



Report on the *Food Act 2008 (WA)*

**This document contains reports
from *Food Act 2008 (WA)* enforcement
agencies on the performance of food
regulatory functions for the period
1 July 2010 to 30 June 2013**



Prepared by the WA Department of Health

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A message from the Director General



The introduction of the *Food Act 2008 (WA)* and the *Food Regulations 2009 (WA)* saw a change from a 'prescriptive' to an 'outcomes-based' food legislative framework in WA. This shift created greater flexibility in the way legislative compliance can be achieved by food businesses and enhanced by enforcement agencies. This *Report on the Food Act 2008 (WA) 2010–2013* is the Department's second publication on the Food Act (following the inaugural 2010 report). It provides insight into the work of enforcement agencies in WA on their performance of functions under the Food Act, and the progress of the Food Act implementation over the last three years.

The Department of Health has a pivotal role in collaborating with and supporting local government enforcement agencies to ensure the effective and consistent administration of the Food Act. The findings of the Food Act Report are used to anticipate issues requiring support and help guide policy development. With the introduction of more rigorous enforcement tools under the Food Act, the Department facilitated workshops on compliance and enforcement for authorised officers. Enforcement agencies have since reported improved confidence in the application of enforcement tools, an increased number of enforcement options administered and subsequent improvement in legislative compliance by food businesses over recent years. The Department will continue to work with enforcement agencies, and is currently developing a communication strategy to help ensure these improvements are sustained.

In addition to regulatory functions, enforcement agencies have autonomy to take a customised approach to enhancing food safety and public health. This report highlights the work of some enforcement agencies, for example, that have embarked on food safety and nutrition related public health initiatives.

Enforcement agencies have made excellent progress in implementing the Food Act to date. This ongoing commitment is crucial to ensure that consumers have access to safe and suitable food.

A handwritten signature in blue ink, which appears to read "Bryant Stokes". The signature is written in a cursive style and is positioned above the printed name.

Professor Bryant Stokes
A/Director General

Acknowledgements

The following agencies contributed to this report:

Cities

Albany, Armadale, Bayswater, Belmont, Bunbury, Busselton¹, Canning, Cockburn, Fremantle, Greater Geraldton², Gosnells, Joondalup, Kalgoorlie/Boulder, Mandurah, Melville, Nedlands, Perth, Rockingham, South Perth, Stirling, Subiaco, Swan, Vincent³ and Wanneroo.

Shires

Ashburton, Augusta-Margaret River, Beverley, Boddington, Boyup Brook, Bridgetown-Greenbushes, Brookton, Broome, Broomehill-Tambellup, Bruce Rock, Capel, Carnamah, Carnarvon, Chapman Valley, Chittering, Collie, Coolgardie, Coorow, Corrigin, Cranbrook, Cuballing, Cue, Cunderdin, Dalwallinu, Dandaragan, Dardanup, Denmark, Derby-West Kimberley, Donnybrook-Balingup, Dowerin, Dumbleyung, Dundas, East Pilbara, Esperance, Exmouth, Gingin, Gnowangerup, Goomalling, Halls Creek, Harvey, Irwin, Jerramungup, Kalamunda, Katanning, Kellerberrin, Kent, Kojonup, Kondinin, Koorda, Kulin, Lake Grace, Laverton, Leonora, Manjimup, Meekatharra, Menzies, Merredin, Mingenew, Moora, Morawa, Mt Magnet, Mt Marshall, Mukinbudin, Mullewa², Mundaring, Murchison, Murray, Nannup, Narembene, Narrogin, Ngaanyatjarraku, Northam, Northampton, Nungarin, Peppermint Grove, Perenjori, Pingelly, Plantagenet, Quairading, Ravensthorpe, Roebourne, Sandstone, Serpentine-Jarrahdale, Shark Bay, Tammin, Three Springs, Toodyay, Trayning, Upper Gascoyne, Victoria Plains, Wagin, Wandering, Waroona, West Arthur, Westonia, Wickiepin, Williams, Wiluna, Wongan-Ballidu, Woodanilling, Wyalkatchem, Wyndham/East Kimberley, Yalgoo, Yilgarn and York.

Towns

Bassendean, Cambridge, Claremont, Cottesloe, East Fremantle, Kwinana, Mosman Park, Narrogin, Port Hedland and Victoria Park.

Department of Health

Environmental Health Directorate (Food Unit), Epidemiology Branch, Communications Directorate

¹ The Shire of Busselton was renamed as the City of Busselton on 1 January 2012.

² The City of Geraldton-Greenough and the Shire of Mullewa amalgamated on 1 July 2011 as the City of Greater Geraldton.

³ The Town of Vincent was renamed as the City of Vincent on 1 July 2011.

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Abbreviations, acronyms and definitions

Assessment	The process of reviewing a food business in order to confirm compliance or non-compliance with the Food Act, Food Regulations or the Code
Authorised officer	A person appointed under Part 10 Division 3 of the Food Act
CEO of LG	A Chief Executive Officer of local government
CEO	Chief Executive Officer (Director General) of the Department of Health
Code	Australia New Zealand Food Standards Code
EHO	Environmental Health Officer
Enforcement agency	The CEO of Department of Health or local government
Food Act	<i>Food Act 2008 (WA)</i>
Food business	A business, enterprise or activity that involves the handling of food intended for sale or the sale of food
Food Regulations	<i>Food Regulations 2009 (WA)</i>
FSANZ	Food Standards Australia New Zealand
FSP	Food safety program
LG	Local government
LHAAC	Local health authorities analytical committee
Metropolitan WA	North and south metropolitan health regions
Regional WA	The Goldfields, Great Southern, Kimberley, Midwest, Pilbara, South West and Wheatbelt health regions
RFSA	Regulatory food safety auditing
FTE	Full-time equivalent
WA	Western Australia

Key figures 2012/13

■ Enforcement agencies

As at 30 June 2013 there were 139 enforcement agencies, 267.7 FTE authorised officers, 68.5 FTE persons assisting with the discharge of duties of authorised officers and 19,020 food businesses registered or notified with enforcement agencies in WA.

■ Compliance and enforcement action

In 2012/13 enforcement agencies in WA served 903 improvement notices, 400 infringement notices, 34 prohibition orders, performed 50 seizures and instigated 35 prosecutions.

■ Food safety education and training

58% of enforcement agencies provided food safety education and training to food businesses in 2012/13, covering 90% of food businesses in the state. Training included online training, workshops, presentations, written guidance documents such as fact sheets and newsletters, and targeted and on demand training.

■ Regulatory food safety auditing

- Part 8 – Auditing of the Food Act came in to effect on 23 October 2010
- There are currently 19 approved regulatory food safety auditors under the Food Act
- As at 30 June 2013 there were 906 food businesses captured under Standard 3.3.1 that are required to implement a food safety program. Of these businesses 503 (55%) had their food safety program verified by the appropriate enforcement agency to determine that it complies with the requirements of the Code. Of the verified food safety programs 301 (59.8%) have received a regulatory food safety audit.

■ Food-borne disease outbreak investigations

The Department of Health and local government enforcement agencies have roles in the identification, investigation and control of food-borne disease outbreaks. In 2012/13 14 food-borne disease outbreaks were investigated in WA. The agent responsible for these outbreaks included Norovirus (2 outbreaks), Salmonella (3 outbreaks), *Listeria monocytogenes* (2 outbreaks), Hepatitis A (1 outbreak) and for 5 of the outbreaks the pathogen was unknown.

■ Food recalls

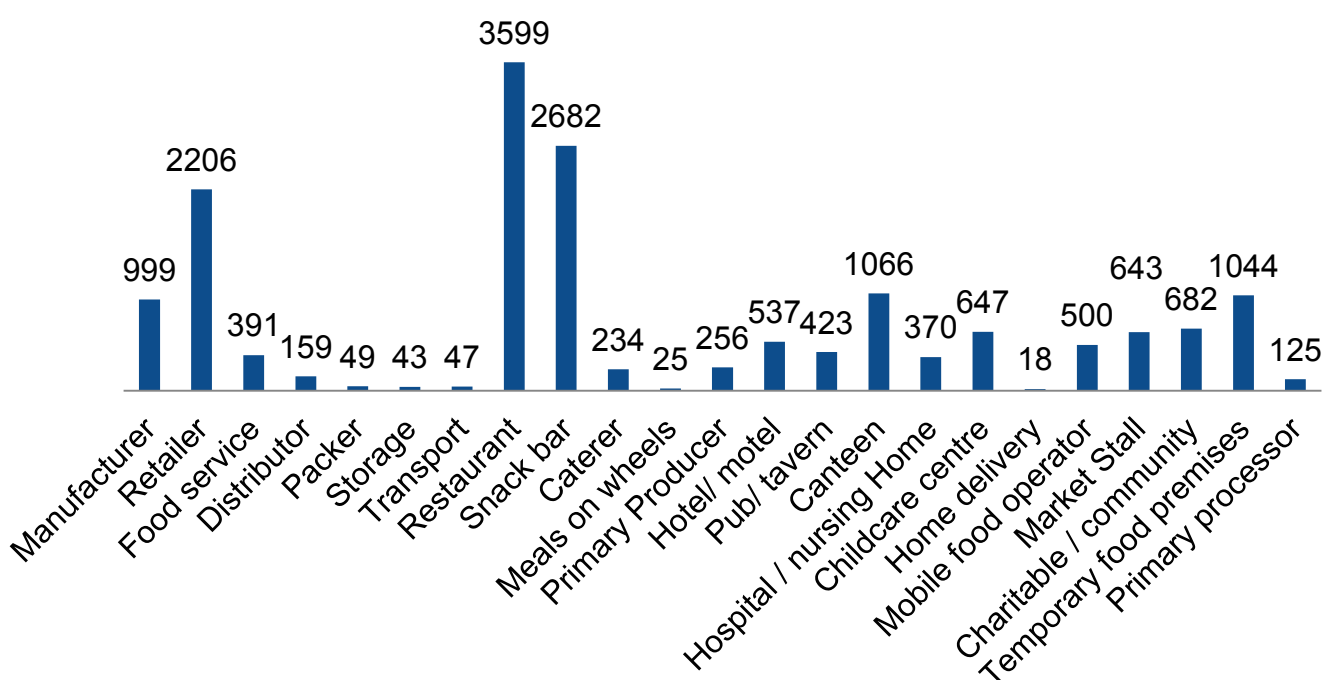
The Department of Health, in conjunction with Food Standards Australia New Zealand, work with local government enforcement agencies to ensure foods requiring a recall are removed safely and quickly from food businesses. During 2013 there were 17 food recalls that affected Western Australia.

■ Workshops and seminars

The Department of Health facilitated the following workshops during 2012/13:

- Dairy industry workshops to provide guidance to dairy food businesses on the Food Standards Code requirement to implement a food safety program, and the regulatory food safety auditing system.
- Verification of food safety program workshop for Food Act authorised officers on the regulatory food safety auditing framework and the role of enforcement agencies in verifying compliance of food safety programs with the Code.

Figure 1.1: Number of food businesses by type of activity in WA 2012/13



1. Introduction

1.1 About this report

Relevant Food Act Section/Part	Part 10, Division 2 of the Food Act – Reports by and about enforcement agencies
Department of Health policies, guidelines and resources	WA Food Regulation: Department of Health Reporting Requirements on Enforcement Agencies' Activities¹

This report provides a snapshot of the work undertaken by Food Act authorised officers and enforcement agencies in WA. Each of the 137 enforcement agencies in WA has many functions under the Food Act including registration of food businesses, compliance monitoring and taking enforcement action when required. In order to deliver these functions, enforcement agencies can appoint authorised officers.

The Department of Health is also the State government agency responsible for administering the Food Act and represents WA in the bi-national food regulatory system. One of the roles of the Department of Health is to collect reports from enforcement agencies that detail their performance of functions each financial year. This report is a compilation of all enforcement agency reports received for the years 2010–2013.

Each enforcement agency provided information on:

- Authorised officers numbers and approval procedures;
- Registration and assessment of food businesses;
- Compliance and enforcement activities;
- Regulatory food safety auditing; and
- Educational and other initiatives.

This report will include analysis and discussion on each of these areas, both at state-wide and regional levels.

1.2 The food regulatory system

The WA Government is responsible for determining food policy and legislative direction in this State. This direction is largely driven by the bi-national food regulatory system (see inset) applicable to all Australian jurisdictions and New Zealand. The aims of this system are to:

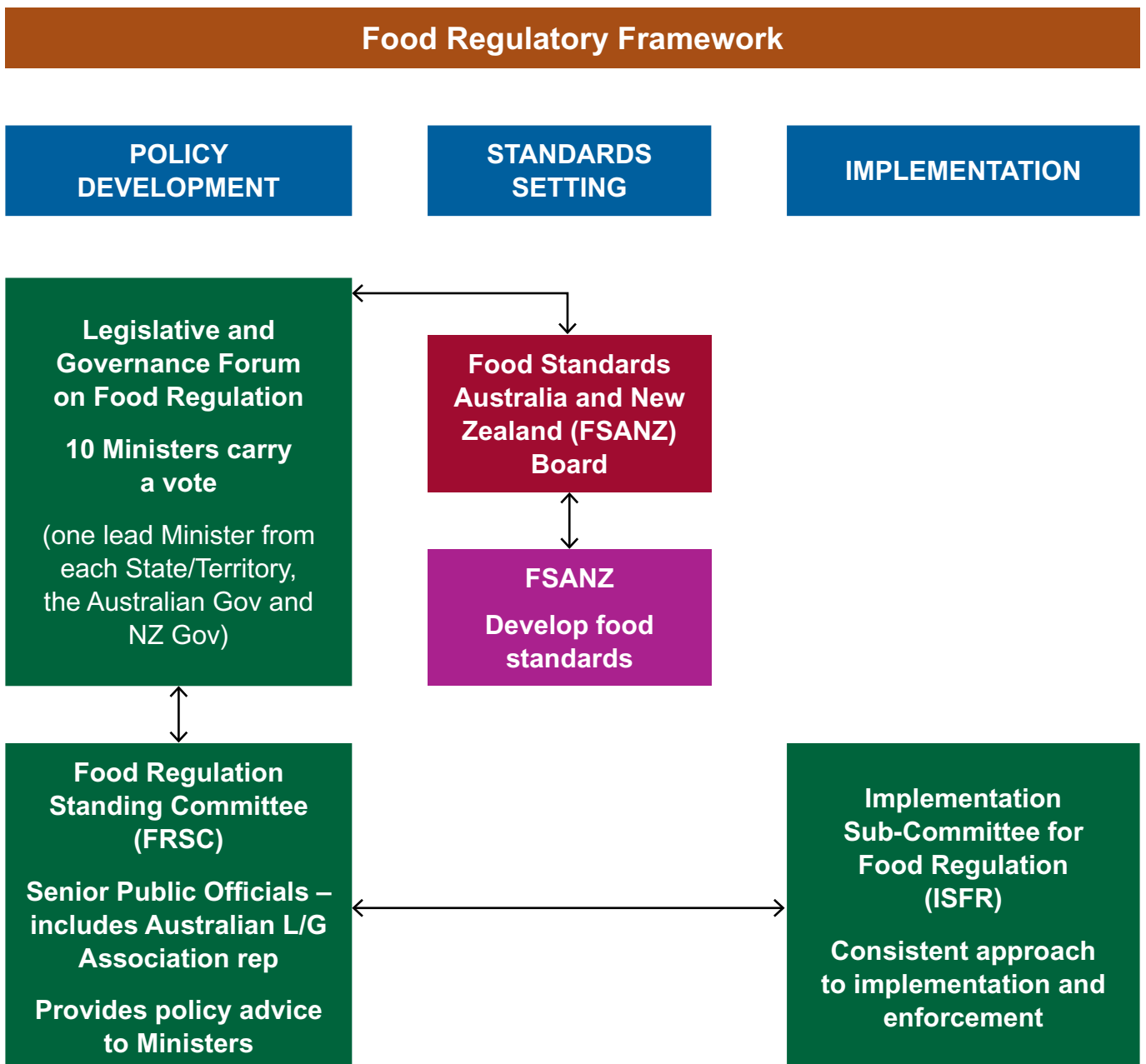
- Protect the health and safety of consumers by reducing risks related to food;
- Enable consumers to make informed choices about food by ensuring that they have sufficient information and by preventing them from being misled;
- Support public health objectives by promoting healthy food choices, maintaining and enhancing the nutritional qualities of food and responding to specific public health issues; and
- Enable the existence of a strong, sustainable food industry to assist in achieving a diverse, affordable food supply and also for the general economic benefit of Australia and New Zealand.

