and surveillance systems to capture the relevant information
• analyse new information to measure progress both in implementing the planned interventions (outputs) and in achieving the desired food safety results (outcomes). Identify any problems and issues that arise
• act on the analysis (eg, review the food regulatory programme and implement changes as necessary).

10.1 Introduction
This section outlines the current requirements for NZFSA to assess the performance of the food regulatory programme and its components, considers the gaps in the current system for determining performance, and sets out suggestions for improvements in the future.

10.2 Background
The current evaluation process (measurement, collection, analysis, communication and implementation of any changes) in the food regulation system does not always occur in a complete or timely manner. For example:

• despite a substantial amount of information being collected from the food sector, the performance monitoring that is undertaken is sporadic, patchy and disjointed
• within NZFSA and across the other regulatory groupings, new information is not currently shared systematically, even when the same activities occur in different industry sectors

NZFSA proposes a five-step framework for measuring the performance of the food regulatory programme.

First Step
It is intended that NZFSA will determine measurable objectives (targets) based on the Government’s desired outcomes for the New Zealand Food Regulatory Programme. Measurable objectives could include targets like:

• reduction in foodborne illness
• increased level of industry responsibility
• effective level of hazard control
• effective risk management
• appropriate regulatory processes (for example, is it necessary, cost effective?)
• compliance with interventions (for example, Food Control Plans)
• the extent of education and training.

Second Step
Having defined the measurable objective, the related baseline must be determined. For example, if the objective is to reduce foodborne illness by a certain percentage over a set time period, baseline data is needed to quantify the existing level of foodborne illness.

Third Step
Define the indicators that will be used to measure progress, and then implement monitoring and surveillance systems to capture the relevant information.

Fourth Step
Analyse the information to measure both the implementation of the planned interventions (outputs) and whether they are achieving the desired food safety results (outcomes). Identify problems and issues that arise.

Fifth Step
Finally, NZFSA and other regulators are to act on the information and analysis. For example, they may be fed back into policy and standards, lead to improvements in processes, and inform future science.

19 The work of NZFSA contributes to three strategic outcomes for New Zealand: People (Healthy New Zealanders), Sector Development (Economic Growth and Prosperity) and Trade (Safer and Freer Rules-based Trade). Refer NZFSA Profile 2006.

20 Means ‘of the intestines’
11 Compliance and Sanctions

Summary of Section 11
It is important for non-compliance with food safety requirements to be dealt with consistently, both to protect public health and for equity among ‘persons’ in the food industry. This Position Paper proposes:

- that evaluation criteria for non-compliance be developed to guide the regulators who manage compliance and sanctions
- awareness campaigns to help businesses understand proposed changes to the food safety regime, and how non-compliance may impact them
- that a range of seven tools be available to regulators, namely: incentive schemes, public notification and grading schemes, public apologies, a universal system of improvement notices, infringement notices, a narrowly defined diversion provision, and prohibition notices.

11.1 Background
Paper 6, Compliance and Sanctions: Criteria and Tools for the Future, in the Domestic Food Review sought public comment on assessment criteria to help the regulator respond more effectively to non-compliance (or omissions) in the food industry. This Position Paper proposes:

- that evaluation criteria for non-compliance be developed to guide the regulators who manage compliance and sanctions
- awareness campaigns to help businesses understand proposed changes to the food safety regime, and how non-compliance may impact them
- that a range of seven tools be available to regulators, namely: incentive schemes, public notification and grading schemes, public apologies, a universal system of improvement notices, infringement notices, a narrowly defined diversion provision, and prohibition notices.

11.2 Problem definition
The current Food Act has been in place for almost 30 years and reflects the accepted practices of the era, with ad hoc amendments over time. This incremental approach, together with more recent legislation applying to other food-chain activities and the lack of a back-to-basics review, have led to incoherence and inconsistency across the food sector.

11.3 Principles
The following policy principles were proposed as relevant to the tools and criteria required for compliance and sanctions. Overall, the intention in this Position Paper is to retain the principles as presented, and to address concerns expressed in submissions through awareness programmes and guidance material.

Discussion later in this section considers non-compliance criteria and the tools recommended to be added to New Zealand’s food law.

Compliance and Sanctions Principle 1: The compliance and sanctions regime will be seamless and coherent, and will apply regulatory and non-regulatory provisions consistently and equitably across all food sectors.

Submitters who commented on this principle supported it, but a few questioned whether consistency is possible, given the diversity of food businesses. A number of submissions suggested that sanctions might be varied according to the type of business involved, the level of risk and the severity of the non-compliance.

In general, NZFSA agrees that there must be a hierarchy of tools and their application so that appropriate sanctions can be applied. While the type of food business involved in a problem may sometimes be a factor in determining compliance standards or sanctions, the seriousness of the non-compliance is a more equitable approach overall. Nonetheless, the two are not mutually exclusive, and clearly the type of business (equating to its reach into the community) is a valid factor to apply.

Submitters hoped that the new regime is consistent, fair and uncomplicated; considers the diversity of industry; and is applied nationally. An important starting point will be aligning the range of compliance tools and sanctions available within New Zealand food law.

Compliance and Sanctions Principle 2: ‘Persons’ have responsibility to ensure they understand and implement the requirements of current food safety and suitability legislation.

Submitters who commented on this principle supported the shift in emphasis that will result in food businesses taking more responsibility for themselves. Some wanted to acknowledge that the majority of food businesses actively seek to comply with food legislation, and that consumers require protection from only a small minority of food businesses.

Some submitters also noted that the regulator has a responsibility to ensure that ‘persons’ are in a position to understand the requirements. NZFSA agrees in general with these latter comments, but considers that ignorance should not be an excuse for non-compliance.
Compliance and Sanctions Principle 3: The range of tools available to manage and prevent non-compliance will be flexible and extensive, and will comprise options for both non-regulatory and regulatory intervention.

Submitters acknowledged that no single method or solution will prevent non-compliance. Many were encouraged by the discussion on the development of further compliance and sanction tools in the future, and recognised that the current system may not be as flexible as is necessary. Submitters saw a need for guidelines on the appropriate tool for a specific non-compliance, which would also help to minimise the tools being applied subjectively. NZFSA expects to provide such guidance material.

Many submissions recognised that prosecution is a lengthy and expensive process, but that it should be available for instances of serious non-compliance. NZFSA intends to retain the option of prosecuting, but this Position Paper also proposes adding other tools where prosecution is not the best response.

Compliance and Sanctions Principle 4: The regulator will apply a set of evaluation criteria to measure the seriousness of non-compliance and thus the appropriate response.

Submitters agreed to this principle, but there again was disagreement on whether the size and type of a business should be included in the proposed criteria, as this would effectively introduce different tests for different sizes and types of business. Many submitters encouraged a framework that is open, transparent and equitable, that provides criteria to determine the most appropriate course of action, and that all regulators understand and apply consistently.

