

FOOD REGULATION COMPLIANCE AND ENFORCEMENT COUNCIL POLICY

POLICY STATEMENT

This Policy sets out the City's approach to food regulatory enforcement activity for food businesses within the City as an enforcement agency in accordance with the *Food Act 2008*. It also provides a range of prescribed compliance and enforcement options in response to food safety compliance failures.

POLICY SCOPE

This policy applies to: Food Business Operators in Bunbury, City of Bunbury Staff.

POLICY DETAILS

The City of Bunbury Food Regulation Compliance and Enforcement Policy is in accordance with the national Enforcement Guideline and the WA Department of Health's Compliance and Enforcement Guideline. The guideline requires the graduated application of enforcement measures. The objectives of the guideline are as follows:

1. To be consistent with the risk based approach to the enforcement activity.
2. To be efficient in enforcement approach.
3. To provide transparency to consumers and the food industry on how the City makes decisions on enforcement action.
4. To guide decision making and actions by the City in the consistent use of enforcement options commensurate with the risk.
5. To use compliance and enforcement strategies in such a way as to best achieve legislated objectives and encourage compliance with legislated provisions.
6. To provide a framework to implement a cooperative and collaborative approach to enforcement action to achieve compliance in a manner that protects consumers.
7. To provide protection for consumers from inappropriate and/or misleading trade practices.

POLICY PROCEDURE

The objectives of the procedure are:

- To provide for a consistent, risk-based, efficient approach to food regulation enforcement through adoption of a graduated and proportionate response to legislative noncompliance.
- To provide transparency to consumers and food businesses on how the City makes decisions on enforcement action.

- To guide decision making and action by the City's authorised officers in the consistent use of enforcement options proportionate with risk.
- To use compliance and enforcement strategies in the best way possible to achieve legislated objectives and encourage compliance with food legislation.

KEY ENFORCEMENT GUIDELINE PRINCIPLES:

The following principles are required to be applied to achieve ethical and effective enforcement of food law:

1. A Graduated and Proportionate Approach

Food legislation provides a range of enforcement options that vary in their severity. Choosing the appropriate option for the situation requires the application of the principle that the response should be commensurate with the severity of the non-compliance.

The graduated enforcement approach makes use initially of milder enforcement options to achieve compliance, such as improvement notices or warning letters or increased frequency of assessments. If compliance is not achieved through those measures, the authorised officer shall implement more significant enforcement actions such as the issuing of infringement notices and prohibition orders.

However, response measures must be balanced by the severity of the non-compliance and will be influenced by factors including:

- The impact of the offence on stakeholders.
- The particular circumstances of the offence and the circumstances of the food business involved.
- The compliance history of the food business, both in general and in relation to the specific offence committed.
- The cooperation of the offending food business, with respect to both investigations conducted on the offender's premises relating to the offence and following commencement of enforcement action.
- Any remedial action implemented by the offender to address the non-compliance.
- The timeframe over which the offence was committed.

Therefore, should the severity of the offence justify it, immediate and serious enforcement action should be taken by authorised officers.

2. Authorised by Law

Authorised officers should not exceed their statutory powers. Evidence collected must be able to substantiate the alleged offence. Evidence shall be properly obtained within legislative requirements and be admissible in a court of law. The evidence gathered shall be sufficient to be able to support the case against any appeal e.g. an infringement notice that is referred to court for a defended hearing or a matter that is appealable to the State Administrative Tribunal (SAT).

Evidence need not be assembled into a full prosecution brief for minor enforcement action. However, evidence collected should be sufficient to substantiate the offence if questioned.

3. Impartial and Procedurally Fair

Enforcement agencies shall be consistent in the way in which enforcement actions are applied.

Ethnicity, race, age or gender shall have no bearing when undertaking enforcement action.

Decision making shall not be influenced by political advantage or disadvantage to any individual or group; the consequences of a decision the personal or professional circumstances of the authorised officer making the decision; or the personal feelings of the authorised officer towards the offender.

Enforcement action shall be timely so that the food business associates the action with the non-compliance in order to undertake any necessary remedial action.

If statutory procedures are initiated, the food business proprietor shall be notified in writing of any statutory right of appeal available within the food legislation.

4. Accountable and Transparent

The City, as an enforcement agency, must be professional, accountable and transparent in actions regarding the implementation of enforcement actions on food businesses.

The following actions will be implemented by the City to achieve this:

- Ensure legislation, enforcement policies, complaints procedures and relevant information is easily accessible to food businesses and the public;
- Use clear and understandable language when communicating with the public and industry;
- Advise of any process of complaint or appeal that is available, with details of the process and likely timeframes; and
- Advise of any fees and charges that will be applied in discharging obligations or services under the relevant legislation.