In order to implement this system, jurisdictions agreed to introduce legislation based on the Food Regulation Agreement Model Food Provisions – in WA this is the Food Act. The Model Food Provisions adopts the Code with FSANZ being the responsible agency for developing food standards.

The Code can be changed by agreement of Food Ministers from each jurisdiction, convening as the Legislative and Governance Forum on Food Regulation (FoFR). Policy advice is provided to FoFR by the Food Regulation Standing Committee (FRSC) which comprises of senior officials. In order to ensure that food regulations are implemented and enforced consistently, jurisdictions work collaboratively via the Implementation Subcommittee for Food Regulation (ISFR).

The WA FoFR representative is the Minister for Health who is supported by the Director Environmental Health as the FRSC representative and the Manager Food Unit as the ISFR representatives.

Figure 1.2: National food regulatory system



1.3 Roles and responsibilities

Relevant Food Act Section/Part	Part 1 of the Food Act – Preliminary Part 2 of the Food Act – Interpretation
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The WA food regulatory system affects a wide range of stakeholder groups including consumers, public health professionals, the food industry, various government departments and enforcement agencies. The Food Act is in place as an Act to provide for the safety and suitability of food to consumers. The legislative responsibility to handle and sell safe and suitable food lies with each individual food business. Each food business is also responsible for ensuring compliance with the Code.

In terms of compliance and enforcement of food businesses, Part 1 of the Regulations details which agency is the appropriate enforcement agency for each food business. Each local government in WA is the enforcement agency for food businesses within its district. However, the following food businesses fall within the responsibility of the Department of Health (CEO):

- Public hospitals
- Dairy primary producers, transporters and processors
- Primary producers and processors of bi-valve molluscs
- Food businesses not within a district
- Export registered meat food businesses

The Department of Health Food Unit is the state government agency responsible for assisting the Minister for Health to administer the Food Act. This role includes providing leadership and strategic direction; education; and state-wide coordination of food safety, food regulation and nutrition related matters. An integral part of the Food Unit's role is to liaise with and assist enforcement agencies to deliver their Food Act functions while representing WA in the national food regulatory system.

2. Enforcement agency activities 2012/13

Local governments in Western Australia are responsible for administering the Food Act to the majority of food businesses in the state. One of the great strengths of Western Australia’s local governments is their ability to operate in very diverse regions. This section highlights the diversity of the local government enforcement agencies in the seven health regions of Western Australia and how the Food Act is administered within the regions. In addition to administering the Food Act, many local governments have implemented food safety and nutrition related public health initiatives within their districts and this section highlights some of these initiatives over the last three years.

2.1 Department of Health

- The Department of Health is the enforcement agency, as prescribed in the Food Regulations, for:
 - Public hospitals serving food to patients
 - Dairy primary production, processing and transportation businesses
 - Primary production and manufacturing of bivalve molluscs
 - Food businesses not in a district
- In the Department of Health there are 12 FTE authorised officers working in food safety, who administer the Food Act to 359 food businesses. Each food business has an average of 0.83 food safety assessments a year.

Figure 2.1: Percentage of Department of Health food businesses by principal type of activity in 2012/13

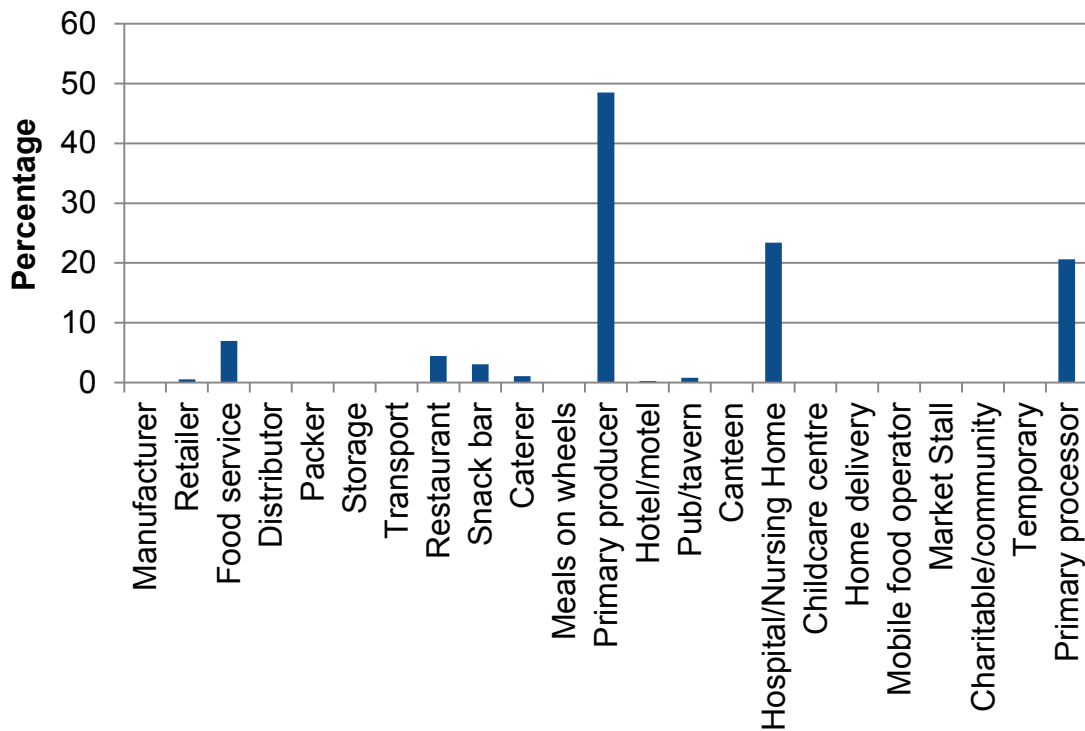
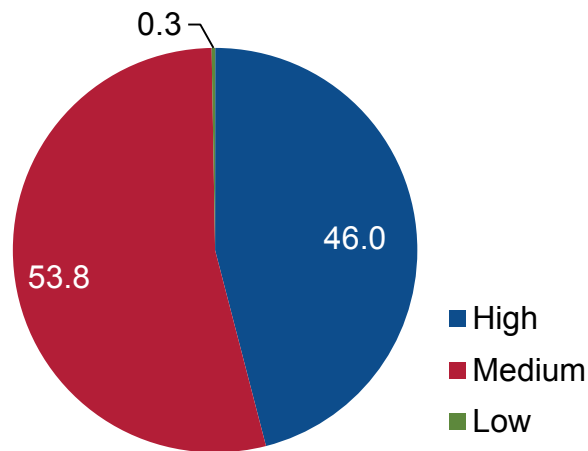


Figure 2.2: Percentage of Department of Health food businesses by risk rating in 2012/13



- **Compliance and enforcement:** During 2012/13 the Department of Health served eight improvement notices and two infringement notices. There were no prosecutions or prohibition orders.
- **Department of Health enforcement agency highlights:**
 - Delivered a series of one-day workshops for dairy food businesses to provide guidance on compliance with the Code's requirements to implement a food safety program, and the regulatory food safety auditing system in WA.
 - Conducted shoreline and sanitary surveys for commercial shellfish harvesting areas, completed the triennial review of the Oyster Harbour shellfish harvesting area.
 - Performed verification of dairy food businesses' food safety programs.

2.2 Goldfields

In the Goldfields region there are 9 FTE authorised officers working in food safety and 0.5 FTE persons assisting with the discharge of duties of authorised officers across nine enforcement agencies that administer the Food Act to 538 food businesses. Each food business has an average of 1.06 food safety assessment every year.

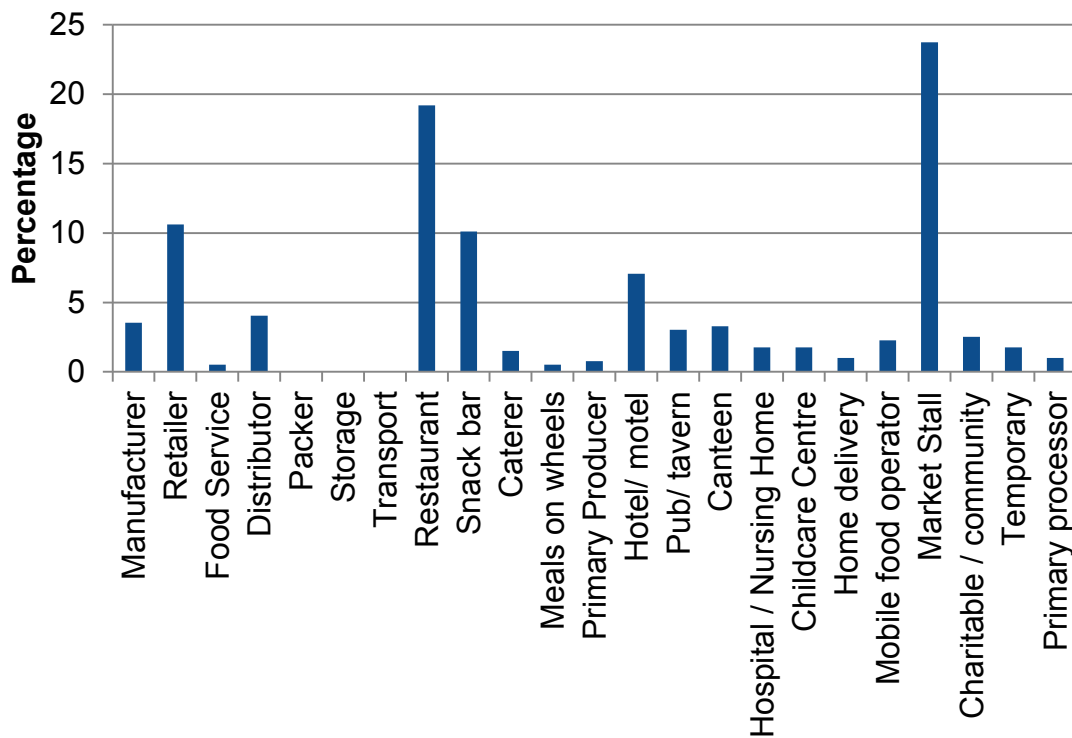
There are nine Food Act enforcement agencies in the Goldfields region: the City of Kalgoorlie-Boulder; the Shires of Coolgardie, Dundas, Esperance, Laverton, Leonora, Menzies, Ngaanyatjaraku and Ravensthorpe.



The City of Kalgoorlie-Boulder is the largest enforcement agency with five FTE authorised officers administering the Food Act to 234 food businesses. The smallest enforcement agency is the Shire of Menzies with 0.2 FTE authorised officers administering the food regulations to six food businesses.

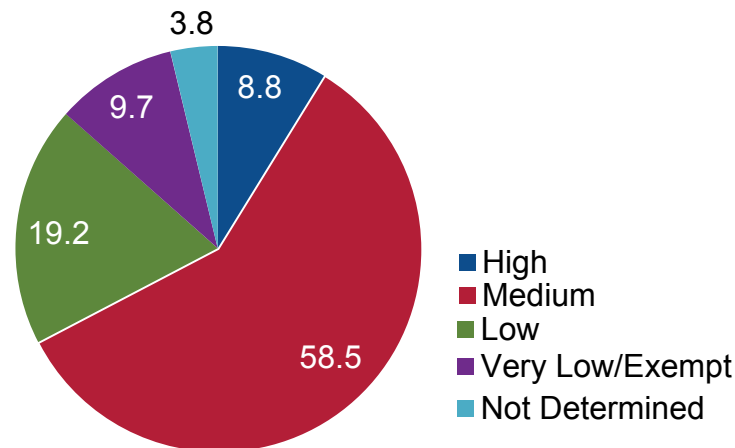
Figure 2.3 shows percentage of food businesses in the Goldfields region by type of activity. The food businesses are predominately food service; 17.9% are canteens, 17.6% snack bars, 14.3% restaurants and followed by 12.6% retailers. There are few manufacturers, distributors and primary producers.

Figure 2.3: Percentage of food businesses in the Goldfields region by principal type of activity in 2012/13



Risk Rating: The majority of the food businesses in the Goldfields region have either a high or medium risk rating as show in figure 2.4.

Figure 2.4: Percentage of food businesses by risk rating in the Goldfields region 2012/13



Compliance and enforcement: During 2012/13 Goldfields enforcement agencies served 51 improvement notices and two infringement notices. There were no seizures, prohibition orders or prosecutions.

Highlights of enforcement agencies in the Goldfields region:

- Delivered Food Act workshops and in-store education sessions.
- Participated in LHAAC coordinated sampling projects.
- Contracted a former executive chef to give advice to food businesses on kitchen layouts for improved productivity, efficiency and food handling practices, generally provided free of charge.
- Contracted an external auditor to assist food businesses to develop food safety programs that comply with the Standards.
- Conducted food safety workshops for community groups.
- Provided a food alert subscription service for food businesses.
- Delivered targeted training.

2.3 Great Southern

In the Great Southern region there are 4.2 FTE authorised officers working in food safety and 0.8 FTE persons assisting with the discharge of duties of authorised officers across 11 enforcement agencies that administer the Food Act to 735 food business. Each food business has an average of 0.93 food safety assessment every year.

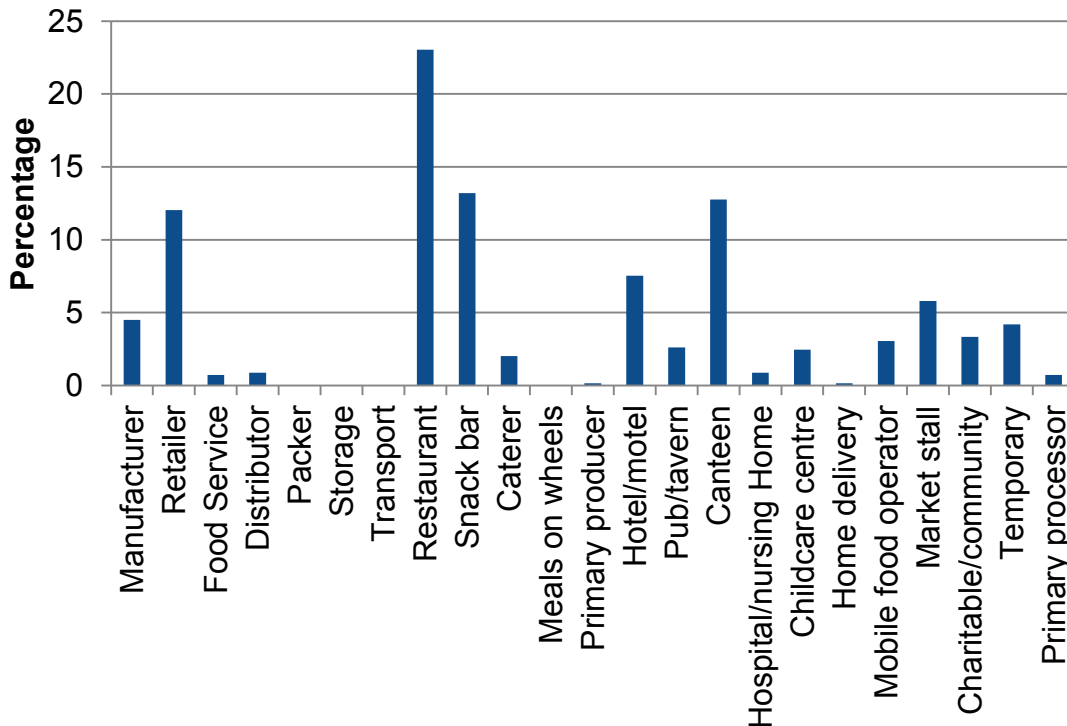


There are 11 Food Act enforcement agencies in the Great Southern region: the City of Albany; the Shires of Broomehill-Tambellup, Cranbrook, Denmark, Gnowangerup, Jerramungup, Katanning, Kent, Kojonup, Plantagenet and Woodanilling.