As noted above, NZFSA intends to provide compliance rules and guidance to all regulators in the food sector so that they respond appropriately and consistently according to the degree of non-compliance. The size and type of business is intended to be considered when assessing the risk presented by a business, and thus the seriousness of a particular non-compliance.

Compliance and Sanctions Principle 5: An incremental scale of sanctions will be applied consistently and equitably across all food legislation.

Submitters supported this principle, but some were concerned about how to achieve consistency on a national scale. The first step is to determine the range of tools, and then aligning them across all food legislation and regulations. NZFSA acknowledges the challenges of the next step - application - and awareness and guidance material is intended to address these concerns at least in part.

11.4 Proposals to date
Two proposals were presented in DFR Paper 6: possible evaluation criteria for measuring non-compliance, and possible additional tools to manage and prevent non-compliance.

11.4.1 Evaluation criteria for assessing non-compliance
The proposed criteria for assessing the seriousness of non-compliance comprise three factors:

1. General issues, such as the rationale for the non-compliance, the frequency of the non-compliance, the newness of the relevant policy, knowledge of the non-compliance by the relevant ‘person’, and the person’s level of intent.

2. The impact of the non-compliance on food safety and suitability and the corresponding impacts on a consumer’s health, employment and ability to participate in community life.

3. The impact of the non-compliance on New Zealand’s reputation as a provider of safe food and on trading opportunities within New Zealand and overseas.

Most submitters agreed that evaluation criteria for non-compliance should be developed and harmonised across food legislation. Concerns were raised about the potential for the criteria to be applied subjectively, and (as above in the discussion of the proposed Principles) some suggested that the type of business should also be considered a relevant factor.

A few submitters felt that the criteria are too broad and are removed from the day-to-day considerations facing food businesses, and suggested that a more realistic and practical benchmark is required. These issues have been discussed further with a number of practitioners, but no viable alternatives have been identified. The real challenge, as has been noted, will be in the consistency of application.

Consideration also needs to be given to instances where there is a difference of opinion as to what is a satisfactory level of compliance. Submitters did not support including criteria on a company’s sphere of influence, as this has the potential to introduce too many multiple standards. NZFSA considers, however, that the type of business involved in an incident may be relevant when it relates to the potential impact of the non-compliance.

11.4.2 Possible additional tools to manage and prevent non-compliance
Nine additional and more flexible regulatory tools were identified and discussed in Paper 6, along with the potential benefits of more consistently applying the existing tools.

Submitters noted that the approach and use of tools should be based on the level of risk inherent in each incident, and tools should be flexible and extensive so that the regulator can respond appropriately to the level of risk. This compliance and sanctions ‘toolbox’ should be used in conjunction with education and training.
Incentive schemes
The potential of providing incentive schemes was well received by submitters. For example, there was strong support for performance-based verification that provides cost savings for obtaining and maintaining a higher grade (and where failure to meet minimum standards triggers more regular visits and higher costs). NZFSA supports such incentive schemes, and guidelines will be developed on how to apply them.

Food safety award and recognition schemes
Food safety award and recognition schemes are usually based on a snapshot of a business at a particular moment in time. If the standards of the business drop, they may still display the outdated award. Submitters thought that this tool might benefit larger businesses because it may be used for market recognition, whereas small to medium businesses would not see as great a benefit. Submitters felt that other tools would be more effective. NZFSA agrees with submitters and will not be including this tool in the available toolbox, but will continue to support existing award schemes (eg, the Top Shop awards, Food Manufacturer Innovation awards and the Hamilton Safe Food award).

Public notification and grading schemes
Support for this tool was high among submitters, with a number of local authorities already using such a tool successfully. Advantages were seen in such a visible scheme being implemented consistently nationwide, and that businesses should be able to seek re-grading after a specified period. It was proposed that grades should be conspicuously displayed and preference be given to a grading system based on the A, B, D, E system rather than smiling faces or stars. NZFSA will give consideration to the inclusion of this tool, and will work with Territorial Authorities to explore a grading scheme that can be applied nationally.

Public apologies
Submitter views on this potential tool were evenly divided. It was noted the regulatory body would have to ensure that a required public apology is actually made. Apologies were seen as a useful tool for repeat non-compliance, but it was also noted that it would need to be used consistently and fairly to be effective. The potential impact on the reputation and profits of a business was viewed as either an incentive to comply (ie, comply to avoid the need to apologise) or as having a negative impact on businesses that put the public at risk. NZFSA will include apologies as a potential tool for particular instances of non-compliance.

Diversion schemes
Submitters thought that this tool would have very limited application, and that it has the potential to be overcomplicated, legalistic and expensive to administer. NZFSA agrees in general with submitters, but intends to examine further a narrow subset of the concept of diversion relating to reparation.

Universal system of improvement notices
Submitters fully supported the inclusion of this tool. It would clarify to the relevant business, irrespective of size, what improvements need to be made. There is potential for this tool to provide businesses with an opportunity to improve their standards before any subsequent sanction or prosecution. The grading of premises might also be linked into improvement notices, since both can be issued during an inspection. Improvement notices need to be uncomplicated, timely, reasonable and fair. NZFSA supports the inclusion of this tool, and notes the need to develop guidelines on when improvement notices should be issued; reasonable timeframes to action the improvements; and when action should be escalated because of continued non-compliance.

Infringement notices
This tool was strongly supported by submitters, as it allows for immediate action and acts as a deterrent where prosecution is not warranted. Submissions noted that infringement notices will be useful if they are used judiciously and are applied consistently and equitably. NZFSA supports this tool, and notes that tight criteria will need to be developed.

Prohibition notices
Submitters strongly supported this tool, and were open to the possibility of verifiers being able to immediately close premises, or prohibit the use of a particular piece of plant or equipment, where there is a food safety risk to the public. NZFSA supports this tool, and specific criteria on its application will be further developed - including who will have the authority to apply the tool.

Demerit points
Comment on this tool was mixed, and further investigation is needed of its viability. Some submitters opposed this tool because it might encourage non-compliance so long as the maximum number of demerit points is not reached. In addition, the collection of data and the continual movement of food operators would be cumbersome to administer and keep track of. NZFSA agrees with these submissions and will not pursue the inclusion of this tool in food law.

Appeals process and specifications
NZFSA recognises that consideration is needed of an appropriate appeals process for any regulatory tools that are to be available.
12 Next steps

12.1 Submission Period
This Position Paper is intended to be available to the public for 10-12 weeks. During that period, NZFSA will conduct a series of workshops around the country on the issues in the Paper. This is intended to provide the opportunity for NZFSA to step through the paper and for issues to be raised with NZFSA prior to submissions being made.

12.2 Submission Analysis
As in previous rounds of public consultation on the DFR, both written and oral submissions made on the Position Paper will be summarised and provided on the NZFSA web site as well as provided to all submitters making written submissions. The submissions will also be analysed and a final package prepared for recommendation to Government.

12.3 Recommendations to Government
Recommendations on all elements in the package, as might be amended taking into account submissions, is expected to be made to Government in the third quarter of 2006.