5. Consistency

Consistent enforcement of food legislation is fundamental to ensure that consumers and food businesses are not unfairly advantaged or disadvantaged.

The City will ensure that all staff are adequately trained, and monitor performance of authorised officers to ensure that food businesses are handled in a consistent manner.

6. In the Public Interest

The overriding consideration in taking enforcement action will always be the protection of public health and safety.

7. Allow for Application of Multiple Enforcement Options under Appropriate Circumstances

Under the appropriate circumstances, the simultaneous application of multiple enforcement options may be required e.g., a serious hygiene breach where the concurrent issue of an infringement notice and prohibition order is considered appropriate.

There may also be circumstances where there are multiple non-compliances detected, of varying degrees of significance. In those circumstances the use of varied enforcement options may be warranted. Equally, the existence of multiple breaches may indicate system failure that may result in the use of more significant enforcement options.

ENFORCEMENT OPTIONS:

The food legislation provides a number of enforcement options. These options are listed below in a graduated order of seriousness that generally reflect the order in which they will usually be applied (refer to figure 1).

High-quality records are integral for authorised officers to maintain as part of their role in upholding food safety. It is the responsibility of authorised officers to maintain comprehensive records of food businesses including assessment reports, records of verbal directions, photographs, complaints, food sampling results, and any written notices and orders.

1. Informal and Internal Mediation and Conciliation/Verbal Warnings

This can be implemented at any stage in the enforcement process. Mediation and conciliation generally follow identification of non-compliance and provide an opportunity for the proprietors of a food business to offer an explanation or outline mitigating circumstances to authorised officers. Authorised officers can then make a determination on appropriate enforcement action or reach an agreed outcome with the proprietor regarding future compliance activities.

Notes relating to the above should be documented on the assessment form.

2. Warning Letters

Discretion shall be exercised when issuing warning letters as opposed to improvement notices. Warning letters shall only be used for breach(es) where the issuing of an improvement notice is not appropriate or warranted in the first instance.

The letter is to detail the exact nature of the offence; cite the relevant legislation and specific clauses breached; state the required remedial action in terms of desired outcome; the timeframe for compliance; specify the maximum penalty for the offence; and the intention of the City to enforce the legislation should the business fail to ensure the required actions have been undertaken (refer template in Appendix 1).

For example:

1. *Soap was not provided for the hand washing facility in the food preparation area. Clause 17 of Food Safety Standard 3.2.2 requires that food businesses maintain a supply of soap at or near each hand washing facility. Soap is to be provided for the hand wash basin in the food preparation area at all times **(24 hours)**;*
2. *The surface of the laminate chipboard shelf next to the stove is deteriorated and peeling. Clause 21 of Food Safety Standard 3.2.2 requires that a food business must maintain fixtures, fittings and equipment in a good state of repair. The shelf shall be repaired or replaced such that the surface is smooth, durable, impervious and easily cleanable **(21 days)**.*

A warning letter must be followed-up at the expiry of the timeframe to ensure the required actions have been taken. Failure to comply with a warning letter will result in further action. Further written warnings should not be issued for continued non-compliance or a subsequent similar offence.

3. Improvement Notices

Improvement notices are statutory notices that must only address prescribed issues and have prescribed content. An authorised officer may issue an improvement notice to the proprietor of a food business if it is believed that the business is acting in contravention to the Act, Regulations or Food Standards Code. Improvement notices should only be issued when it is considered to be an appropriate option (i.e. capable of providing sufficient incentive to the food business to address the matter). The improvement notice shall contain the following information:

- The provision(s) of the Act, Regulations or Food Standards Code that the authorised officer believes is being, or has been, contravened;
- A brief description of how the relevant legislative provision(s) have been or are being breached;
- The particular action in terms of desired outcome that the proprietor of the food business should undertake in order to rectify the observed noncompliance; and
- The timeframe in which the contravention should be resolved by the proprietor of the food business; within 24 hours for more serious issues and only specify a longer period if considered appropriate by the authorised officer. Timeframes allowed for compliance should consider the risk to public health associated with continued non-compliance.

The authorised officer shall conduct follow-up assessments at the timeframes nominated in the notice. Extensions to the date of compliance provided in an improvement notice may be granted at the discretion of the authorised officer. However, it is recommended that extensions are only provided in instances where the food business requests an extension before the expiry date of the notice. Extensions should only be considered for more minor matters such as repairs to equipment or replacement of equipment parts, or for minor revision of a food business food safety management system.

Food businesses shall be advised that failure to comply with an improvement notice will generally result in implementation of more serious enforcement action such as a prohibition order, infringement notice, or both.