There is a large variation in the number of food businesses per enforcement agency in the Great Southern region, ranging from 350 food businesses in the City of Albany to 6 in the Shire of Woodanilling. The number of FTE authorised officers working in food safety ranges from 6 FTE to 0.1 FTE.

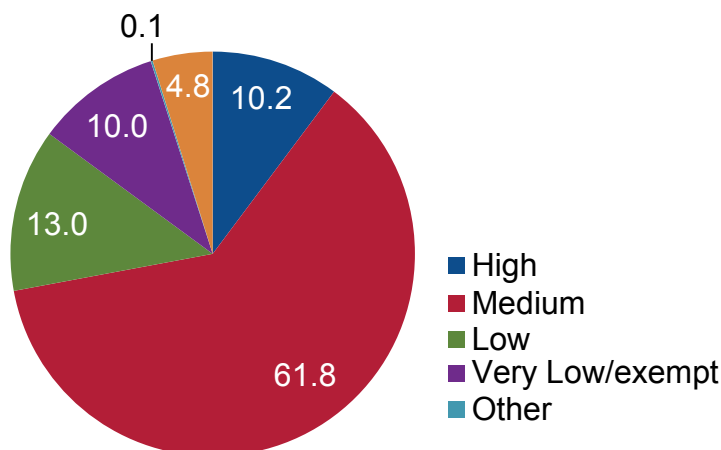
Figure 2.5 shows the percentage of food businesses in the Great Southern region by type of activity. The category with the largest number of food business is market stalls. 23.7% of food businesses are market stalls, most of which are in the Shires of Denmark and Plantagenet. This is followed by 19.2% restaurants, 10.6% retailers and 10.1% snack bars.

Figure 2.5: Percentage of food businesses in the Great Southern region by principal type of activity in 2012/13



Risk Rating: 44% of food businesses in the Great Southern region have been allocated a medium risk rating as show in figure 2.6, followed by 36.6% low and 17.8% high risk.

Figure 2.6: Percentage of food businesses by risk rating in the Great Southern region 2012/13



Compliance and enforcement: During 2012/13 Great Southern enforcement agencies served 10 improvement notices all of which were complied with. There were no infringement notices, seizures, prohibition orders or prosecutions.

Case Study: City of Albany Shoreline survey of the Oyster Harbour catchment area with the Department of Health Food Unit

In April 2013 the City of Albany conducted a shoreline survey of the Oyster Harbour catchment area, in conjunction with the Food Unit Department of Health and the local seafood industry. The purpose of the shoreline survey was to assess direct and indirect pollution sources and evaluate the risk these sources pose to shellfish harvesting areas. The City of Albany guided Food Unit officers through the Oyster Harbour catchment area to assess pollution sources from residential, commercial, agricultural, recreational and industrial areas. A total of seven potential pollution sources were identified including waste water pumping stations, boat handling facilities, recreational boats, effluent disposal systems, oil discharge from commercial areas, landfill sites and agricultural run-off. The impact of each pollution source on shellfish harvesting was assessed and it was found that the impact of these sources could be effectively managed due to rigorous monitoring that is in place for shellfish harvesting food businesses as part of the Western Australian Shellfish Quality Assurance Program. This survey was successful due to the local knowledge acquired by the City of Albany’s officers due to their on-the-ground environmental health experience. A shoreline survey of shellfish harvesting areas is required every three years.

2.4 Kimberley

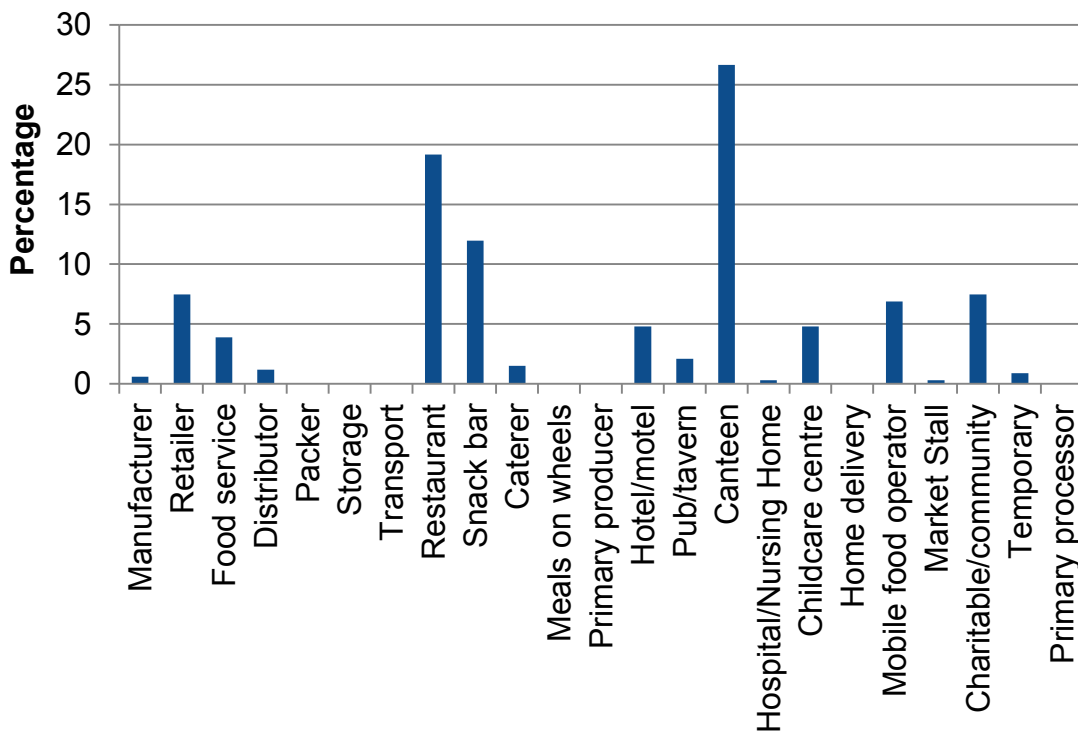
In the Kimberley region there are 13 FTE authorised officers working in food safety and 8 FTE persons assisting with the discharge of duties of authorised officers across four enforcement agencies that administer the Food Act to 557 food businesses. Each food business has an average of 2.1 food safety assessments every year



There are four enforcement agencies in the Kimberley: the Shires of Wyndham-East Kimberley, Derby-West Kimberley, Broome and Halls Creek. The Shire of Halls Creek is the largest in size with an area of 142,908 km² but the least number of food businesses (33); the Shire of Broome has the greatest number of food businesses (277). The number of FTE authorised officers per enforcement agency ranges from 2 to 4.

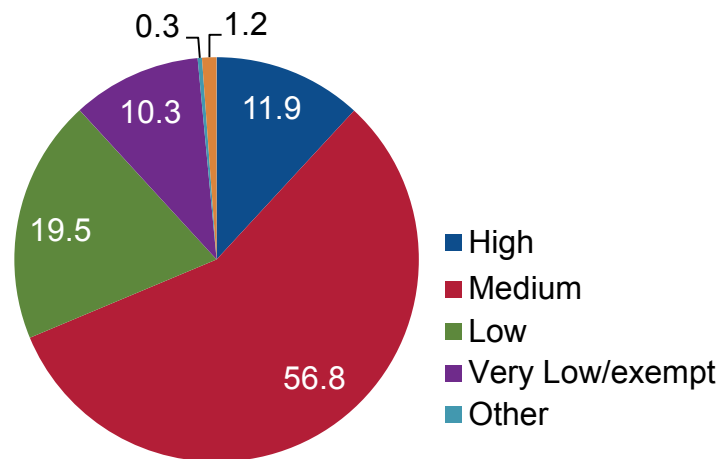
The food industry in the Kimberley is mainly comprised of food retail and food service businesses. Figure 2.7 shows the percentage of food businesses in the Kimberley region by type of activity. Food retailers make up 15.8% of food businesses, followed by restaurants (12.1%) and hotels/motels (13.3%). There are few manufacturers/distributors.

Figure 2.7: Percentage of food businesses in the Kimberley region by principal type of activity in 2012/13



Risk Rating: The majority of the food businesses (58.5%) in the Kimberley region have a medium risk rating as show in figure 2.8, followed by 19.2% low risk and 8.8% high.

Figure 2.8: Percentage of food businesses by risk rating in the Kimberley region n 2012/13



Compliance and enforcement: During 2012/13 Kimberley enforcement agencies served three improvement notices. There were no infringement notices, seizures, prohibition orders or prosecutions.

Highlights of enforcement agencies in the Kimberley region:

- Liaised with school nurses to get out key public health messages including lunchbox food safety.
- Educated communities about sugar in soft drinks.
- Delivered healthy eating programs and food safety presentations.
- Delivered food safety presentations at schools and aboriginal communities.

2.5 Midwest

In the Midwest region there are 11.55 FTE authorised officers working in food safety and 7 FTE persons assisting with the discharge of duties of authorised officers across 21 enforcement agencies that administer the Food Act to 753 food business. Each food business has an average of 1.27 food safety assessments every year

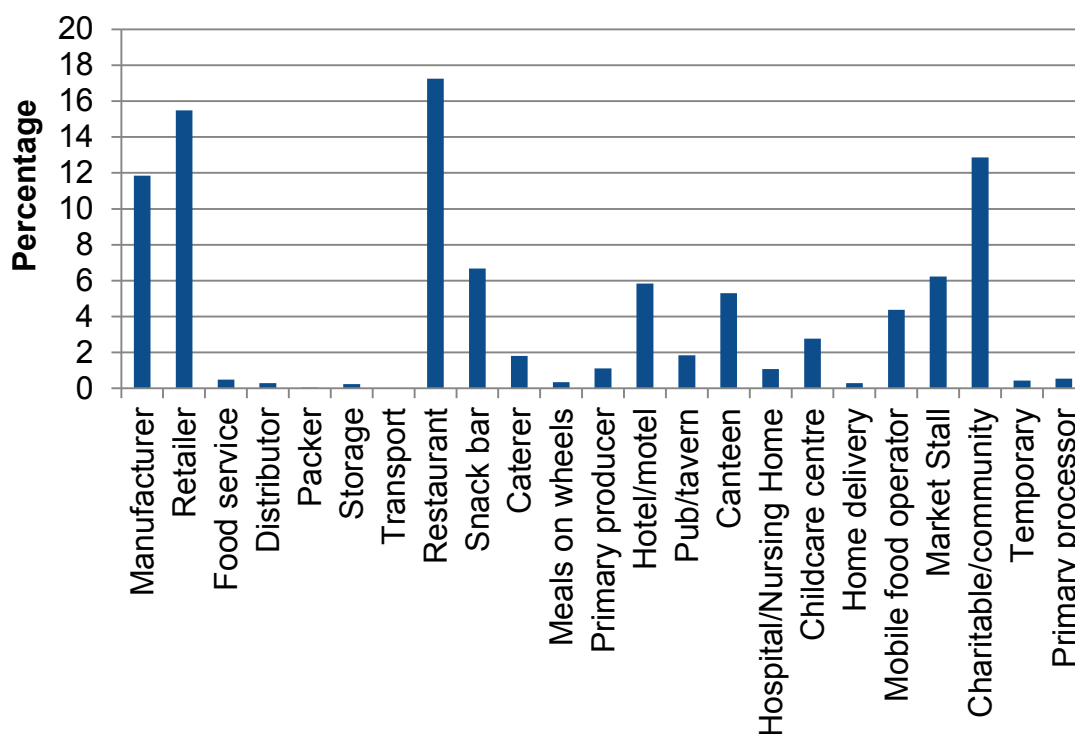


There are 21 Food Act enforcement agencies in the Midwest region: the City of Greater Geraldton, Shires of Carnamah, Carnarvon, Chapman Valley, Coorow, Cue, Exmouth, Irwin, Meekatharra, Mingenew, Morawa, Mt Magnet, Murchison, Northampton, Perenjori, Sandstone, Shark Bay, Three Springs, Upper Gascoyne, Wiluna and Yalgoo.

There is a large variation in size of enforcement agency, both in terms of land area and number of food businesses. The City of Greater Geraldton has largest number of food businesses (332), and an approximate size of 12,500km². In comparison, the largest local government district is the Shire of Wiluna at approximately 184,000km² which has only four food businesses. The number of FTE authorised officers working in food safety ranges from 6FTE to 0.012.

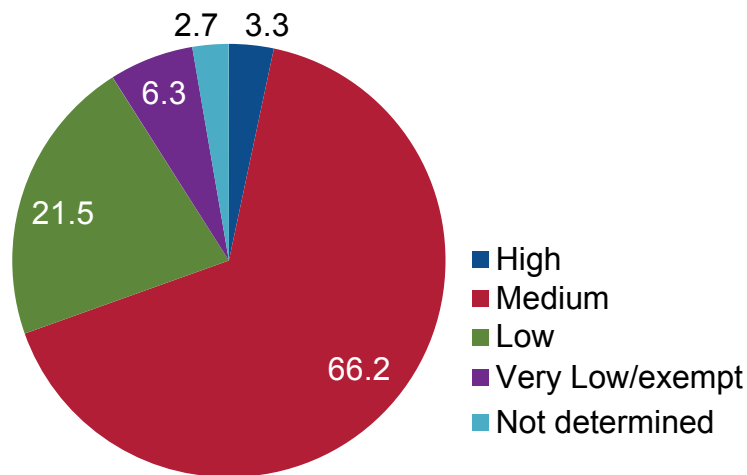
Figure 2.9 shows the percentage of food businesses by type of activity in the Midwest region. A large proportion of food businesses are in the food service sector; approximately 23% of food businesses are restaurants, 13.2% are snack bars, 12.8% canteens and 7.5% hotel/motel. Food retail makes up 12% of food businesses.

Figure 2.9: Percentage of food businesses in the Midwest region by principal type of activity in 2012/13



Risk Rating: 41.8% of food businesses in the Midwest region have been allocated a medium risk rating, followed by 22.3% low risk as shown in figure 2.10.

Figure 2.10: Percentage of food businesses by risk rating in the Midwest region in 2012/13



Compliance and enforcement: Enforcement agencies in the Midwest region served 22 improvement notices, 13 infringement notices and 3 prohibition orders. There were no seizures or prosecutions.

Case study: The Shire of Irwin Men’s Health Expo

In June 2013 the Shire of Irwin held a Men’s Health Expo to increase the awareness of Men’s Health issues specific to the Midwest region, as well as provide a forum for local sporting and social groups to showcase what is on offer around town and allow men to network and catch-up with each other.

Health checks at the ‘Pitstop’ were available (including blood pressure, waist measurement and stress indicators), and a healthy choice lunch was provided. Guest speakers included doctors, nutritionist and other health care providers covering topics such as healthy eating and nutrition, exercising, mental health and substance abuse. The event was a success with 70 men attending, over 30 of which participated in the ‘Pitstop’ health checks. The Shire of Irwin received positive feedback from men attending and from participating agencies and community groups.