12.4 Legislative Change
Drafting on any legislative changes necessary to reflect Government’s decisions on the package is expected to commence in the latter part of 2006.

12.5 Parallel Implementation Activities
In the lead up to a comprehensive implementation programme, it is expected activities will include continued work on codes of practice and templates, review of the Food Hygiene Regulations (as a transitional measure), work on compliance matters and development of information.

13 Regulatory Impacts

This section provides a high-level regulatory impact assessment of the proposals contained in this document.

Statement of the nature and magnitude of the problem and the need for government action
There are two broad categories of problems facing the New Zealand food sector:

1. Continuing high incidence of foodborne illnesses, and a rise in incidence in some areas.
2. Inconsistencies, interface and other issues across the various pieces of legislation that regulate food in New Zealand, including:
   • confusion about when government is involved
   • lack of appropriate controls in some areas
   • complexity, structure of responsibilities, and legislative framework of controls
   • lack of practicality of some controls
   • inconsistency in the regulatory impact on businesses
   • lack of clarity and consistency about how much facilitation and guidance NZFSA as regulator will provide, and how much ‘persons’ must do for themselves
   • ill-defined roles of key players (‘persons’, auditors, verifiers and the regulator)
   • lack of common understanding of good hygienic practice and other key concepts
   • duplication, overlaps and gaps in laws and consequential costs for ‘persons’
   • absence of sufficient risk assessments in the food sector
   • safety and suitability aspects of the food regulatory programme have not generally been addressed together.

These problems directly or indirectly impact across a number of statutes and regulations, NZFSA, 12 Public Health Units in District Health Boards, 74 Territorial Authorities, 3000 registered risk-based plans, 22,900 registered food premises, 1700 registered food manufacturers, an estimated 5500 unregistered hospitals, childcare facilities, aged care homes or school tuck shops, and an unknown number (but estimated in the thousands) of occasional food business such as barbecue fundraisers and galas.

Statement of the public policy objective(s)
The public policy objectives set by the government for NZFSA, among other things, are to:

• reduce the incidence of foodborne illness in New Zealand
• provide a coherent and seamless food regulatory programme.

Statement of feasible options (regulatory and/or non-regulatory) that may constitute viable means for achieving the desired objective(s)
Status Quo
Under the Food Act 1981, no person can prepare or pack for sale, or sell, any food (including at a restaurant, takeaway, retail store, church fair, gala or barbecue fundraiser):

• that is unsound, unfit for human consumption or contaminated
• containing, or having attached to it or enclosed with it or in contact with it, any extraneous thing that is injurious to health, harmful or offensive
• in any package that may render the food injurious to health or that may taint the food.

The administration of those requirements is shared among NZFSA, Public Health Units and Territorial Authorities.
A variety of regulatory mechanisms assist with meeting and ensuring compliance with the safety and suitability requirements.

**Food Standards (administered by NZFSA)**
There are five New Zealand Food Standards under the Food Act 1981. These are the Australia New Zealand Food Standards Code (which provides standards for composition and labelling); Bee Product Warning Statements - Dietary Supplements; Maximum Residue Limits of Agricultural Compounds; Milk and Milk Products Processing; and Prescribed Foods. These are applicable to all food sold in New Zealand.

**Food (Safety) Regulations 2002 (administered by NZFSA)**
The Food (Safety) Regulations 2002 contain regulations that generally fall outside the Joint Food Standards System and so are not covered in the Food Standards Code. They are applicable to all food sold in New Zealand.

**Food Hygiene Regulations 1974 (administered by Territorial Authorities)**
These provide for hygiene and food-handling practices in premises. They are applicable to:
- 22,900 registered food premises
- 1700 registered food manufacturers
- 5500 hospitals, childcare facilities, aged care homes or school tuck shops (that are exempted or partially exempted from registration)
- an unknown number (but estimated in the thousands) of occasional food businesses that are exempted or partially exempted from registration, such as barbecue fundraisers and galas.

**Food Safety Programmes (administered by NZFSA and Public Health Units)**
Under the 1996 amendment to the Food Act, food businesses have the option to develop Food Safety Programmes based on the Hazard Analysis and Critical Control Point (HACCP) system and be exempt from the Food Hygiene Regulations 1974. To date, over 1400 businesses have opted to obtain such a plan, which provides benefits in food safety, effectiveness and flexibility. The process is applicable to any size and type of food business.21

**Risk Management Programmes, Wine Standards Management Plans (administered by NZFSA)**
Under the Animal Products Act 1999, a risk management programme is designed to identify, control, manage, and eliminate or minimise hazards and other risk factors, so that the resulting animal product is fit for intended purpose. They cover all safety and suitability aspects. Under the Wine Act 2003, Wine Standards Management Plans provide a single, comprehensive and verifiable regime for compliance with food safety, wine composition and labelling, and overseas market-access requirements.

**Bylaws**
Twenty-six Territorial Authorities (35% of the total) have food bylaws, and a further 10 (17%) propose to put food bylaws in place. There are many similarities in bylaw provisions. The most common is a requirement for compulsory training and/or qualifications for food handlers (19 Territorial Authorities (26%), followed by provisions for closures (12 (16%)); food safety provisions for specific premise types (food stalls, mobile traders) (nine (12%)); licensing and registration requirements (six (8%)); display of premise-grading certificates (6 (8%)); and details on premise-grading systems (5 (7%)). Just under half of the bylaws contained provision for offences, penalties and appeals.

**Proposal**
It is proposed to provide a single food regulatory framework covering all safety and suitability requirements in a coherent and seamless manner. The approach follows the Government's Code of Good Regulatory Practice, which requires policymakers to consider and balance efficiency, effectiveness, transparency, clarity and equity in deciding whether and how to regulate. This may involve amending or rewriting the Food Act and its associated regulations, with potential consequential amendments to the Animal Products Act, Wine Act, and Agricultural Compounds and Veterinary Medicines Act to ensure consistency.

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21 In 1999 the Ministry of Health (as the then administrator of the Food Act) considered mandating Food Safety Programmes to fully implement the 1996 amendment principles.
The framework is underpinned by base principles that will guide decisions on whether to regulate and the form of regulation.

**Principle 1:** Government involvement and imposed compliance costs to the food sector will be minimised, consistent with Government policies and the need for food to be safe and suitable.

**Principle 2:** The New Zealand food regulatory model will be based on application of the current ‘Regulatory Model’ (the three-tier model, on page 43, that separates the roles of ‘person’, regulator and verifier).

**Principle 3:** Any Government involvement and regulatory controls will be risk-based and science-based as far as possible.

**Principle 4:** ‘Persons’ will take responsibility for producing safe and suitable food.

**Principle 5:** Regulatory requirements will be applied consistently and equitably across sectors and groups. (That is, the regulatory response will be used reasonably and fairly when identified as the appropriate option.)

**Principle 6:** The food regulatory programme will be seamless and coherent.

**Principle 7:** Trade and commerce in food and food-related products will be facilitated.

**Government response falls within the following categories:**

- NZFSA expects that the majority of food businesses currently covered by registration under the Food Hygiene Regulations would be able to adopt an off-the-peg Food Control Plan (FCP), which will be developed by NZFSA.