Refer template in Appendix 2.

4. Infringement Notices

An infringement notice is a notice to the effect that the person to whom it is directed has committed a specified offence under the Act, Regulations or Food Standards Code. It requires payment of a specified monetary amount for the offence within a specified time. Infringement notices may be served by a designated officer (Section 126(2) of the Food Act) in the prescribed form (Schedule 4 of the Food Regulations).

Not complying with an infringement notice can result in referral to a court for hearing. While it is not essential that this evidence is used to develop a full brief of evidence, it should be logged and the chain of evidence secured as for legal action.

Infringement notices provide a cost effective and efficient method of dealing with offences. These are not appropriate for significant breaches (serious or imminent threat to food safety or public health) of the Act, Regulations or Food Standards Code.

If an infringement notice is withdrawn after the modified penalty has been paid, the amount paid must be refunded.

The provision to withdraw an infringement notice is in place to allow for the event that:

- an infringement notice was not justified after the payment was made; or
- as this was a first time offence that the person should be given the benefit of the doubt; or
- on review a notice was not an appropriate compliance/ enforcement response to the issue.

An infringement notice can only be withdrawn by the Manager Community Wellbeing or the Director Sustainable Communities.

The *Fines, Penalties and Infringement Notices Enforcement Act 1994* provides that the effect of payment of an infringement notice is that:

- no further prosecution of that matter can take place; and
- that payment is not to be taken as admission of any kind.

The effect of this is that once payment of the fine has occurred any ability to prosecute on that matter is lost. It does not matter if later the fine is refunded, because the original payment extinguished any ability to prosecute.

Refer templates in Appendices 3 and 4.

5. Prohibition Orders

Prohibition orders may be issued where it is necessary to prevent or mitigate a serious danger to public health or where an improvement notice has not been complied with.

A prohibition order will prohibit the handling of food on specified food premises, vehicles or equipment. It may also prohibit the handling of food in a specified way or for a specified purpose. [NB: Section 70 of the Act provides for compensation to be paid if there were insufficient grounds for the making of the prohibition order]

A prohibition order may be made with respect to any one or more of the following:

- any premises or any part of any premises, any food transport vehicle or any equipment specified in the notice or order;
- all equipment, or any specified equipment, contained on any premises or any part of any premises, or in a food transport vehicle, specified in the notice or order;
- the handling of food intended for sale by a food business in a specified way or for a specified purpose;
- the carrying out of activities specified in the notice or order in relation to food intended for sale.

A prohibition order must specify any provision of the Food Standards Code to which it relates; and may specify particular action to be taken by a proprietor to ensure compliance with the provision of the Code to which it relates.

Prohibition orders shall be signed by the Team Leader Environmental Health or the Manager Community Wellbeing (original signature only, no electronic signatures to be used).

A brief of evidence sufficient to prove all elements of a prosecution is the standard required prior to issue of a prohibition order. Breach of a prohibition order is an offence and will usually result in further enforcement action, such as prosecution.

A prohibition order will remain in place until a certificate of clearance is issued following a written request for inspection from the food business. A certificate of clearance shall be signed by the Team Leader Environmental Health or the Manager Community Wellbeing. The City may refuse to issue a certificate of clearance. This refusal can be appealed to the SAT.

The proprietor of the food business whose premises (other than a vehicle) are affected by a prohibition order may at any time after the order has been served make a written request to the City to cause the premises to be inspected by an authorised officer. The proprietor of the food business whose vehicle or equipment is affected by a prohibition order may at any time after the order has been served make a written request to the City to cause the vehicle or equipment to be inspected by an authorised officer:

- at the place where it was originally inspected; or
- if it is not convenient for it to be inspected at that place, at some other place that the City has agreed to.

If a request for inspection is made under this section and the premises, vehicle or equipment concerned, through no fault of the proprietor of the food business, are not inspected by an authorised officer within **48 hours** after the request is received by the City, a certificate of clearance is taken to have been given to the proprietor of the food business.

A certificate of clearance must be given if, after an inspection by an authorised officer there is no longer found to be a serious danger to public health, and any improvement notices served on the person whom the prohibition order was served have been complied with. The City may refuse to issue a certificate of clearance. Written notification must be given to the proprietor of a food business on whom a prohibition order has been served of the decision not to give a certificate of clearance after an inspection has occurred.

Refer templates in Appendices 5, 6 and 7.

6. Legal Action through the Courts

Prosecution will normally be reserved for the more serious breaches or matters where less severe enforcement action has not changed the noncompliant behaviour.