2.6 North Metropolitan

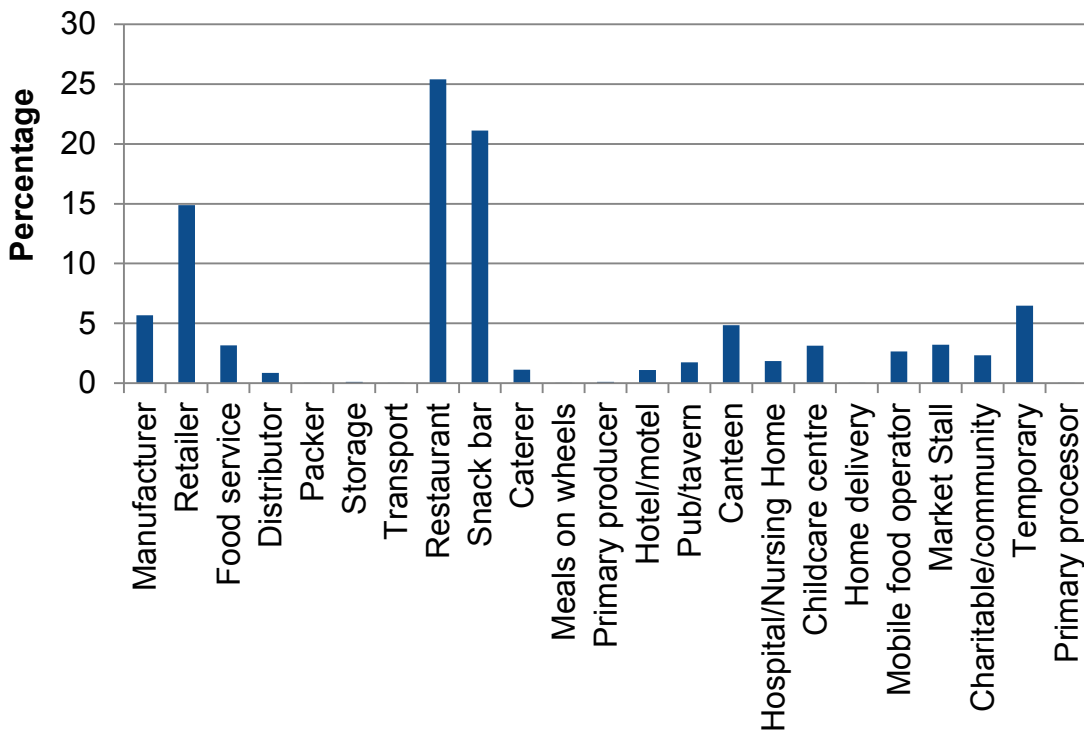
In North Metropolitan Perth there are 90.2 FTE authorised officers working in food safety and 15.2 FTE persons assisting with the discharge of duties of authorised officers across 17 enforcement agencies that administer the Food Act to 7019 food business. Each food business has an average of 1.9 food safety assessments every year



North metropolitan enforcement agencies: Cities of Bayswater, Joondalup, Nedlands, Perth, Stirling, Subiaco, Swan, Vincent, Wanneroo, Shires of Kalamunda, Mundaring, Peppermint Grove, Towns of Bassendean, Cambridge, Claremont, Cottesloe and Mosman Park

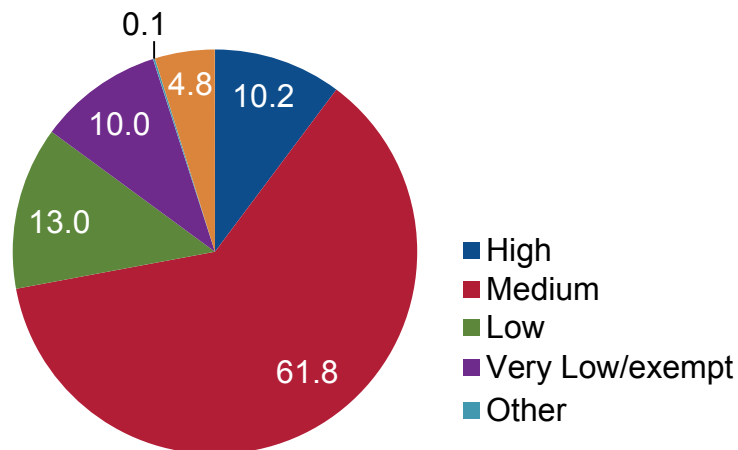
Figure 2.11 shows the percentage of food businesses in North Metropolitan enforcement agencies by principal type of activity. The categories with the largest amount of food business include restaurant (25.4%), snack bar (21%), retailer (14.9%). 5.7% of food businesses are manufacturers, the majority of which are within five of the enforcement agencies in the region. 6.5% of food businesses are temporary food businesses; the majority of which are within three of the enforcement agencies.

Figure 2.11: Percentage of food businesses in the North Metropolitan region by principal type of activity in 2012/13



Risk Rating: 61.8% of food businesses in the North Metropolitan region have been allocated a medium risk rating, followed by 13% low risk, as shown in figure 2.12.

Figure 2.12: Percentage of food businesses by risk rating in the North Metropolitan region in 2012/13



Compliance and enforcement: in 2012/13 enforcement agencies in the North Metropolitan region served 532 improvement notices, 258 infringement notices, 32 seizures, 24 prohibition orders and instigated 23 prosecutions.

Highlights of enforcement agencies in the North Metropolitan region:

- Participated in coordinated food monitoring projects with LHAAC.
- Held food safety seminars and workshops.
- Verified food safety programs of approx 80% of high risk aged-care facilities.
- Launched the “Food Hall of Fame’, a program to recognise food businesses that consistently do the right thing.
- Provision of information materials to food businesses to see better food safety outcomes.
- Food Safety Program developed for Commonwealth Heads of Government Meeting.
- Development of a food management plan guideline document and checklist specific to family day care businesses on residential properties.
- Food safety presentations conducted at high schools and Universities.

2.7 Pilbara

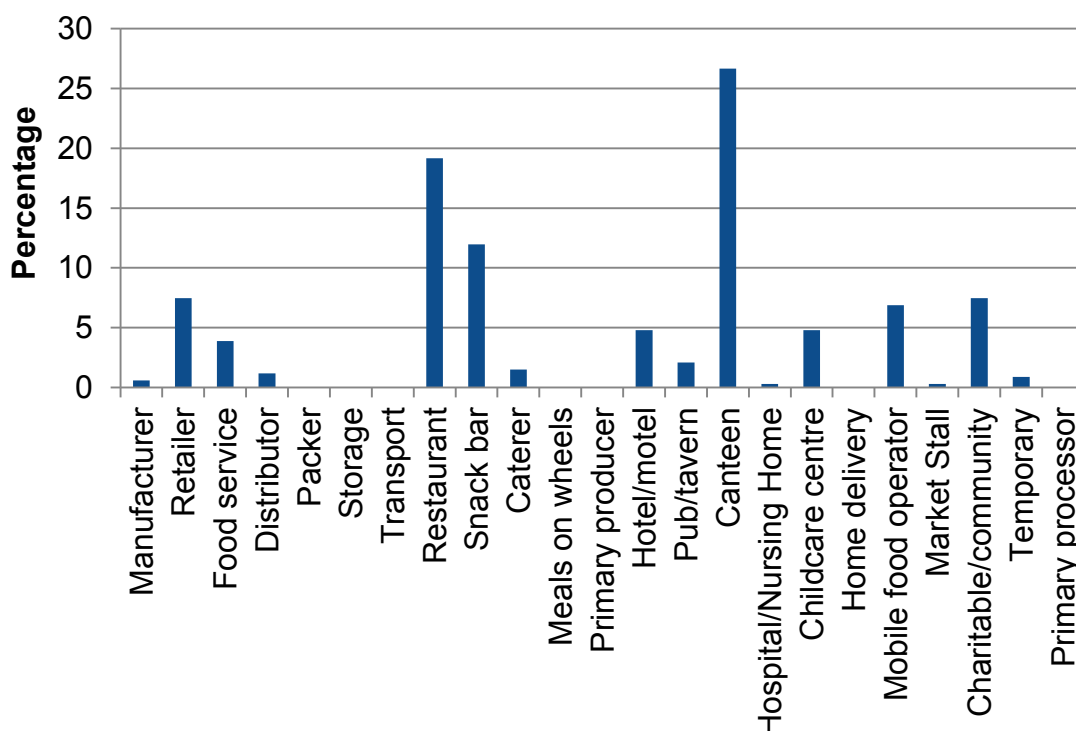
In the Pilbara there are 10 FTE authorised officers working in food safety and 4 FTE persons assisting with the discharge of duties of authorised officers across four enforcement agencies that administer the Food Act to 495 food business. Each food business has an average of 0.53 food safety assessments every year.



There are four enforcement agencies in the Pilbara: the Shires of Ashburton, East Pilbara, Port Hedland and Roebourne. The Shire of East Pilbara is the largest local government district in both the region and in the state, covering an area of 372,000km², that is about three quarters of the region. Each enforcement agency has two to three FTE authorised officers and the number of food businesses per enforcement agency ranges from 78 to 173.

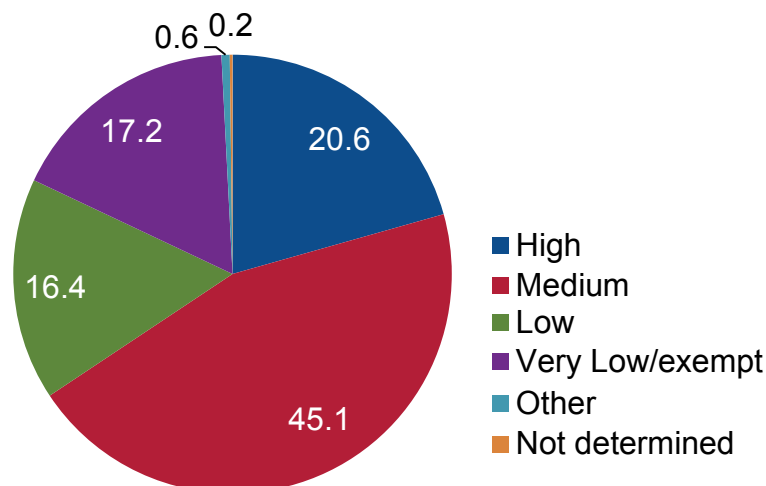
Figure 2.13 gives the percentage of food businesses by type of activity in the Pilbara region. Food businesses in the region are predominantly in the food service sector; 26.7% of food businesses are canteens, 19.2% are restaurants and 12% are snack bars, followed by 7.5% food retail businesses.

Figure 2.13: Percentage of food businesses in the Pilbara region by principal type of activity in 2011/12



Risk Rating: 45.1% of food businesses in the Pilbara region have been allocated a medium risk rating, followed by 20.6% high risk, 17.2% very low/exempt and 16.4% low risk, as shown in figure 2.14.

Figure 2.14: Percentage of food businesses by risk rating in the Pilbara in 2012/13



Compliance and enforcement: in 2012/13 enforcement agencies in the Pilbara region served four improvement notices. There were no infringement notices, prohibition orders or prosecutions.

Case Study: The Shire of Roebourne* “Golden Geckos”

In 2012 the Shire of Roebourne implemented a food premises grading system called the “Golden Gecko” system. Food premises are assessed on food safety criteria during their annual food safety assessment, and are given a score of between 2 and 5 “Golden Geckos”.

The system was developed to provide more incentive to food businesses to manage and reduce risks related to food. The scores provide customers with a guide as to how well the food business is managing their food safety risks which creates increased customer confidence and support; this in turn encourages the food business to maintain the high standards.

The Shire has found that the system has resulted in greater interest from food businesses on how they can improve their food safety management to improve their grading.

* The Shire of Roebourne was renamed the City of Karratha on 1 July 2014.

2.8 South Metropolitan

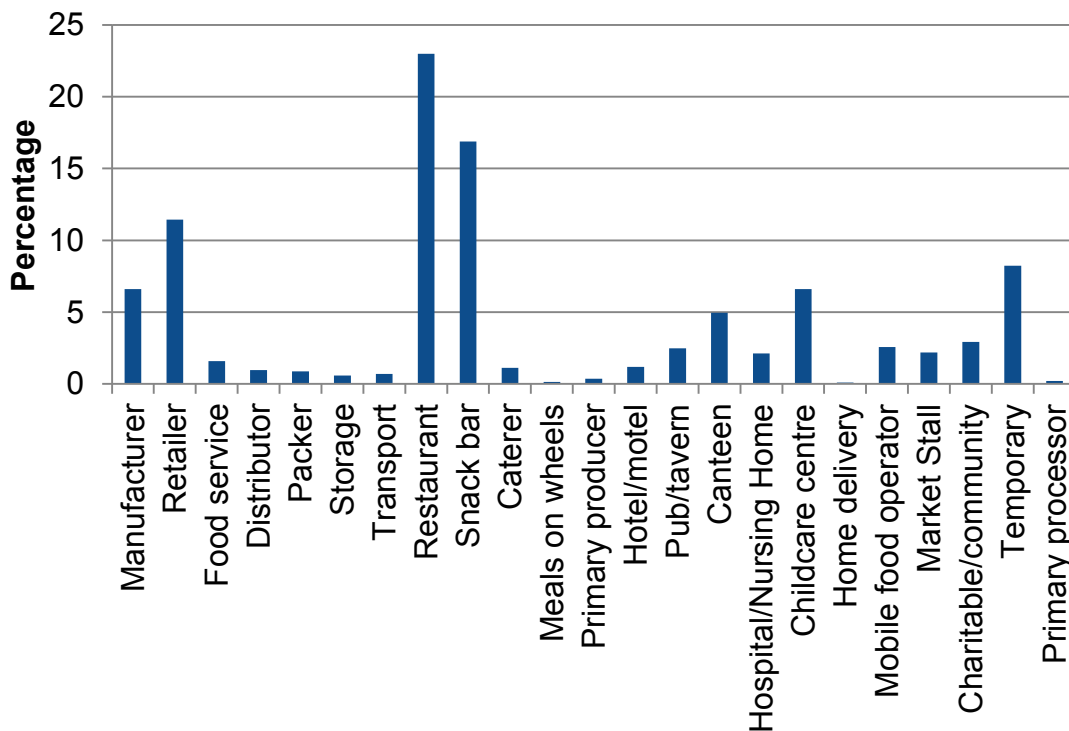
In South Metropolitan Perth there are 64.5 FTE authorised officers working in food safety and 19.3 FTE persons assisting with the discharge of duties of authorised officers across 16 enforcement agencies that administer the Food Act to 5724 food business. Each food business has an average of 1.7 food safety assessments every year.



There are 16 enforcement agencies in the south metropolitan region: Cities of Armadale, Belmont, Canning, Cockburn, Fremantle, Gosnells, Mandurah, Melville, Rockingham and South Perth; Shires of Murray, Waroona, and Serpentine-Jarrahdale; Towns of East Fremantle, Kwinana and Victoria Park. The number of FTE authorised officers working in food safety ranges from 9.2 to 0.1 FTE. The number of food businesses per enforcement agency ranges from 677 to 34.

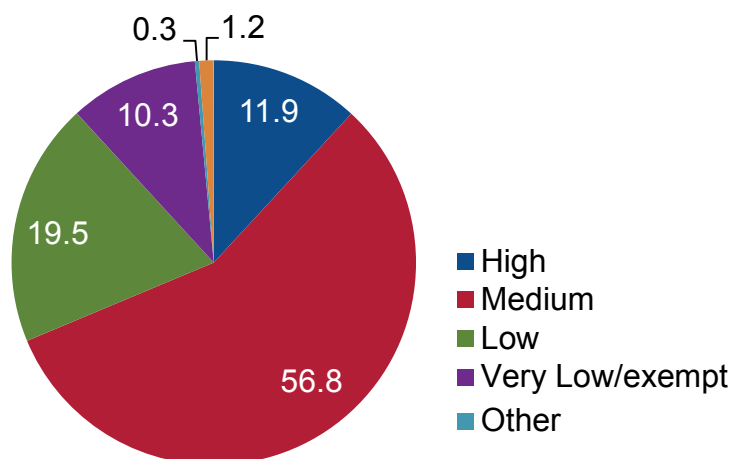
Figure 2.15 shows the number of food businesses by type of activity in South Metropolitan enforcement agencies in 2012/13. The region is characterised by a significant number of food service businesses, in particular restaurants make up 20% of food businesses and snack bars 14.7%. There are also 9.9% food retailers, 5.7% food manufacturers and 7.1% temporary food premises.