In general, custom-made FCPs would be for complex businesses, which are mostly already covered by Food Safety Programmes, which will be deemed equivalent. The types of businesses that would operate custom-made FCPs would be large franchises, supermarkets and manufacturers.

Custom-made FCPs will also include those who operate a food business that varies significantly from the standard scope or practices in an off-the-peg FCP. For example, a corner dairy may ordinarily only be required to operate an off-the-peg FCP, but if it has an operation that is not covered by the off-the-peg FCP they would be required to operate a custom-made FCP for that aspect of the business.

Food Handler Guidance is suitable for very small food-selling operations:

- that have a small sphere of impact - that is, they serve or sell food to a comparably small number of people
- that are usually at the lower end of the risk scale
- that are involved with community and/or fundraising activities (charitable organisations) and
- where operational frequency is minimal.

The majority of food operations will fit into one of the standard regulatory options. While it is intended to be as permissive as possible to

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**Regulatory and non-regulatory control tools appropriate to risk exposure and good regulatory practice**

- Large scale business – higher potential
- Medium scale business – low
- Smaller scale business

- Custom-made food control plans – e.g. supermarkets
- Custom-made food control plans based partly on codes and templates, e.g. corner dairy that
- Off-the-peg food control programmes e.g.
- Food Handler Guidance e.g. barbecue fundraiser (at

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provide flexibility, criteria will need to be developed for determining the boundaries for those operations.

The proposals adopt the three-tier regulatory model that has been generally applied by Government as the preferred regulatory model on the basis that regulation and verification or audit are separate but aligned functions, each of which is required to maintain appropriate standards.

This three-tier model recognises that regulation and verification are closely related. The verifier undertakes verification functions on behalf of the regulator, and that the verifier’s first obligation (and line of accountability) is to the regulator, not to industry. This maintains the appropriate separation between the verifier and industry; ensuring consistent verification standards; and addressing conflict of interest.

The regulatory model explicitly recognises the obligation on all ‘persons’ preparing and selling food to meet safety and suitability requirements.

It is proposed that NZFSA will continue to take principal responsibility for all regulatory functions, while Public Health Units continue to have contracted roles in certain areas. It is proposed that Territorial Authorities have the regulator functions for the registration, compliance and enforcement of off-the-peg food control plans, a choice (depending on competence and their desire to be involved) in whether to have a role in verifying custom-made plans, and a responsibility to deliver Food Handler Guidance to ensure safe and suitable food is delivered by very small food-selling operations.

A key feature of the proposal is the setting of national training and education requirements, which could range from compulsory training, to requiring basic competencies, to public education programmes. A range of sanctions and compliance tools are also proposed to better provide incentives for compliance and appropriate sanctions for varying degrees of non-compliance.

The proposals provide for performance monitoring of the regulatory programme to monitor its performance against key objectives.

Statement of the net benefit of the proposal, including the total regulatory costs (administrative, compliance and economic costs) and benefits (including non-quantifiable benefits) of the proposal

Government (including local government)

Central government will benefit by having a framework that contributes to achieving its desired outcome of reducing the incidence of foodborne illness in New Zealand, while also being more efficient through a coherent and seamless food regulatory programme.

A reduction in the incidence of foodborne illness will reduce overall health expenditure in that area.

All levels of government will benefit by having more clearly defined roles and responsibilities, thereby reducing the potential for gaps, overlaps and duplication.

Government will have a better range of tools to provide for incentives for good compliance, and more appropriate sanctions for varying degrees of non-compliance.

All levels of government will face costs associated with becoming familiar with the new regime and in providing training, guidance and supporting material to stakeholders.

All levels of government will face transitional costs as regulated parties move from the existing regimes to the new regime. Those costs will be able to be spread over a graduated transition programme. Some will be recovered from business through cost recovery.

Territorial Authorities will have a role in verifying off-the-peg FCPs, and can choose to have a role in verifying customised FCPs. In both cases, Territorial Authorities will face the costs of meeting the accreditation requirements of ISO 17020 or similar and the recognition requirements of NZFSA, but a graduated transition programme in parallel with the DFR itself is intended.
Industry (manufacture, preparation and sale of food)
Industry as a whole will benefit from having a higher seamlessness and coherence among all NZFSA-administered legislation.

Each business will have a clear understanding of regulatory or other requirements, as they will be administered through a single Food Control Plan, Food Handler Guidance or other approved programme.

A key benefit is that industry will not be bound by prescriptive, 30-year-old regulations. All industries will benefit immediately from best practice that has been implemented in other legislation, and food businesses will have more scope to innovate and adopt new technologies.

Some elements of industry will face increased costs deriving from the need to develop or implement new requirements. But the extent of change will depend largely on each business’s level of compliance with existing food regulations. Poorly complying businesses with limited systems in place will face significant costs in ensuring compliance. Well performing businesses should have minimal transition costs.

Businesses subject to registration under the Food Hygiene Regulations will generally be required to operate a Food Control Plan (unless an approved alternative such as Food Handler Guidance is available to them). Most businesses will be able to use off-the-peg Food Control Plans that require little or no additional development. There will be some initial cost in ensuring that the off-the-peg Plan is sufficient to cover all operations of the business. There may also be some additional ongoing costs (mostly in operator time) to ensure all the requirements of the Plan are being met.

Businesses currently exempted from registration under the Food Hygiene Regulations will also generally be required to operate under a Food Control Plan (unless they are subject to an approved alternative such as Food Handler Guidance), plus costs of registration and verification.

Society
Society will benefit from having a food regulatory regime that reduces the incidence of foodborne illness in New Zealand, and for increased compliance with existing labelling and composition standards. Society will also benefit from having a more efficient food regulatory programme.

A reduction in the incidence of foodborne illness will reduce sickness levels, providing a benefit to employers and casual workers, and contribute to improving the health of New Zealanders.

Statement of consultation undertaken
Since May 2003, NZFSA has been working on a comprehensive review of Government’s role in the New Zealand domestic food sector. This is only the second such review in 30 years, and seeks to respond to a number of problems and issues that have arisen with the existing regulatory framework applying to domestic food.

The first two years’ work on the review involved developing and then consulting on a series of public discussion papers. These covered:

- Introduction and context
- Regulatory roles, responsibilities and structures
- Food Control Plans
- Implementation of Food Control Plans
- Principles and possible methods for a cost recovery framework
- Compliance and sanctions: criteria and tools for the future
- Criteria and processes for various approvals.

NZFSA also held public workshops around the country, met with various interest groups, and regularly discussed ideas and progress with co-regulators (Territorial Authorities and Public Health Units).
**Business Compliance Costs**

Compliance costs will be associated with stakeholders becoming familiar with the new requirements and the actions needed to ensure compliance with the new requirements. The extent of compliance costs will depend on the type of business and its current regulatory coverage. The table below identifies compliance costs within broad categories.