Figure 2.15: Percentage of food businesses in the South Metropolitan region by principal type of activity in 2012/13



Risk Rating: 56.8% of food businesses in the South Metropolitan region have been allocated a medium risk rating, followed by 19.5% low risk and 11.9% high risk as show in figure 2.16.

Figure 2.16: Percentage of food businesses by risk rating in the South Metropolitan region in 2012/13



Compliance and enforcement: in 2012/13 enforcement agencies in the South Metropolitan region served 208 improvement notices, 118 infringement notices, 17 seizures, 6 prohibition orders and instigated 11 prosecutions.

Highlights of enforcement agencies in the South Metropolitan region:

- Developed a trial food business recognition award process to promote food businesses with a good food hygiene record.
- Increased food business compliance through enforcement.
- Provided food safety induction training.
- Use of electronic assessment forms and conducting assessments with iPads.
- City's 'Food Hygiene Award' working well, 2 businesses issued with Gold Awards and a couple of other with Silver and Bronze awards.
- Published a newsletter for food proprietors with information and education on food safety.
- Participated in the WA Food Alliance Working Group, Metropolitan Food Monitoring Group and coordinated sampling projects from LHAAC;
- Awareness of food allergens to food business owners.
- Supported the Heart Foundation's pilot program for nutritious food choices in the community.
- Runs the HEAL Program in partnership with Diabetes WA.

2.9 South West

In the South West there are 27.5 FTE authorised officers working in food safety and 5.4 FTE persons assisting with the discharge of duties of authorised officers across 12 enforcement agencies that administer the Food Act to 2029 food business. Each food business has an average of 0.67 food safety assessments every year.

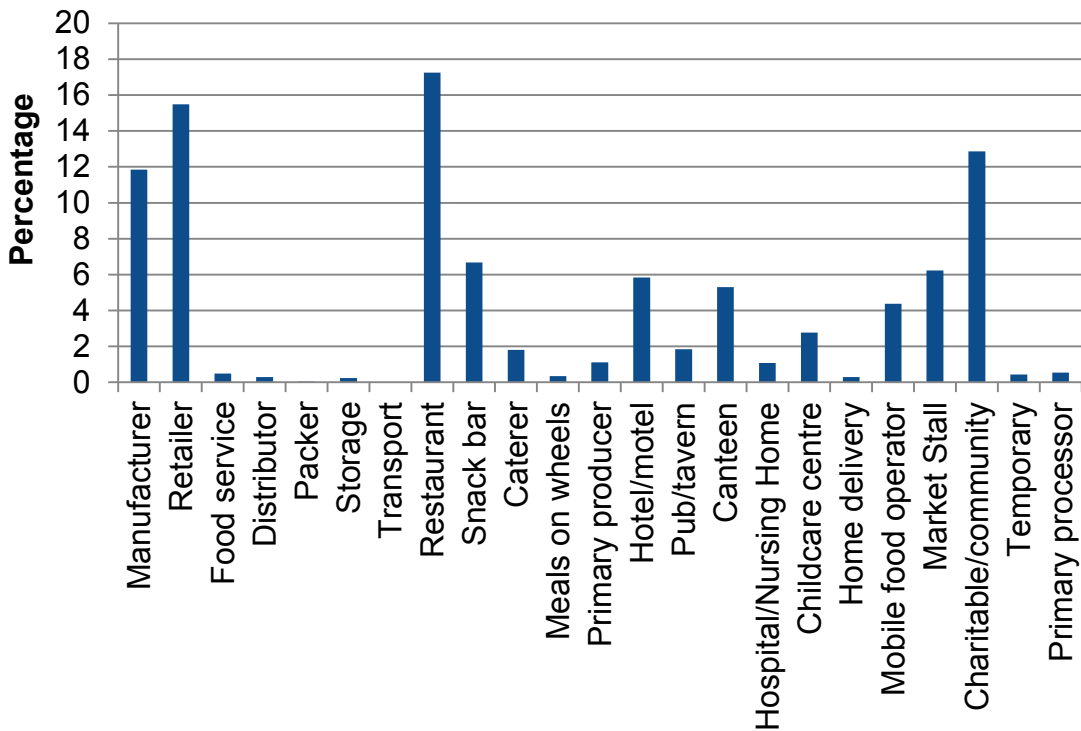


There are 12 enforcement agencies in the South West region: the cities of Bunbury and Busselton, and the Shires of Augusta-Margaret River, Boyup Brook, Bridgetown-Greenbushes, Capel, Collie, Dardanup, Donnybrook-Balingup, Harvey, Manjimup and Nannup.

The number of FTE authorised officers working in food safety ranges from 7 to 0.1 FTE. The number of food businesses ranges from 490 to 37 per enforcement agency.

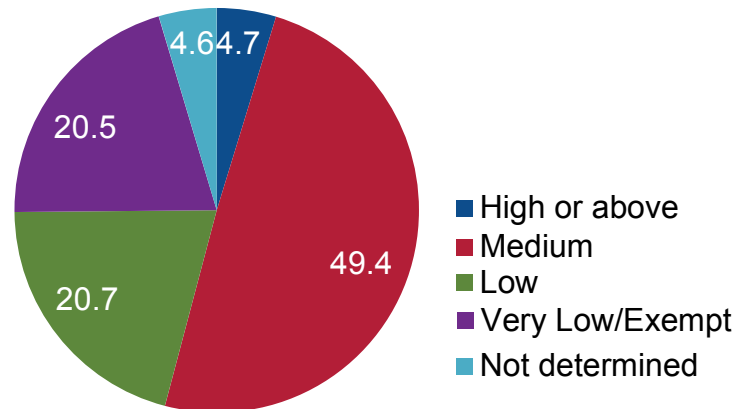
Figure 2.17 shows the number of food businesses by type of activity in the South West region in 2012/13. 17.4% of food businesses are restaurants and there are a large number of other food service businesses such as snack bars, hotels/motels and pub/taverns. There are also a large number of food retailers (15.7% of food businesses) and food manufacturing makes up 12%. 13.5% are charitable/community food businesses and 6.3% market stalls.

Figure 2.17: Percentage of food businesses in the South West region by principal type of activity in 2012/13



Risk Rating: 49.4% of food businesses in the South West region have been allocated a medium risk rating, followed by 20.7% low risk and 20.5% very low/exempt as shown in figure 2.18.

Figure 2.18: Percentage of food businesses by risk rating in the South West region in 2012/13



Compliance and enforcement: in 2012/13 enforcement agencies in the South West region served 29 improvement notices, three infringement notices, one seizure and one prohibition order. No prosecutions were instigated.

Highlights of enforcement agencies in the South West region:

- Participated in WA food monitoring programs.
- Delivered intensive training courses in food safety and hygiene.
- Participated in LHAAC
- Facilitated community forums on food safety requirements.
- Implemented the 'Recharge Healthier Food Business' Project, which aims to recognise businesses which make healthier food options available to consumers.

2.10 Wheatbelt

In the Wheatbelt there are 25.85 FTE authorised officers working in food safety and 8.3 FTE persons assisting with the discharge of duties of authorised officers across 44 enforcement agencies that administer the Food Act to 811 food business. Each food business has an average of 0.88 food safety assessments every year.

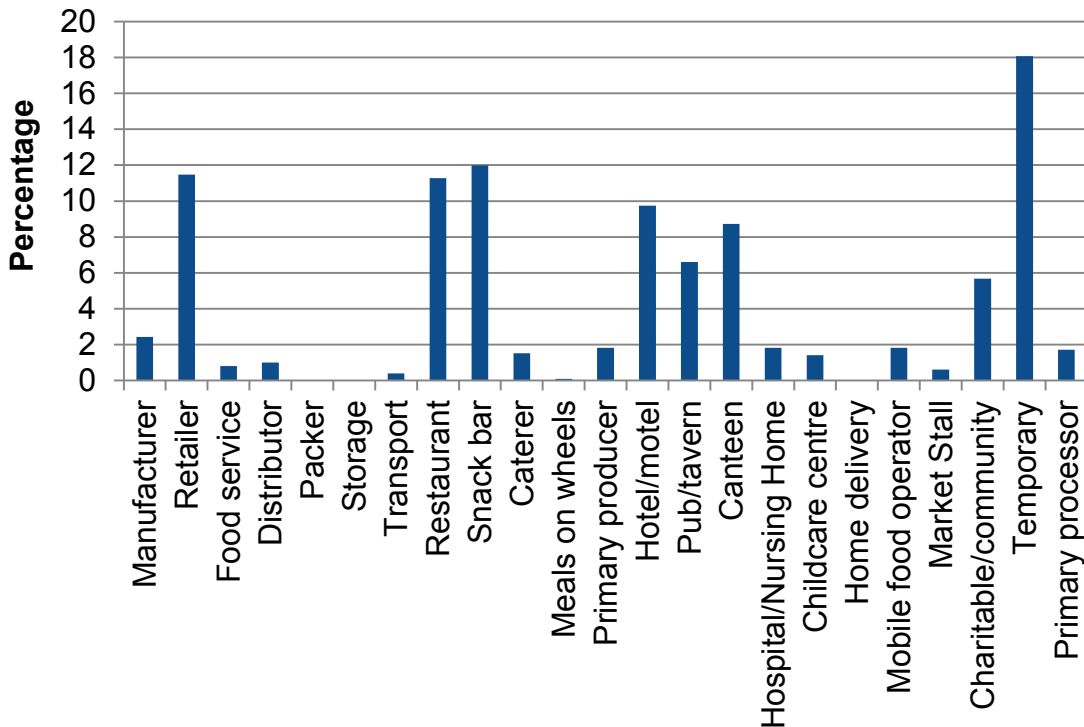


There are 44 enforcement agencies in the Wheatbelt region: the Shires of Beverley, Boddington, Brookton, Bruce Rock, Chittering, Corrigin, Cuballing, Cunderdin, Dalwallinu, Dandaragan, Dowerin, Dumbleyung, Gingin, Goomalling, Kellerberrin, Kondinin, Koorda, Kulin, Lake Grace, Merredin, Moora, Mt Marshall, Mukinbudin, Narembeen, Narrogin, Northam, Nungarin, Pingelly, Quairading, Tammin, Toodyay, Trayning, Victoria Plains, Wagin, Westonia, West Arthur, Wickepin, Williams, Wongan-Ballidu, Wyalkatchem, Yilgarn and York; Town of Narrogin.

The number of food businesses per enforcement agency ranges from two to 90. The number of FTE authorised officers working in food safety ranges from 3 to 0.05.

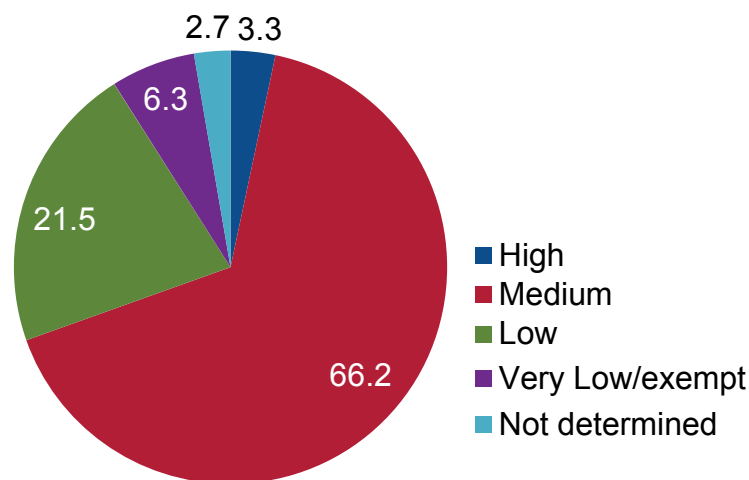
Figure 2.19 shows the number of food businesses by type of activity in the Wheatbelt region. There is a significant number of temporary food businesses, the majority of these are in one enforcement agency’s district.

Figure 2.19: Percentage of food businesses in the Wheatbelt region by principal type of activity in 2012/13



Risk Rating: 66.2% of food businesses in the Wheatbelt region have been allocated a medium risk rating, followed by 21.5% low risk and 6.3% very low/exempt as show in figure 2.20.

Figure 2.20: Percentage of food businesses by risk rating in the Wheatbelt region in 2012/13



Compliance and enforcement: in 2012/13 enforcement agencies in the Wheatbelt region served 36 improvement notices, four infringement notices and one prosecution was instigated. There were no seizures or prohibition orders served during this time.

Highlights of enforcement agencies in the Wheatbelt region:

- Participated in the Food Access and Costs Survey
- Provided online food safety training for volunteer food handlers
- Mail-out of food safety information to volunteer food handlers of fundraising community events.

3. Performance of food regulatory functions 2010–2013

3.1 Authorised officers

Relevant Food Act Section/Part	Part 10, Division 3 of the Food Act – Appointment of authorised officers
Department of Health policies, guidelines and resources	Food Act 2008 fact sheet 4: Authorised officers¹ Guideline on the Appointment of Authorised officers¹ Guideline on the Appointment of Authorised Officers as meat inspectors¹ Guideline on the Appointment of Authorised Officers - designated officers only¹ Guideline on the Appointment of Authorised Officers – appointment of persons to assist with the discharge of duties of authorised officers¹

Enforcement agencies appoint authorised officers to carry out functions of the Food Act. Authorised officers have powers to inspect food premises to determine if a food business is complying with the food legislation. They can also administer some of the enforcement options including seizing items and serving improvement notices and infringement notices. Enforcement agencies may also appoint persons to assist with the discharge of duties of authorised officers. To assist local governments to appoint authorised officers, the CEO has issued guidelines that detail qualifications and scope of powers of authorised and assisting officers.

3.1.1 Delegated authority to appoint authorised officers

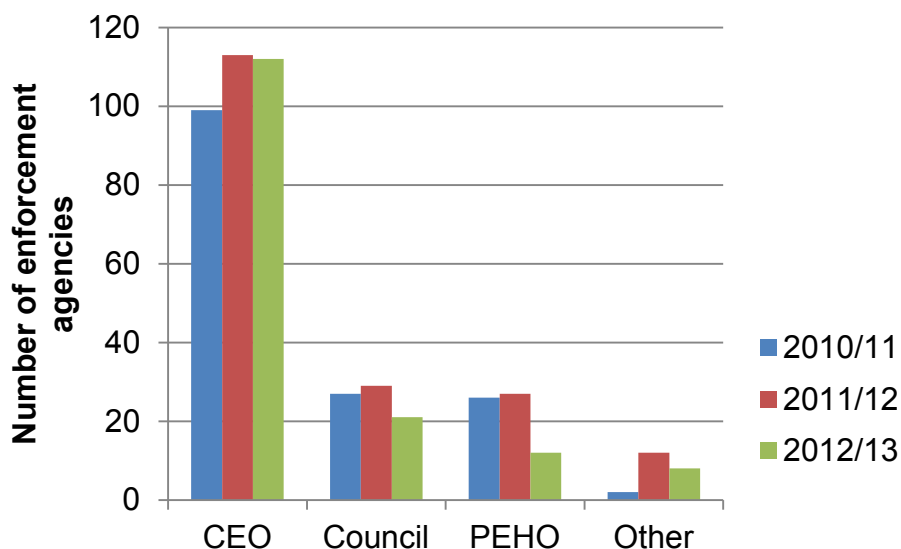
Part 10 of the Food Act allows enforcement agencies to delegate their functions, including the authority to appoint authorised officers. Many local governments have delegated this function to senior officers such as the chief executive officer in order to allow appointment decisions to be made in a more efficient and timely manner, avoiding the need to report to Council.

In 2012/13 the majority of local government enforcement agencies delegated the authority to appoint authorised officers to the CEO (112 enforcement agencies which represents 81.75% of all enforcement agencies). For 21 enforcement agencies this function was not delegated and remained the responsibility of the Council. The CEO of the Department of Health has delegated this function to the Director, Environmental Health Directorate.

Some enforcement agencies have delegated this authority to more than one person, such as Council and CEO, or CEO and PEHO. This number varied over the past three years with 11 enforcement agencies delegating this function to more than one person in 2012/13, 28 enforcement agencies in 2012/11 and 16 enforcement agencies in 2011/10. Examples of others that have the delegation include officers at the director and manager level, and in one enforcement agency, the environmental health officer.

Figure 3.1 shows the change in the delegated authority to appoint authorised officers over the three year period. There has been a slight increase in delegation to the CEO and decrease in delegation to Council and PEHO.

Figure 3.1: Delegated authority to appoint authorised officers



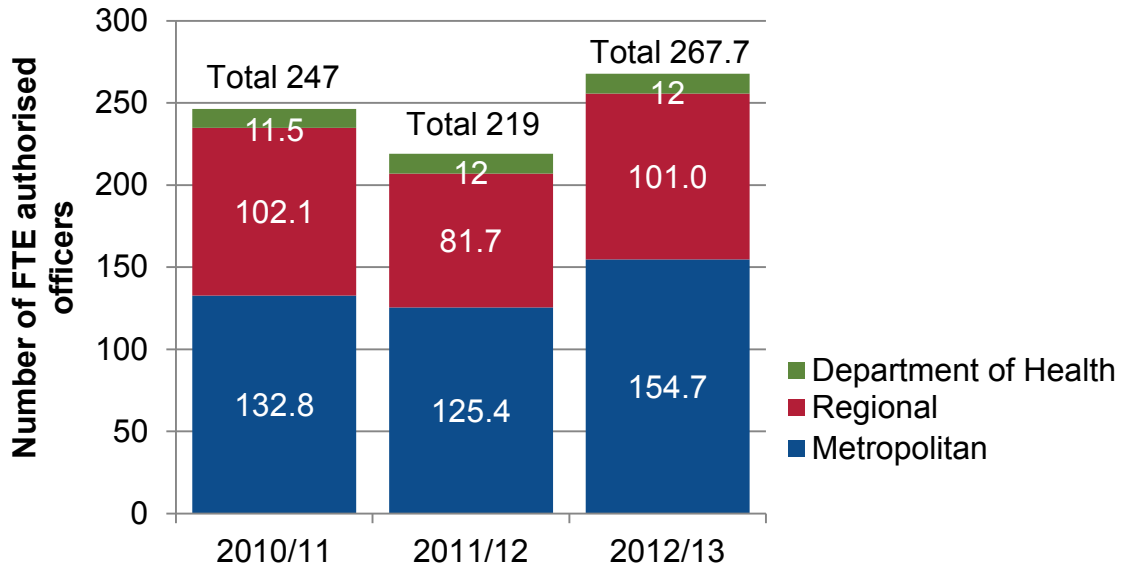
3.1.2 Number of FTE authorised officers

Data has been collected on the number of authorised officers working in food safety on a FTE basis (e.g. where an authorised officer working one day a week is 0.2 FTE). Compared to the raw number of authorised officers, the measurement of FTE more accurately reflects the actual workload of authorised officers. This is because authorised officers deliver other functions in addition to food safety, and in regional and remote areas may be authorised by more than one enforcement agency.

In 2012/13 there were 267.7 FTE authorised officers and 68.5 FTE persons assisting with the discharge of duties of authorised officers, this is an average of 2.45 FTE officers per enforcement agency. The enforcement agency with the largest number of FTE authorised officers in WA was 13 at the City of Perth and the smallest was 0.017 at the Shire of Upper Gascoyne (this equates to an authorised officer working in food safety for six days per year). The majority of authorised officers in WA are located in the metropolitan area (154.7 FTE) with 101 FTE in regional WA and 12 FTE at the Department of Health. This is proportionate to the higher number of food businesses in metropolitan areas.

Figure 3.2 shows the number of FTE authorised officers working in food safety in metropolitan WA, regional WA and the Department of Health over the last three years.

Figure 3.2: Number of FTE authorised officers in regional and metropolitan WA and the Department of Health

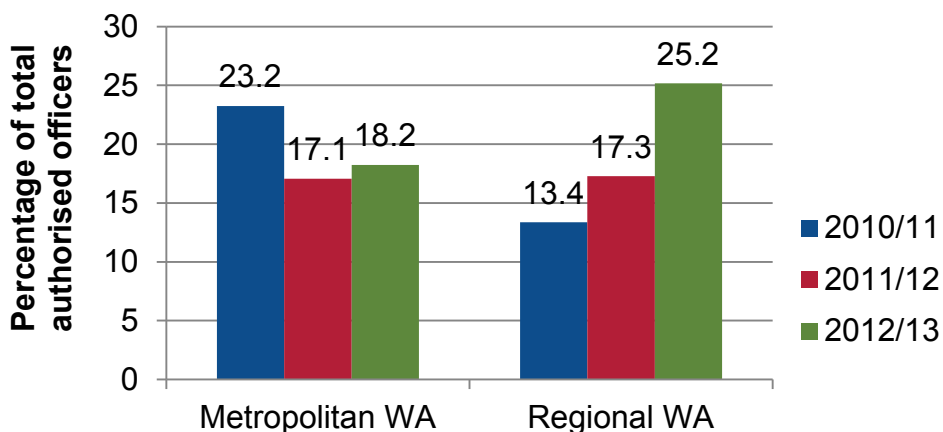


There has also been a variation in the number of FTE persons assisting with the discharge of duties of authorised officers: 56 FTE in 2010/11, 43 FTE in 2011/12 and 68.5 FTE in 2012/13.

Figure 3.3 shows the percentage of total authorised officers that are persons assisting with the discharge of duties of authorised officers in metropolitan and regional enforcement agencies over the three year period. There is currently a slightly larger percentage of total FTE authorised officers that are persons assisting authorised officers in regional compared to metropolitan enforcement agencies. This could be due to greater difficulty recruiting authorised officers in regional WA.

Figure 3.3 also shows that in metropolitan enforcement agencies there has been a decrease in the percentage of total authorised officers that are persons assisting authorised officers and an increase in regional enforcement agencies over the last three years.

Figure 3.3: Percentage of total authorised officers that are persons assisting with the discharge of duties of authorised officers



3.1.3 Qualifications of authorised officers

Authorised officers must either hold a position as an environmental health officer under the *Health Act 1911* (WA), or have the appropriate qualifications or experience to perform the functions of an authorised officer in accordance with guidelines that have been issued by the CEO. This means that enforcement agencies are not restricted to employing environmental health officers to deliver Food Act functions. They may appoint people with other relevant qualifications so long as they have appropriate skills and knowledge.

The number of authorised officers in WA that have an Environmental Health degree has increased from 246 in 2010/11 and 241 in 2011/12 to 290.5 in 2012/13.

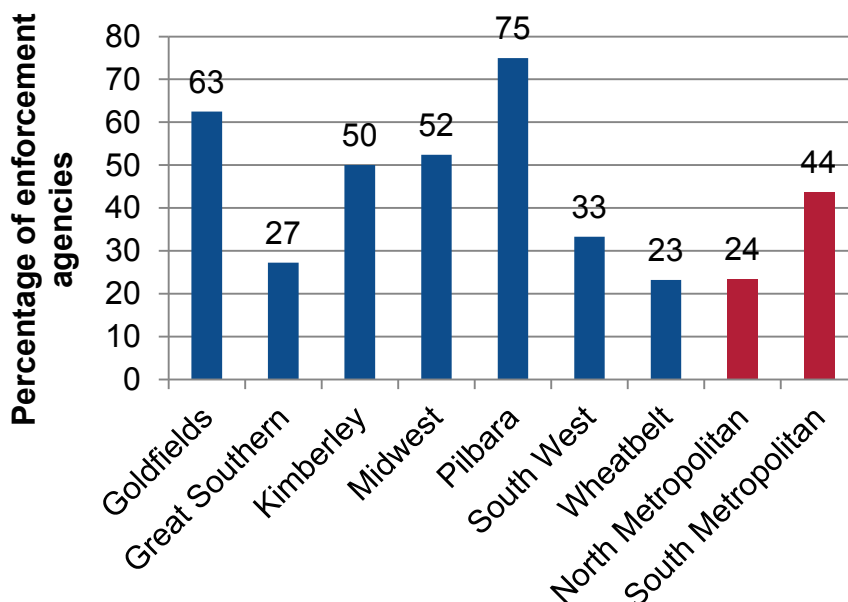
The number of authorised officers with qualifications other than Environmental Health was 77 in 2010/11, 55 in 2011/12 and 64.5 in 2012/13. Qualifications other than Environmental Health include food science and technology degree, Environmental Health diploma, Health Surveying diploma, Public Health diploma, Cert IV meat inspection, trainee EHO and technical officer.

Some authorised officers may also have auditing competencies which are required if they wish to become an approved regulatory food safety auditor. The number of authorised officers with auditing competencies has remained relatively stable with 73 in 2010/11, 68 in 2011/12 and 72 in 2012/13; however, there are currently only four authorised officers that have been approved as a regulatory food safety auditor by the Department of Health.

3.1.4 Recruitment difficulties

36.5% of enforcement agencies experienced recruitment difficulties in 2012/13; this reduced from 48% in 2011/12 and 45% in 2010/11. There is not a great difference in recruitment difficulties between metropolitan and regional enforcement agencies with 36.9% of regional enforcement agencies and 33.3 % of metropolitan enforcement agencies experiencing recruitment difficulties in 2012/13. There are however, significant differences between health regions as shown in figure 3.4, with the percentage of enforcement agencies experiencing recruitment difficulties ranging from 75% in the Pilbara to 23% in the Wheatbelt.

Figure 3.4: Percentage of enforcement agencies experiencing recruiting difficulties by health region



3.2 Registration and assessment

Relevant Food Act Section/Part	Part 9 of the Food Act – Registration of food businesses
Department of Health policies, guidelines and resources	Food Act 2008 fact sheet 2: Registration of a food business¹ Food Act 2008 fact sheet 3: Exempted food businesses¹

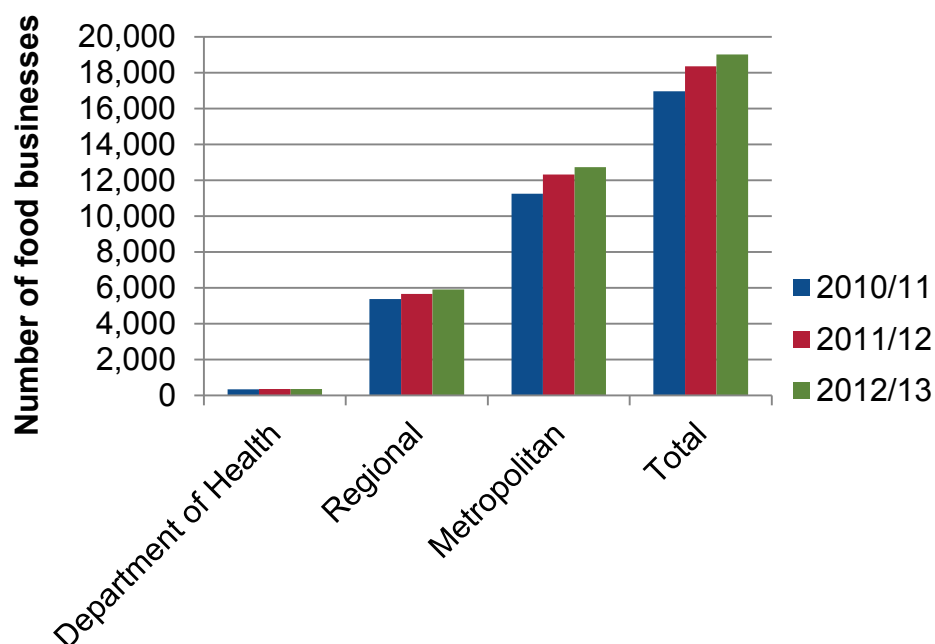
In order to operate, each food businesses is required to register with or notify the appropriate enforcement agency. Notification applies to those food businesses that are exempted from registration in Part 3 of the Food Regulations or to businesses that are already registered that wish to trade in a different enforcement agency’s boundaries. Registration and notification are information sharing mechanisms that allow enforcement agencies to keep track of food businesses and obtain information to assist with the monitoring of each food business. Enforcement agencies are required to maintain a register of all food business that have registered or notified under the Food Act.

3.2.1 Total number of food businesses

In WA there were 19,020 food businesses registered or notified with enforcement agencies as at 30 June 2013. This includes 5,918 food businesses in regional WA, 12,743 in metropolitan WA and 359 with the Department of Health.

Over the last three years the number of food businesses registered or notified with enforcement agencies in WA has increased from 16,968 in 2010/11 to 18,358 in 2011/12 and 19,020 in 2012/13. Figure 3.5 shows the number of food businesses registered or notified with the Department of Health, regional and metropolitan enforcement agencies over the three year period.

Figure 3.5: Number of food businesses in regional and metropolitan enforcement agencies and the Department of Health by reporting period



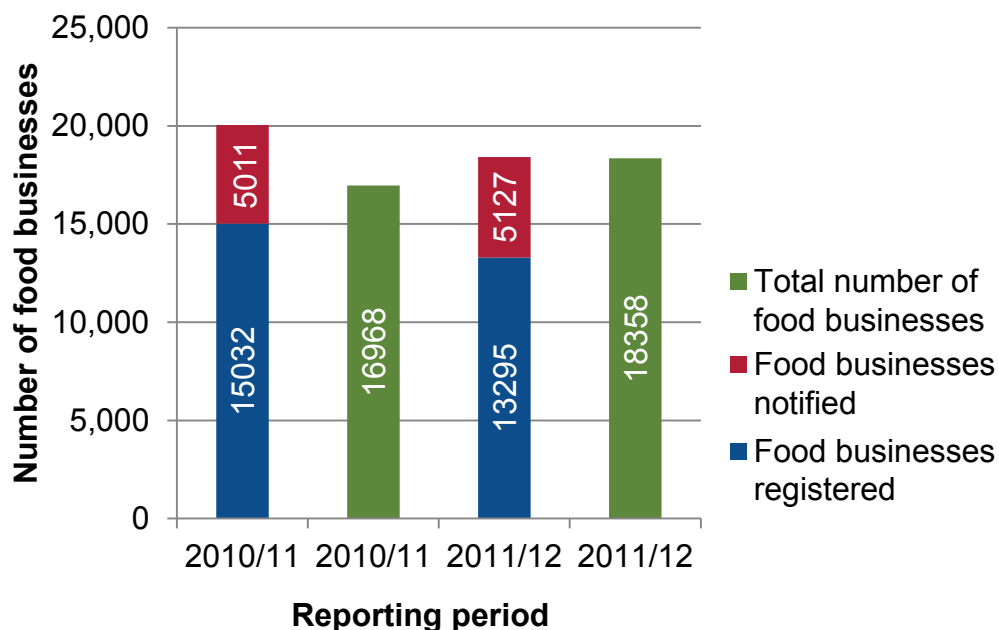
The larger number of food businesses in metropolitan WA is proportionate to the larger population compared to regional areas. There is also a variation in the number of food businesses in each enforcement agency’s boundaries across the State with the City of Stirling being responsible for 977 food businesses while the regional enforcement agencies of Shires of Murchison and Sandstone only have one food business within their boundaries.

3.2.2 Number of registered and notified food businesses

Data on registration and notification was collected from enforcement agencies during the 2010/11 and 2011/12 reporting periods to gauge the implementation of this part of the Food Act. The question was removed from reporting proforma in 2012/13.