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<tr>
<th>Current regulatory framework</th>
<th>Compliance cost resulting from the proposals</th>
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<tr>
<td>Food Safety Programmes (1400 plans)</td>
<td>One-off adjustment to meet expanded requirements, mostly to comply with the Joint Food Standards Code. This will mostly involve operator time, and generally can be done within a regulatory programme review.</td>
</tr>
<tr>
<td>Registered Under the Food Hygiene Regulations (22,900 registered food premises; 1700 registered food manufacturers)</td>
<td>One-off uptake of off-the-peg Food Control Plan. Ongoing costs associated with the implementation of some of the requirements (eg, record-keeping). This will mostly involve operator time in becoming familiar with the requirements and making adjustments to current practices if necessary. Businesses without adequate training programmes will face costs in putting those in place. Businesses that choose or need to develop custom-made Food Control Plans will incur one-off development and evaluation costs. Costs associated with development and evaluation will depend on the size and complexity of the plan and the extent to which it varies from approved templates and/or Codes of Practice. Compliance costs for registration and verification (formerly inspection) are not expected to be significantly different from those already imposed.</td>
</tr>
<tr>
<td>Businesses exempted from registration under the Food Hygiene Regulations that need Food Control Plans (5500 unregistered hospitals, childcare facilities, aged care homes or school tuck shops)</td>
<td>As above, plus ongoing registration and verification costs.</td>
</tr>
<tr>
<td>Businesses exempted from registration under the Food Hygiene Regulations that are subject to Food Handler Guidance</td>
<td>Cost of becoming familiar with the new requirements.</td>
</tr>
</tbody>
</table>

Businesses operating under the Animal Products and Wine Acts will be deemed equivalent to operating under a Food Control Plan.

NZFSA will minimise compliance costs by ensuring that only necessary regulatory requirements will apply to a particular business type. The majority of businesses will be provided with an off-the-peg Food Control Plan that is already evaluated and provides guidance on how to tailor the plan to the business.

In addition, NZFSA will supply a wide range of guidance material, in the form of Codes of Practice and templates, which will minimise compliance cost if operators choose to use them. It is intended to have a graduated transition programme that will enable government and industry to manage and spread the cost of transition.
Appendix 1: Submission Response Sheet

You may find the Submission Response Sheet useful for summarising your position. If you would like more room to respond please feel free to attach another sheet. (Note submissions will be received in any form, with or without this Submission Response Sheet).

Contact Details:
Name: 
Tel: 
Organisation (if applicable): 
E-mail: 
Address: 

Specific questions relating to the various sections

Regulatory Roles, Responsibilities and Structures
Can you suggest any enhancements to the proposed allocation of roles and responsibilities that could better ensure that:
• food safety and suitability outcomes across New Zealand are facilitated and promoted?
• the regulatory structure is as cost effective as possible while improving efficiency?
• businesses and consumers have, as far as possible, a single entry point?
• rules are applied impartially and consistently across industries as well as geographically?
• the regulator can implement a seamless and coherent programme?
• there are clear and explicit areas of regulatory responsibility?
• there is local access to registration and information services?
• there is local access to regulator-based verification and third-party verification?
• there is sufficient capability and capacity for delivery over time?

Are there any ways that the proposed arrangements could better support small and medium-sized businesses and small local authorities?

Food Control Plans and Food Handler Guidance
Has the inclusion of the templates in this document assisted you in understanding the concepts of Food Control Plans and Food Handler Guidance proposed? If not, what would help?

Implementation
What provisions could be put in place, other than the conflict-of-interest provisions in ISO 17020 accreditation, to manage potential conflicts of interest among private third-party evaluators or verifiers?

Other Approvals
Given the general support received for the principles and criteria outlined in Section 7, are there any other issues that need to be raised?

Education and Training
• Should mechanisms be established to determine the effectiveness of all training delivered to food industry staff (for example, whether there is a reduction of the incidence of foodborne illness)?

• Where there is a need for training to be mandated, should this be mandated nationally (unlike the current situation, where some Territorial Authorities mandate specific training and others do not)?
• Do you agree that ‘persons’ should be assessed as to their demonstrated competencies, or should a formal course of training be mandated and/or qualification be held, or both?

• Should all in the food industry be required to undergo a minimum of training (for example, on food hygiene including food preparation, handling and use of HACCP principles) with additional requirements determined by risk?

• What is the best way to train or otherwise ensure required outcomes of those in small businesses, and of those operators for whom English is not their first language?

• Should government regulate independent private consultants in the food industry with regard to their competency?

• How can consistent food safety education and training, that is appropriate to the risk, be delivered to the voluntary sector in a way that meets public expectations of food safety?

• What government interventions should the public expect if the risk is not being appropriately managed?

• How can training be made accessible and affordable for community or voluntary organisations?

• How can consistency in delivery in education and training be ensured nationally?

**Cost Recovery**

Given the principles for cost recovery and the cost recovery framework, what are your views on the proposed approach to the assessment of the type of business, who pays and the form of payment?

**Performance Management**

Can you identify any other measurable objectives (targets) that relate to the Government’s agreed high level desired outcome of ‘Healthy New Zealanders’ that you think should be given priority?

**Compliance and Sanctions**

Given the general support for expanding the tools in the compliance and sanctions ‘tool box’, are there other issues that need to be raised regarding these specific tools?

**Next Steps**

The Position Paper proposes a transition period of at least 5 years, during which all food businesses would be expected to begin either operating a Food Control Plan or following Food Handler Guidance. Do you think this transition period is sufficient? Do you think it is too short or too long? If so, what do you propose?

**Regulatory Impacts**

Can you identify any other costs and benefits of the proposals?