Figure 3.6 shows the number of food businesses that have registered and notified and the total number of food businesses for the 2010/11 and 2011/12 reporting periods. As food businesses must either register or notify, the number of registered and notified food businesses should equal the total number of food businesses. The graph highlights some overlap in registration and notification as in 2010/11 there were 3075 food businesses that both registered and notified and there were 64 in 2011/12. The 2011/12 data is more accurate indicating that there was greater clarity on the registration and notification process.

Figure 3.6: Number of food business registrations and notifications by reporting period



3.2.3 Number of assessments conducted

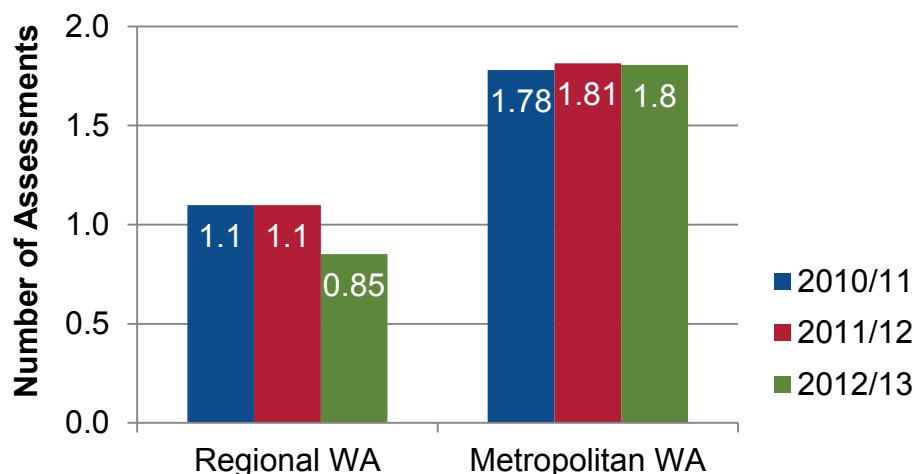
Authorised officers conduct onsite assessments of food premises to determine if the food business is complying with food legislation. The frequency and scope of assessments for each individual food business is determined by the enforcement agency depending on the level of risk posed by the food business.

The total number of assessments in WA has increased over the three year period from 26,554 assessments in 2010/11, to 28,331 in 2012/13 with a peak of 28,882 assessments in 2011/12. The average number of assessments per food business each year has remained relatively stable at approximately 1.5 assessments.

There is a significant difference between the average number of assessments per food business in metropolitan and regional enforcement agencies, with food businesses in metropolitan WA receiving on average 1.8 assessments per year and food businesses in regional WA receiving on average 0.85 assessments per year in 2012/13. This may be due to a number of reasons including challenges of administering the Food Act in regional WA such as travel distances and resource constraints. It may also be due to the risk rating and resulting assessment frequency of the food businesses in these areas (regional WA has a slightly higher proportion of low risk, very low and exempt food businesses compared to metropolitan WA, as discussed further in section 3.2.4).

Figure 3.7 shows the average number of assessments per food business per year for regional and metropolitan WA over the last three years. The number of assessments in metropolitan WA has remained steady over the three years at approximately 1.8 assessments per food business per year. Regional WA has seen a decrease in average assessments from 1.1 in 2010/11 and 2011/12 to 0.85 in 2012/13.

Figure 3.7: Average assessment per food business in regional and metropolitan enforcement agencies by reporting period



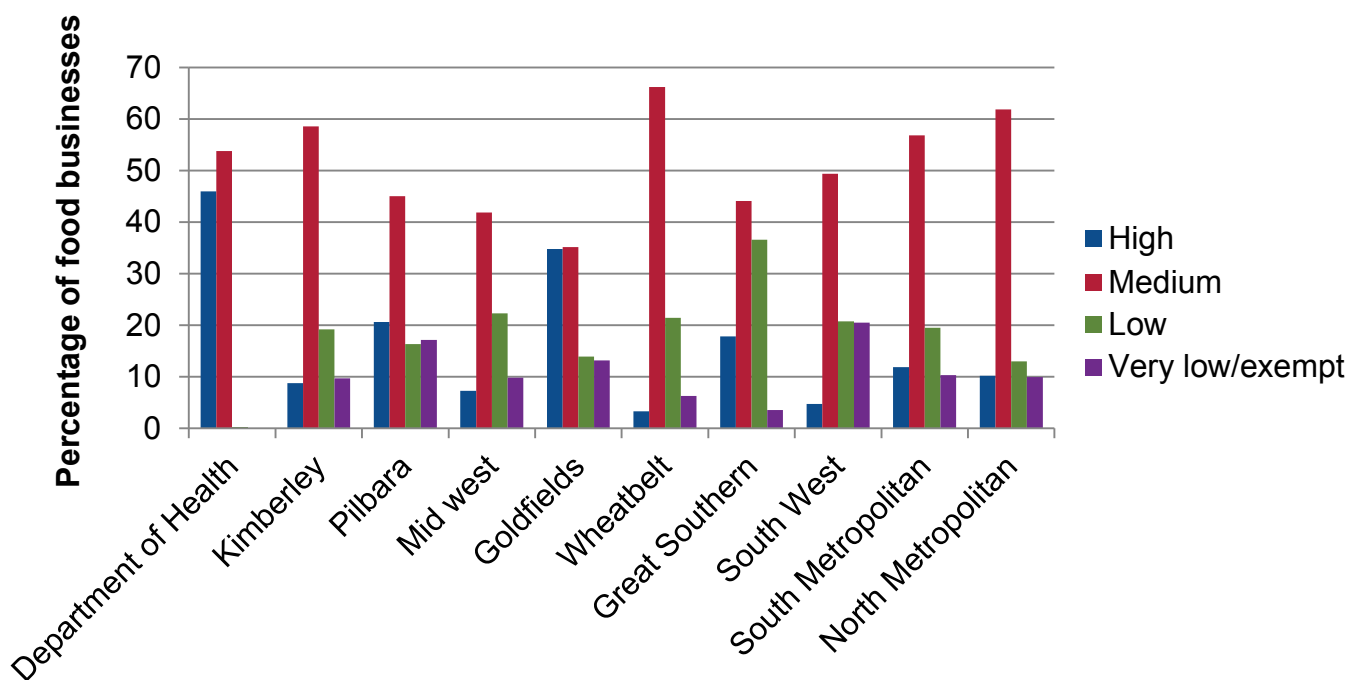
3.2.4 Food business risk profiling

Risk profiling is the classification of food businesses into risk categories based on the level of inherent risk posed by the food business. The risk profile can be determined by considering the type of food produced by the business, activity of the business, food processing steps and customer base. While risk profiling is not a requirement of the Food Act it is generally accepted that compliance and enforcement decisions made by enforcement agencies should be guided by public health risk. Assigning a risk profile to each food business assists the enforcement agency to determine an appropriate level of monitoring and tailor the scope and frequency of food safety assessments and sampling programs. Enforcement agencies may use the risk profiling tool developed by the Department of Health, or alternatively can develop their own risk profiling tool. The Department of Health risk profiling tool is based on the Priority Classification System developed by FSANZ.

The number of enforcement agencies that undertake risk profiling of food businesses has increased over the last three years. 92.8% of enforcement agencies conducted risk profiling in 2010/11, increasing to 94.25% in 2011/12 and 99.27% in 2012/13. This represents a majority of food businesses in WA with 96.7% of food businesses in 2010/11, 93.6% in 2011/12 and 96.4% in 2012/13 being allocated a risk rating.

Figure 3.8 shows the percentage of food businesses by risk rating in the WA health regions in 2012/13.

Figure 3.8: Percentage of food businesses by risk rating in WA health regions in 2012/13



3.2.5 Food businesses by principal type of activity

During the process of receiving notifications from and registering food businesses, enforcement agencies are able to obtain information on the principle type of activity for each food business. This assists the enforcement agency to risk profile and determine appropriate monitoring programs for each food business. During 2010/11 and 2011/12 enforcement agencies were asked to provide information on the number of food businesses by principal type of activity. Categories of food business types were not defined in the reporting template, providing each enforcement agency with the opportunity to detail the categorisation system that they use or to indicate if there is no system for categorising food business activity.

In the 2012/13 reporting proforma the categories of type of food business were specified to allow for the collation of information on the food business composition in WA. The categories used were those from the notification form contained in Safe Food Australia: A Guide to Food Safety Standards (FSANZ, 2001).

There has been an increase in the number of enforcement agencies that undertake food business activity classification over the three years, from 73.4% of enforcement agencies in 2010/11 to 75.5% in 2011/12 and 97% in 2012/13.

During 2010/11 and 2011/12 there was great variance in the categories used by enforcement agencies ranging from broad categories such as food service and retail, to specific categories such as newsagent and honey packaging.

For the purpose of data analysis, the categories used by enforcement agencies in 2010/11 and 2011/12 were put in to 5 broad categories: food service to vulnerable populations, retailers, distributors and manufacturers, food service and other. Figure 3.9 shows the number of food businesses by principal type of activity in WA during 2010/11 and 2011/12. The majority of businesses are food service (34.6% in 2011/12); however, the type of activity was not determined for a large number of food businesses (31.8% in 2011/12).

Figure 3.9: Number of food businesses by principal type of activity in 2010/11 and 2011/12

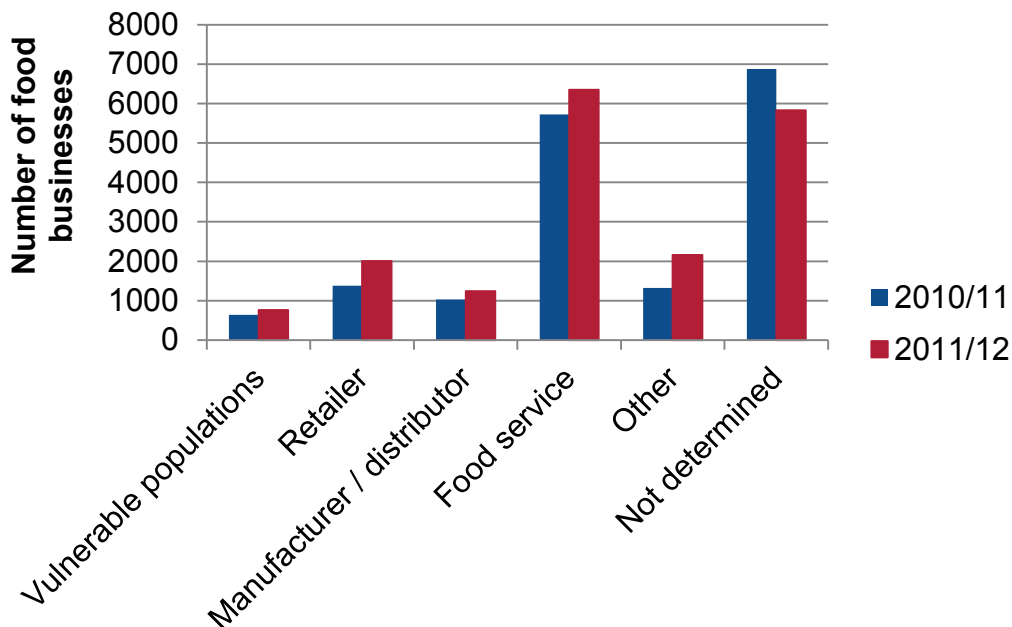
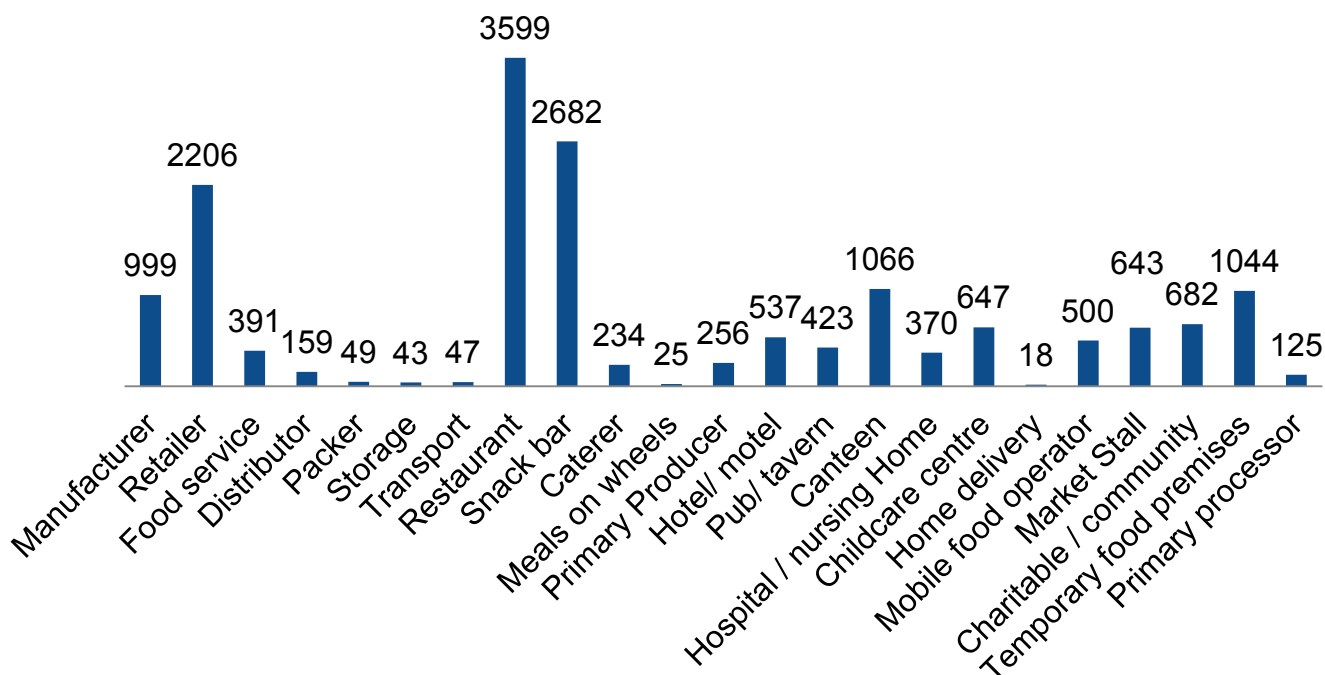


Figure 3.10 shows the number of food businesses by type of activity in 2012/13. The largest category was 3599 restaurants, the smallest category was 18 home delivery food businesses. Information of food businesses categories by health region can be found in section 4 of this report.

Figure 3.10: Number of food businesses by principal type of activity in 2012/13



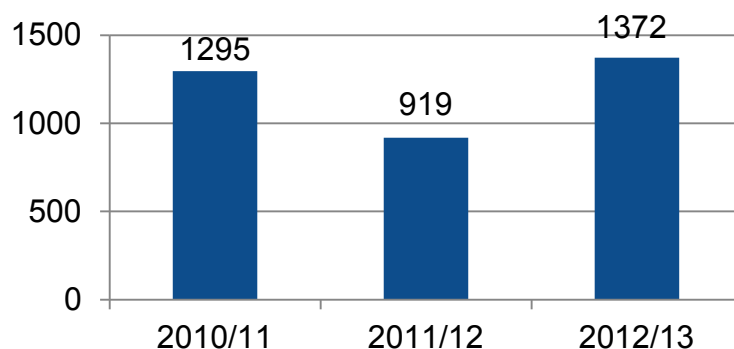
3.3 Compliance and enforcement

Relevant Food Act Section/Part	Parts 5, 6 and 11 and Section 143 of the Food Act
Department of Health policies, guidelines and resources	Department of Health compliance and enforcement policy¹ Publication of Names of Offenders Policy¹

Enforcement agencies have a range of compliance and enforcement options available under the Food Act that can be used when compliance issues are observed by food businesses. Enforcement options include improvement notices, infringement notices, prohibitions orders and prosecution.

The total number of enforcement options administered in the 2012/13 reporting period was 1372. There was a dip in the number of enforcement options administered in 2011/12 as shown in figure 3.11.

Figure 3.11: Total number of enforcement options administered by WA enforcement agencies in each reporting period



3.3.1 Compliance and enforcement policy

Enforcement agencies are encouraged to adopt a compliance and enforcement policy to help ensure that decision making in relation to enforcement is consistent, transparent and risk based. The Department of Health has developed a compliance and enforcement policy which is based on a graduated and proportional response. The graduated response involves the initial use of milder enforcement options; when this does not result in compliant behaviour a more severe enforcement option is utilised. Enforcement action should also be proportional to the alleged offence, where by a more severe enforcement option is used for a more severe offence.

In 2012/13 42% of enforcement agencies had a compliance and enforcement policy in place. A greater proportion of enforcement agencies in metropolitan regions have a compliance and enforcement policy compared to regional enforcement agencies; with 64% of metropolitan enforcement agencies and 33% of regional enforcement agencies having a compliance and enforcement policy in place in 2012/13. Metropolitan enforcement agencies may see a benefit in having a compliance and enforcement policy in place to ensure a more consistent approach when dealing with a larger number of food businesses being monitored by a larger number of authorised officers.

Table 3.1 shows the percentage of enforcement agencies with a compliance and enforcement policy in place in 2012/13.

Table 3.1: Percentage of enforcement agencies with a compliance and enforcement policy in place in 2012/13

Health Region	Percentage of enforcement agencies
Kimberley	75
Pilbara	50
Midwest	43
Goldfields	13
Wheatbelt	35
Great Southern	9
South West	33
South Metropolitan	56
North Metropolitan	71

Over the three year period there was a slight increase in number of enforcement agencies that have a compliance and enforcement policy in place with 40% of enforcement agencies in 2010/11, 41% in 2011/12 and 42% in 2012/13.

3.3.2 Improvement notices

Improvement notices are statutory notices that require a food business to take action to rectify non-compliances within a specified period of time.

There were 903 improvement notices served in 2012/13, of which 789 were complied with by the food business. The majority of improvement notices were served by metropolitan enforcement agencies (740). This can be attributed to the greater number of food businesses in the metropolitan area. Figure 3.12 shows the number of improvement notices served in each health region in 2012/13.

Figure 3.12: Number of improvement notices served in 2012/13 by health region

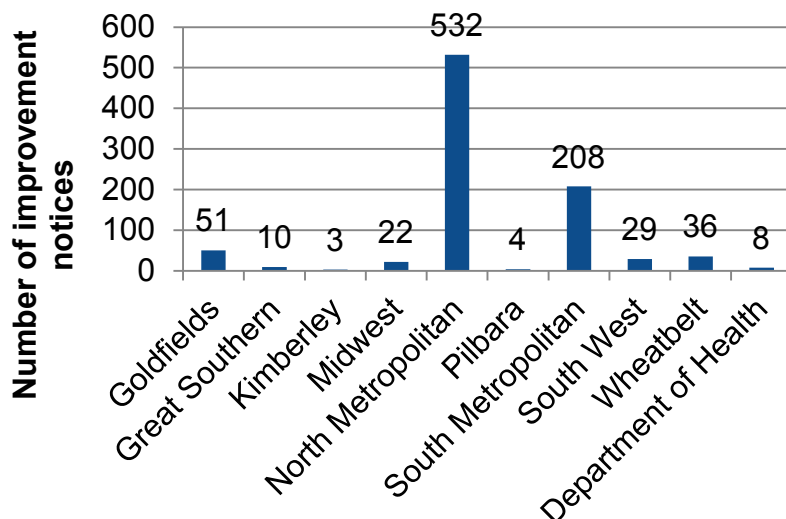


Table 3.2 shows the number of improvement notices served over the three year period.

Table 3.2: Total number of improvement notices served and complied with in WA by reporting period

Reporting period	Number of improvement notices served	Number complied with
2010/11	1021	949
2011/12	667	591
2012/13	903	789

3.3.3 Infringement notices

An infringement notice requires payment of a modified penalty for an offence if the alleged offender does not wish to be prosecuted in a court.

In 2012/13 400 infringement notices were served, of which 376 were in metropolitan WA.

There has been an increase in the number of infringement notices served over the three year period, particularly from the 2011/12 reporting period to 2012/13, as shown in table 3.3.

Table 3.3: Total number of infringement notices served, taken to court and withdrawn in WA by reporting period

Reporting period	Issued	Taken to court	Withdrawn
2010/11	238	9	11
2011/12	204	6	8
2012/13	400	1	9

3.3.4 Seizure powers

Authorised officers may seize food, vehicles, equipment, packaging, labelling or advertising material if they believe it is evidence that an offence under the Food Act has been committed. Seizure powers provide a mechanism for authorised officers to gather evidence of an offence under the Food Act.

In 2012/13 there were 50 seizures of which only 1 was performed by a regional enforcement agency and the remaining 49 were performed by six enforcement agencies in metropolitan WA.

There has been a significant decrease in the number of seizures since 2010/11 as shown in table 3.4. It is possible that this may be due to greater clarity on the purpose of performing a seizure following the compliance and enforcement workshops facilitated by the Department of Health in 2012.

Table 3.4: Number of seizures performed in WA by reporting period

Reporting period	Number of seizures
2010/11	131
2011/12	79
2012/13	50

3.3.5 Prohibition orders

Prohibition orders prohibit the handling of food on specified food premises or vehicles, or prohibit the use of specified equipment. They are issued when there is a serious danger to public health, or when a food business fails to comply with an improvement notice.

The number of prohibition orders served has increased over the three year period as shown in table 3.5. The majority of the prohibition orders have been complied with by food businesses.

Table 3.5: Number of prohibition orders served, complied with, not complied with and withdrawn in WA by reporting period

Reporting period	Issued	Complied with	Not Complied with	Withdrawn
2010/11	12	9	1	1
2011/12	22	17	3	3
2012/13	34	33	0	1

3.3.6 Legal action through the courts

Legal action through the courts is generally reserved for more serious offences, or where less severe enforcement action has not resulted in a positive change in compliance.

In 2012/13 there were 35 prosecutions in WA of which 31 were successful. 34 of these were in metropolitan enforcement agencies and only 1 in a regional enforcement agency.

Over the last three years there has been an increase in the number of prosecutions as shown in figure 3.6. In particular there was an increase in 2012/13. This may be due to the time it takes for legal action to progress through the legal system.

Table 3.6: Number of prosecutions instigated and successful by reporting period

Reporting period	Number of prosecutions	Number successful
2010/11	24	22
2011/12	26	22
2012/13	35	31

3.4 Regulatory food safety auditing

Relevant Food Act Section/Part	Part 8 of the Food Act – Auditing
Department of Health policies, guidelines and resources	Regulatory Guideline No.1: Introduction of regulatory food safety auditing in WA¹ Fact Sheet 8: Guide to Regulatory Guideline 1¹ WA priority classification system¹ Verification of food safety program guideline¹ Department of Health Management of Regulatory Food Safety Audit Policy¹

Under Part 8 of the Food Act some food businesses are required to implement food safety programs which must be audited by an approved regulatory food safety auditor. This includes food businesses that provide food service to vulnerable persons as detailed in Standard 3.3.1 of the Code, and dairy primary production and processing businesses that are captured under Standard 4.2.4 of the Code. Before a food safety program can be audited, enforcement agencies have a role of verifying food safety programs to determine that they substantially contain the elements of Standard 3.2.1 – Food Safety Programs, of the Code.

In 2010/11 and 2011/12 enforcement agencies were asked to provide information on whether they provide regulatory food safety auditing services, and whether they had commenced verification of food safety programs. In 2012/13 the questions were changed to reflect the level of implementation of Part 8 of the Food Act to determine the number of food businesses that have had their food safety program verified, and the number that have had a regulatory food safety audit. It should be noted that Section 100 (1) of the Food Act is the only section that requires that an enforcement agency must perform a role, in this case determine priority classification and auditing frequency for food businesses that have a FSP.

2010/11 and 2011/12 reporting periods

In 2010/11 nine enforcement agencies reported that they provide regulatory food safety auditing services, increasing to 12 in 2011/12. This was not reflected in the list of approved regulatory food safety auditors with only four approved regulatory food safety auditors from enforcement agencies.

In 2010/11 one enforcement agency advised that they intend to make regulatory food safety auditing services available outside their jurisdiction; increasing to three enforcement agencies in 2011/12.

21 enforcement agencies had commenced verification of food safety programs in 2010/11, increasing to 41 enforcement agencies in 2011/12.

2012/13 reporting period

The total number of food businesses in WA captured under Standard 3.3.1 was 906. The majority (615) are in metropolitan WA. Of these businesses, 55.5% of them (503 food businesses) had their food safety program verified by the appropriate enforcement agency as at 30 June 2013. 69.3% of food safety programs were verified in metropolitan WA and 34.8% in regional WA.

59.8% of the food businesses with verified food safety programs have had a regulatory food safety audit. Of the food safety programs that have been verified, a greater number have received their first regulatory food safety audit in regional WA rather than metropolitan WA, with 70% in regional and 57.7% in metropolitan WA.

The number of regulatory food safety audits that led to compliance and enforcement action was 40.

3.5 Food safety education and training

3.5.1 Number of enforcement agencies that provide food safety education or training

Many enforcement agencies recognise that providing food safety education or training to food businesses can help to improve businesses' compliance with the food legislation. The number of enforcement agencies that provide food safety education or training has remained relatively stable over the three year period with 74 enforcement agencies in 2010/11 and 80 enforcement agencies in 2011/12 and 2012/13.

During the 2012/13 reporting period 52% of regional and 76% of metropolitan enforcement agencies provided food safety education or training, covering 90% of food businesses in WA. The larger proportion of enforcement agencies in metropolitan WA providing food safety education and training is likely to be due to the greater number of food businesses in the region.

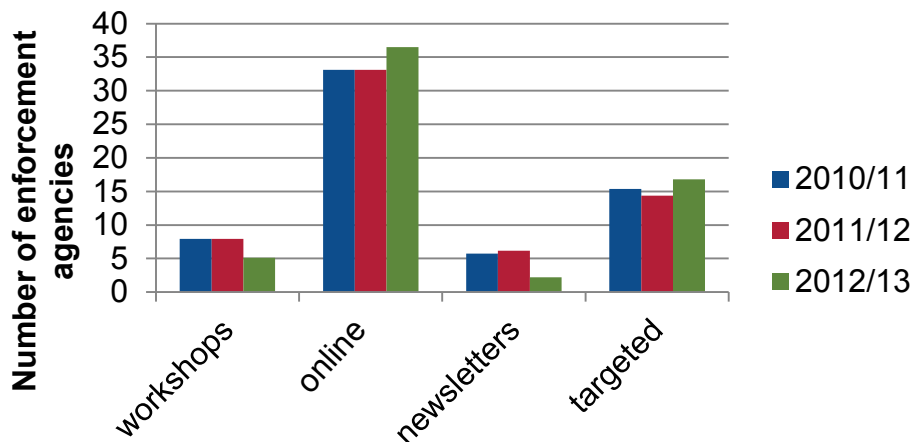
3.5.2 Type of food safety education or training provided

Enforcement agencies use a wide range of channels to deliver food safety education and training such as online training, workshops, one-on-one guidance, presentations, printed resources and websites.

For the purpose of analysing the data four categories of food safety education and training have been used: workshops, seminars and presentations; online training; newsletters, fact sheets, guidelines; targeted, ad hoc, on demand training.

Figure 3.12 shows the number of enforcement agencies that provide the four categories of education and training and how this has changed over the last three years.

Figure 3.13: Number of enforcement agencies that provide food safety education or training



Online training is the most popular form of training with 36% of enforcement agencies offering this in 2012/13. All forms of education and training have remained relatively stable over the three year period.

4. Conclusion

This report has involved collation and analysis of data provided in over 400 submissions by WA's enforcement agencies from the years 2010–2013. With a near 100% response rate, the information in this report provides a reliable snapshot of WA food regulation in the second, third and fourth years of the Food Act being in place.

The introduction of the Food Act resulted in significant changes to food regulation, including more compliance and enforcement options and a stronger emphasis on risk management. It is positive that enforcement agencies and food businesses have been adapting to these changes and implementing policies and initiatives so support their regulatory function.

Information in this report will assist the Department of Health Food Unit to form its strategic direction for the coming years. Section 146 of the Food Act requires that it be reviewed as soon as possible after 23 October 2014 (fifth anniversary). In relation to the outcomes of the report, in some cases a review may be required, however, other options will be considered including policy, workforce training and providing regular updates to enforcement agencies.

Website addresses

¹ Document
<p>WA Food Regulation: Department of Health Reporting Requirements on Enforcement Agencies' Activities http://www.public.health.wa.gov.au/cproot/3244/2/Signed%20Final%20Reporting%20Requirements%20by%20Local%20Government%20Aug%202010.pdf</p>
<p>Food Act 2008 Fact sheet 4: Authorised officers http://www.public.health.wa.gov.au/cproot/2696/2/Fact%20Sheet%204%20-%20Guidance%20on%20appointment.pdf</p>
<p>Guideline on the Appointment of Authorised officers http://www.public.health.wa.gov.au/cproot/2666/2/guidelineonappointmentofauthorisedofficers.pdf</p>
<p>Guideline on the Appointment of Authorised Officers as meat inspectors http://www.public.health.wa.gov.au/cproot/3695/2/guidelineappointmentofmeatinspectors.pdf</p>
<p>Guideline on the Appointment of Authorised Officers - designated officers only http://www.public.health.wa.gov.au/cproot/2699/2/guidelinesonappointmentofdesignated%20officers.pdf</p>
<p>Guideline on the Appointment of Authorised Officers – appointment of persons to assist with the discharge of duties of authorised officers http://www.public.health.wa.gov.au/cproot/3176/2/guidelinesonappointmentofpersonstoassistauthorisedofficers.pdf</p>
<p>Food Act 2008 Fact sheet 2: Registration of a food business http://www.public.health.wa.gov.au/cproot/2625/2/FACT%20SHEET%202%20-%20Registration%20of%20a%20food%20business.pdf</p>
<p>Food Act 2008 Fact sheet 3: Exempted food businesses http://www.public.health.wa.gov.au/cproot/2686/2/FACT%20SHEET%203%20-%20Exempted%20food%20businesses.pdf</p>
<p>Department of Health compliance and enforcement policy http://www.public.health.wa.gov.au/cproot/4193/2/Department%20of%20Health%20Compliance%20and%20Enforcement%20Policy%20October%202011%20v2.pdf</p>
<p>Publication of Names of Offenders Policy http://www.public.health.wa.gov.au/cproot/2642/2/Signed%20Publication%20of%20Names%20of%20Offenders%20Policy%20October%2010%20_2_.pdf</p>
<p>Regulatory Guideline No.1: Introduction of regulatory food safety auditing in WA http://www.public.health.wa.gov.au/cproot/3328/2/Food%20Act%202008%20Regulatory%20Guideline%20No%201_%20Introduction%20of%20Regulatory%20Food%20Safety%20Auditing%20in%20WA.pdf</p>
<p>Food Act fact Sheet 8: Guide to Regulatory Guideline 1 http://www.public.health.wa.gov.au/cproot/3329/2/Fact%20Sheet%208%20Guide%20to%20regulatory%20guideline%20no%201.pdf</p>

WA priority classification system

<http://www.public.health.wa.gov.au/cproot/3330/2/S%20100%20Priority%20Classification%20System.pdf>

Verification of food safety program guideline

<http://www.public.health.wa.gov.au/cproot/3331/2/Food%20Act%202008%20verification%20of%20FSP%20guideline%20tool.pdf>

Department of Health Management of Regulatory Food Safety Audit Policy

<http://www.public.health.wa.gov.au/cproot/4073/2/Audit%20Framework%20Policy%20no%202%20-%20Managing%20Audit%20Process%20V%201%20JULY%202011.pdf>



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