Can you identify any other compliance costs?
### Appendix 2: Glossary of Terms

#### Glossary of Terms

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>accreditation</strong></td>
<td>provided by a body of international standing, established to perform assessments of agencies and organisations against an international standard and additional secondary criteria/standards (if any) set by the regulator, for a particular function, and may be applied to a specific category</td>
</tr>
<tr>
<td><strong>Code of Practice</strong></td>
<td>a document reflecting acceptable industry-agreed practice, and providing information on ways of meeting regulatory requirements that are appropriate to the purpose and scope of the code</td>
</tr>
<tr>
<td><strong>evaluation</strong></td>
<td>an assessment of a Food Control Plan that is independent of the ‘person’ responsible for the Plan, to determine compliance with regulatory requirements and appropriateness for the operation to which the Plan is to apply; involves review of documentation and, in some cases, review of operations or observation of practice; when undertaken by a party other than the regulator, that individual or agency must be recognised by the regulator as competent</td>
</tr>
<tr>
<td><strong>external verifier</strong></td>
<td>an entity recognised by the regulator to undertake external verification activities on behalf of the regulator, and is independent of the ‘person’ whose Food Control Plan is being verified</td>
</tr>
<tr>
<td><strong>food</strong></td>
<td>means any thing or article, whether processed, semi-processed or raw, which is intended for human consumption and includes drink, chewing gum and any substance which enters into or is used in the composition, manufacture, preparation and preservation, of any food or drink but does not include cosmetics or tobacco, or substances used only as medicines and drugs includes: bottled water, primary produce eg, live shellfish, fruit on a tree, water used in manufacture of a food, chewing gum, by-products of animals if they go into food may include: live animals and plants (depending on intent) excludes: cookware and related products eg, pie dish, packaging (except for edible packaging)</td>
</tr>
<tr>
<td><strong>Food Control Plan (FCP)</strong></td>
<td>a management plan that covers safety and suitability and that is proposed to supersede (and be the collective term for) all current food safety management plans; the intention is that in future every ‘person’ will be covered by a Food Control Plan unless exempted. A food control plan is always science-based and will be risk-based to the extent practicable</td>
</tr>
<tr>
<td><strong>Food Handler Guidance (FHG)</strong></td>
<td>guidance material covering necessary steps to deliver safe and suitable food; intended to be used where education has been determined as the most appropriate approach to delivering safety and suitability</td>
</tr>
<tr>
<td><strong>food hygiene</strong></td>
<td>all conditions and measures necessary to ensure the safety and suitability of food at all stages of the food chain</td>
</tr>
<tr>
<td><strong>food regulatory programme</strong></td>
<td>the overarching food programme in New Zealand for which the New Zealand Food Safety Authority is accountable, and within which decisions on the type of involvement (regulatory and non-regulatory) are made</td>
</tr>
<tr>
<td><strong>food safety</strong></td>
<td>all aspects of food hygiene that contribute to the production, processing, distribution, storage and sale of safe food</td>
</tr>
<tr>
<td><strong>Good Hygienic Practice (GHP)</strong></td>
<td>all practices regarding the conditions and measures necessary to ensure the safety and suitability of food at all stages of the food chain</td>
</tr>
<tr>
<td><strong>Good Operating Practice (GOP)</strong></td>
<td>all GHP components plus components of Good Agricultural Practice (GAP)/Good Manufacturing Practice (GMP) that affect safety and suitability appropriate to the ‘person’s operation’. GOP does not include purely commercial GMP components or GAP components that don’t affect suitability and/or safety</td>
</tr>
<tr>
<td><strong>Hazard</strong></td>
<td>a biological, chemical or physical agent in, or condition of, food with the potential to cause an adverse health effect</td>
</tr>
<tr>
<td><strong>Hazard Analysis and Critical Control Point (HACCP)</strong></td>
<td>a system which identifies, evaluates and controls hazards which are significant for food safety</td>
</tr>
<tr>
<td>Term</td>
<td>Definition</td>
</tr>
<tr>
<td>------</td>
<td>------------</td>
</tr>
<tr>
<td>intended purpose</td>
<td>of a food is the purpose stated or a purpose that could reasonably be presumed to be intended, having regard to its nature, packaging and identification</td>
</tr>
<tr>
<td>internal verifier</td>
<td>the ‘person’ or someone on his/her behalf, undertaking internal verification of that person’s Food Control Plan, as required by the Food Control Plan</td>
</tr>
<tr>
<td>model (Food Control Plan)</td>
<td>the whole or a part of a Food Control Plan that businesses in the food industry may use as an example for the preparation of their own Food Control Plans; contains all, or parts of, the components required for a complete Food Control Plan</td>
</tr>
<tr>
<td>national programmes</td>
<td>the whole of New Zealand or regional programmes developed to apply consistently to a sector or group because of the need to involve core government (for example, where access to property is necessary) or for cost-effectiveness reasons (for example, national sampling programmes)</td>
</tr>
<tr>
<td>‘persons’</td>
<td>all food producers, processors, operators, businesses, sellers and importers</td>
</tr>
<tr>
<td>recognition</td>
<td>provided by the regulator for agencies and individuals to undertake a particular function, against criteria and standards set by the regulator</td>
</tr>
<tr>
<td>registration</td>
<td>official process whereby the regulator approves a Food Control Plan as satisfactorily meeting the legal requirements</td>
</tr>
</tbody>
</table>
| regulatory limit | measurable technical requirement specifically identified as a regulatory limit. Regulatory limits are a subset of regulatory requirements. Regulatory limits may be:  
• science-based  
• HACCP derived, eg, critical limits  
• risk-based |
| regulatory model | the current government approach to regulating the food chain; comprises the regulator (primarily but not exclusively NZFSA), the external verifier and the ‘person’ involved |
| regulatory requirement | any mandatory requirement set by the regulator for the management of food safety and suitability. May be either set in law or enabled by law |
| regulatory validation | process in which the regulator collects and presents scientific evidence to justify the setting of standards and requirements for food safety or suitability; the regulator validates its own regulatory process |
| risk assessment | a scientifically-based process consisting of four steps (hazard identification, hazard characterisation, exposure assessment and risk characterisation) |
| risk-based | decisions and actions that are based on a specific knowledge of risks to human health |
| risk management framework | risk-based approach to policy setting and overarching decision making on risk management in general |
| safe | produced by applying all food safety requirements appropriate to its intended end use |
| seamless | without legislative or operational duplication or gaps in the New Zealand food regulatory programme |
| science-based | decisions, standards and actions that are based on objective and verifiable information on all relevant hazards |
| suitability | product attributes that include aesthetic characteristics or defects, composition and labelling, that are not related to food safety |
| template (as for a Food Control Plan) | a ‘form’ Food Control Plan in whole or in part, that includes Good Operating Practice and regulatory requirements and is used to assist a ‘person’ to develop their Food Control Plan; may consist of a simple form and checklist that refers the operator to the Good Operating Practice components within the Code of Practice |
| verification | the application of methods, procedures, tests and other checks to confirm:  
• compliance of the Food Control Plan to the legislation and  
• compliance of the operation to the documented Food Control Plan and  
• the applicability of the Food Control Plan to the operation |
Appendix 3: Six options for the structure of food regulation in New Zealand

Paper 2 of the Domestic Food Review consultation documents outlined six options for the range of possible future roles, responsibilities and structure for the food regulator in New Zealand. The options were:

**Option 1: Status quo**
This option reflects the current arrangements. NZFSA is responsible for the administration of food-related legislation, the Public Health Units deliver a range of food safety and suitability activities under contract to NZFSA, and Territorial Authorities undertake inspection for food safety and of premises.

**Option 2: NZFSA and Public Health Units align; Territorial Authorities operate as entry point**
Under this option the roles and responsibilities change, while the current structure remains. Public Health Units would be involved in systems audit and in setting standards, e.g., Codes of Practice. Public Health Units would carry out monitoring and surveillance. NZFSA would be responsible for assessing complex or national Food Control Plans, while Territorial Authorities would register and approve Food Control Plans commensurate with their capability to do so.

**Option 3: Health Protection Officers employed by NZFSA; Territorial Authorities operate as entry point**
This option involves a change to the structure whereby Health Protection Officers (HPOs) working on food matters would be employed by NZFSA. These staff would be involved in the assessment and registration of more complex Food Control Plans and standards setting activities. Territorial Authorities would have an increased role in registrations of both premises and plans, and would undertake enforcement, food complaints, and emergency and recall response alongside NZFSA.

**Option 4: Environment Health Officers and HPOs employed by NZFSA; NZFSA operates regionally as entry point**
This option also involves a further structural change whereby Environmental Health Officers (EHOs) along with HPOs would be employed by NZFSA. All activities would be undertaken by NZFSA.

**Option 5: EHOs employed by Public Health Units; Public Health Units operate as entry point**
This option involves EHOs being employed by Public Health Units. Functions currently undertaken by Territorial Authorities would be undertaken by Public Health Units and/or NZFSA.

**Option 6: HPOs employed by Territorial Authorities; Territorial Authorities operate as entry point**
This option involves HPOs being employed by Territorial Authorities. Functions currently undertaken by Public Health Units would be undertaken by Territorial Authorities and/or NZFSA.
NZFSA envisages making templates available to help specific food sectors implement Food Control Plans (FCPs). Templates are an example of an off-the-peg FCP, and will vary in design and presentation according to the relevant food business.

Food regulatory requirements have been incorporated into the text of the template in plain English.

Corner dairy template
This template is for a typical retail operation selling many different food items, such as a local dairy. The template is designed to be customised for the needs of the individual store. Throughout the template are:

- common requirements (tailored as appropriate)
- activity-specific procedures (where relevant to the business)
- record-keeping requirements.

Common requirements
The template includes a number of elements that will be applicable to all dairies and will be common to every Food Control Plan based on the template. These sections can be identified on the contents page, eg, Figure 1.

All dairy FCPs that are based on the template will also include some common procedures, such as hand hygiene, but they will be subject to a degree of tailoring to adapt them to the specific practices used (eg, by selecting one of the options listed for hand drying).

Specific procedures
The template also contains specific procedures that would only be included if the store carries out those activities (eg, Figure 3, Making Sandwiches).

The diary (record-keeping)
The template incorporates a simplified form of record-keeping in the form of a diary (Figure 4).

The diary includes essential opening and closing checks, and tick boxes to indicate that tasks have been completed. It is expected that details will be recorded when problems are identified, including what was done to fix the problem and to ensure that any affected food was managed appropriately. There are simple daily, weekly and fortnightly checks. There is also a four-weekly review to ensure procedures are working effectively.

Implementing the template
The store operator works through each section of the template and makes sure it adequately covers all aspects of the business. It may be necessary to make some changes or add some extra information. If significant changes or additions are made they will need to be submitted to the local Territorial Authority or to a third-party for evaluation.

To implement the FCP, the store operator:

1. a fills in the blanks or tick boxes to show the activities in the store
   b removes any sheets that do not apply to the store
   c identifies any activities not covered by the template, and documents them on the blank sheets provided

2. Registers the FCP with the relevant Territorial Authority.

Once the FCP is registered, the operator:

1. makes sure that everyone who works in the shop is trained and is familiar with the FCP
2. follows the procedures in the FCP, including recording the required information in the diary.

Fig 1: Corner Dairy Food Control Plan Template:
Draft Table of Contents

Section 1: Common Requirements
- Contact Details
- Document Control
- Training and Supervision
- Purchasing and Receiving Goods
- Storage
- Using a Thermometer
- Recalls and Customer Complaints
- Pest Control
- Maintenance and Shop Design
- Breakdown and Corrective Action
- Water Supply
- Hand Hygiene
- Personal Hygiene and Sickness
- Cleaning and Sanitising

Section 2: Specific Procedures (cross out those that are not relevant)
- Hard Scoop Ice Cream
- Soft Serve Ice Cream
- Milkshakes
- Making Sandwiches
- Buying in Sandwiches
- Pie Warmer Foods
- Cakes, Slices and Loose Sweets
- Fruit and Vegetables

Section 3: The Diary (record keeping)
- Using the Diary
- Weekly Diary

Corner Dairy Name: ____________________

Food Control Plan

(Version 1) 01/05/06
Page: 1 of __
How to do this

Write it down

**Write it down**
Write down any sightings of pests or pest activity and what action you have taken to fix the problem.

If there is no evidence of any pests when you do your checks, note this down.

What if it goes wrong?
If you see pests or evidence of pest activity (eg droppings or damaged goods):

- Throw out any food that looks like it has been damaged by pests.
- Clean the affected areas.
- Clean and sanitise areas where unwrapped food is prepared or handled.
- Eliminate the pests and ensure that access routes are removed.

If insecticides or other chemicals are used, take care to first remove all food before treatment. Clean food-contact surfaces (eg benches) to remove the chemical before using them again.

In the case of a severe infestation, or an infestation of cockroaches, a pest-control company should be called in.

**Remove things that attract pests:**
- Rubbish: Keep bins covered and remove rubbish regularly.
- Cleaning: Follow the cleaning schedule; clean and clean as you go (eg clean up spills straight away).
- Food Storage: Store opened foods in pest-proof containers.

**Keep pests out!**
- Gaps and holes – seal any gaps and holes that could allow pest entry (eg under doors, around pipes).
- Maintenance – follow maintenance schedule (ensure it includes things like fixing holes in fly screens etc).
- Incoming goods – follow incoming goods procedure (check to make sure pests are not inside the packaging).

**Keep a look out for pest activity**
- Check the premises once a month.
### Making sandwiches

#### Action
Hygienically making sandwiches and filled rolls.

#### Why?
- Sandwiches/filled rolls may become contaminated with harmful germs from our hands or equipment when we make them.
- Customers may contaminate sandwiches/rolls on display with germs.
- Harmful germs can also grow if food is displayed at room temperature for too long.

#### How to do this

**Storage of filling ingredients**
- Follow storage instructions on label.
- Store perishable ingredients (such as meats, sprouts, cheese, cut vegetables) below 4°C in the fridge.
- Keep raw ingredients (eg uncooked meat, bacon and unwashed vegetables) separate from cooked or ready-to-eat foods. Cover foods, store cooked and ready-to-eat foods above raw foods in the fridge.
- Fillings that are prepared in bulk should be labelled with the date prepared and refrigerated. These must be thrown out if not used within two days. Do not top up the container with fresher ingredients.

**Making sandwiches/rolls**
- Use clean, sanitised surfaces and equipment when making sandwiches/rolls (see Cleaning and Sanitising procedure).
- Wash hands and wear appropriate clothing (see Hand Hygiene and Personal Hygiene and Sickness procedure).
- Wash salad ingredients (eg lettuce, tomatoes and parsley).
- Ensure perishable ingredients are used and returned to the fridge (below 4°C) as soon as possible and within 2 hours.

**Display**
- Display below 4°C, or
- Display at room temp for no longer than two hours (then throw away or chill to 4°C and sell from the fridge).

#### Tick the method used
- Time written on stickers on wrapping
- Coloured stickers on wrapping indicating time on display
- One item displayed; customers served product from fridge; display item thrown away
- Picture of item or menu list with item stored in fridge
- Other (please detail here):

- Products should be individually wrapped or clean tongs provided for customers or staff to use (see Cleaning and Sanitising procedure for tongs).
- All our food on display must be covered to protect it from flies, customers sneezing, and other contamination.

**What if it goes wrong?**

If fridge temperature is warmer than 4°C see Breakdown and Corrective Actions procedure.
## Fig 4: Sample diary

<table>
<thead>
<tr>
<th>Problems or changes – what did you do?</th>
<th>Checks completed_Opening_Closing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Notes:</td>
<td>Fridges/cold display cabinets containing perishable food</td>
</tr>
<tr>
<td></td>
<td>checked food temp 4°C or below</td>
</tr>
<tr>
<td></td>
<td>Freezers</td>
</tr>
<tr>
<td></td>
<td>checked food frozen solid</td>
</tr>
<tr>
<td></td>
<td>Pie warmers/hot holding cabinets</td>
</tr>
<tr>
<td></td>
<td>checked food temp 60°C or above</td>
</tr>
<tr>
<td></td>
<td>Preheated pies, sausage rolls etc</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Time</th>
<th>Temp</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
</tr>
</tbody>
</table>

Name:  
Signed:

The procedures in our Food Control Plan were followed and effectively supervised today.

### Four-weekly

- Weekly cleaning tasks completed
- Fortnightly cleaning tasks completed
- 4-weekly review completed

Signs of pest activity:  
- No
- Yes (write down what you did)

Notes:

Name:  
Signed:

The procedures in our Food Control Plan were followed and effectively supervised.
Appendix 5: Application of HACCP Principles

1. Hazard identification and analysis
List all potential hazards associated with each step, conduct a hazard analysis, and consider any measures to control identified hazards.

All hazards that may reasonably be expected to occur from raw materials and other inputs into a process, as well as process steps themselves, shall be identified and documented.

The identified hazards should be reviewed to determine which need to be controlled during the production of food to ensure that it is fit for purpose.

Adequate control must then be applied to each of the hazards, using one or more control measures. Where a hazard cannot be controlled, this should be noted.

Hazard details may need to be provided or be available (in Codes of Practice on website etc from NZFSA) rather than individual businesses having to carry out hazard identification by themselves.

The impact of an individual process step on identified hazards needs to be considered and documented where relevant. Hazards coming forward from previous steps need to be considered (not necessarily documented) until the point where they are controlled (at which point they need to be documented) or identified as uncontrolled hazards at the end of the process.

Biological, chemical and physical hazards need to be identified.

Hazard analysis needs to consider those hazards whose elimination or reduction to acceptable levels is essential for the production of food fit for intended purpose. Hazard analysis may highlight any unacceptable levels of hazards in relation to limits set in law. Such analysis links to the determination of critical control points (CCPs).

2. Critical control point (CCP) determination

Critical control points, if any, need to be determined and documented.

The intent of the HACCP system is to focus control at critical control points (if any). Critical control points should be used sparingly.

The basis for determining critical control points needs to be clear. A critical control point needs to have a control measure (or combination of measures) that eliminate or reduce an unacceptable level of a hazard or group of hazards to an acceptable level so that the food is fit for intended purpose.

A critical control point may be determined by use of a decision tree. More than one critical control point may be necessary to achieve an appropriate level of hazard control. Alternatively, more than one hazard may be controlled by a single critical control point. In situations where no critical control point is identified, then application of the HACCP principles stops at that point.

3. Critical limits for critical control points

For each critical control point chosen, critical limits need to be established and be measurable, appropriate and achievable by the business.

Critical limits are most likely to be regulated limits.

4. Monitoring of critical control points

The monitoring process for each of the critical control points needs to be documented.

The documentation needs to include the following:

- who is responsible for monitoring
- what has to be done
- how it is to be carried out
- when it is to be done
- what records are to be kept.

5. Corrective actions for critical control points

The proposed corrective action needs to be documented for any critical control point.

The documentation shall include the following:

- who is responsible for corrective action taking
- how control is to be restored
- how control and disposition of product is to be managed (includes non-conforming product)
- what preventative actions are to be taken, including escalating response if not resolved
- what records are to be kept.

---

22 This would not be necessary in the case of a sole ‘person’
23 This would not be necessary in the case of a sole ‘person’
### Important information for a safe and successful barbecue fundraiser

#### How to have a safe barbecue fundraiser

#### Temperature control

- The bugs that commonly cause food poisoning grow rapidly between 4°C and 60°C. This is the ‘temperature danger zone’.
- Keep raw meat, chicken or seafood in a cold chilly bin, (below 4°C), when transporting and storing it until you are ready to cook.
- Keep meat, chicken or seafood and onion hot, (above 60°C), by leaving them on the hotplate until you are ready to serve.

#### Cook food thoroughly

- Raw or poorly cooked food can contain bugs that cause food poisoning. These bugs are killed through correct cooking.
- Cook meat until cooked through to the centre. (There should be no pink left inside the meat). When cooking chicken ensure that it is white in the middle and there is no hint of pink.

#### Prevent bugs spreading

- Harmful bugs can be spread if raw foods (like meat or unprepared onions) touch cooked foods. This is dangerous because the ready-to-eat foods will be eaten without any further cooking to kill the bugs.
- Separate raw foods from the bread and cooked food.
- Use separate utensils and hands to handle cooked and raw foods.

#### Personal Hygiene

- People and pets also carry bugs. If you are not careful, the bugs can spread to food and make people sick.
- Always wash and dry your hands thoroughly before touching food, after going to the toilet, taking a break, changing tasks or touching pets or other animals.
- No one who has flu or cold-like symptoms or has had diarrhoea or vomiting within 24 hours of the event should help.
- Do not allow anyone with lesions on exposed skin (hands, face, neck or scalp) to help.

#### Hand washing facilities

- Where a hand washing basin is not easily accessible:
  - A supply of warm water in a Thermos® (minimum one litre) should be used with a bucket, soap and disposable towels. This should be used to remove visible dirt and food from hands.
  - A commercial hand sanitiser or spray pump (minimum half litre) containing a 10% solution of isopropyl alcohol is an excellent addition to clean hands.

#### Leftovers

- Cooked food that has not been sold at the end of the event must be thrown out.

#### Know your ingredients

- For customers that have a food allergy, knowing whether an ingredient is in the food they eat can make the difference between life and death.
- If asked, you should be able to tell a customer what the ingredients are in the food you serve.
- This information can be found out from your suppliers, or from the labels on the packaging.

#### Barbecue safety

- Think about the health and safety of both those helping and members of the public.
- Use a gas barbecue (ie, not charcoal).
- Ensure gas bottles are safely secured.
- Have a fire blanket or extinguisher easily accessible.
- Make sure that the public are protected from hot surfaces that could burn.
- Arrange the working area so that there is sufficient room for those helping.
- Site the barbecue fundraiser in a location that will not impede pedestrian flow, or result in a traffic hazard.