Evidence supporting prosecution should be objective and as comprehensive as possible. Briefs of evidence for the commencement of proceedings may include the following:

- Physical evidence (seized material).
- Photographs or video recordings of evidence.
- Video or sound recordings of conversations and interviews with alleged offenders.

- Records of interviews signed by all parties.

Full documentation of the chain of evidence and secure storage of all exhibits submitted as evidence should further form part of the brief of evidence.

Submissions to a Court on penalty should include details about the risk to public health and take into account the economic benefit gained by the food business in not complying with the legislation.

Proceedings must be commenced within twelve (12) months after the date of the alleged offence and, for food samples, within six (6) months after the date on which the sample was obtained.

7. Corrective Advertising

Requests may be made for court orders for corrective advertising should a person found guilty of an offence where there is potential ongoing risk to public health, or where it has been proven that a food has been promoted through advertising in an inappropriate or intentionally misleading way eg deliberately incorrect country of origin labelling.

8. Injunctions or Injunctive Relief

It is possible for enforcement agencies to seek an injunction or injunctive relief to prevent continuing activity that does not comply with the food legislation. Consideration should however be given to the potential for compensation following failure of any subsequent related prosecution.

9. Publication of the Names of Offenders

Section 121(2) of the Act places an obligation on the City to forward the details of any proceedings for an offence under the Act taken by an Authorised Officer within one month after the proceedings have been finally dealt with.

In the event that any proceedings lead to a conviction, the City must notify the CEO of the Department of Health (DoH) within **fourteen (14) days** from the date of the final order of the conviction. The 'Notification of Conviction' form is to be used for this purpose and can be found at <http://www.public.health.wa.gov.au>. This form is designed to be completed electronically and must be emailed to the Food Unit of the DoH at foodunit@health.wa.gov.au within the 14 day time period.

10. Action against Registration

In WA, food legislation requires food businesses to be registered. Operation of a food business without current registration issued by the enforcement agency is an offence.

A food business that fails to comply with regulatory requirements is subject to enforcement action. Registration can be cancelled under the following circumstances only:

- as a result of any annual or other fee not being paid by the date prescribed by the enforcement agency; or
- as a result of the food business ceasing to be conducted; or
- as the request of the holder of the certificate of food business registration.

Registration is a once-off activity and cannot be used as an enforcement option by enforcement agencies for non-compliance with food safety requirements.

POWERS OF ENTRY, INSPECTION AND SEIZURE

1. Entry and inspection

Under Part 5 Division 1 of the Food Act, an authorised officer has wide powers to enter and inspect a food transport vehicle or premises at a reasonable time where the officer believes that it is being used in connection with the handling of any food intended for sale, or for sale, in order to make any investigations and inquiries that may be necessary to ascertain whether an offence under the Food Act has been or is being committed; Section 38 of the Food Act sets out the extent of those powers.

An authorised officer may, however, only enter and inspect that part of the premises being used solely for residential purposes with the occupier's consent, or where a search warrant has been issued under Section 42 of the Food Act, or where that part of the premises is being used for the preparation or service of meals provided with paid accommodation.

2. Seizure

The severity of seizure as an evidence gathering measure can vary considerably, dependent upon not only the value of the food, equipment or materials seized, but the subsequent impact of the loss of the food, equipment or materials on the conduct of the business.

Authorised officers have seizure powers under the Act to seize food, vehicles, equipment, packages and labelling, advertising materials or any other thing that the authorised officer reasonably believes is evidence that a provision of the Act, Regulations or Code has been contravened.

The impact of a seizure should be considered in the application of any other enforcement action. The authorised officer shall document how they reached their decision and collect evidence as detailed in Figure 2.

[NB: the Act provides for compensation to be paid if there were no grounds for the making of the seizure. In circumstances where an enforcement agency reviews a seizure action and it becomes evident that there has been no contravention of the Act, Regulations or Code in relation to items which have been seized they should be returned as soon as possible to the person from whom the items were seized]

The authorised officer shall provide written notification to the person from whom the item/s was seized of the following information:

- description of the item/s seized;
- reason for the seizure;
- explanation of rights of appeal;
- address of the place where the item/s are being held, if removed from the premises where they were seized; and
- the name of the enforcement agency ie City of Bunbury

Seized goods forfeited to the City shall be destroyed or disposed of in a manner that ensures there can be no allegation of improper conduct or corruption, and does not pose a risk to public health and safety (eg does not re-enter the food chain). Records should be kept of how, when and where seized goods are disposed. Disposals of seized goods shall be witnessed by at least two authorised officers.

Refer seizure notice template in Appendix 8.

COMPLIANCE REQUIREMENTS

LEGISLATION

- *Food Act 2008*
- *Food Regulations 2009*
- *Food Standards Code*

INDUSTRY

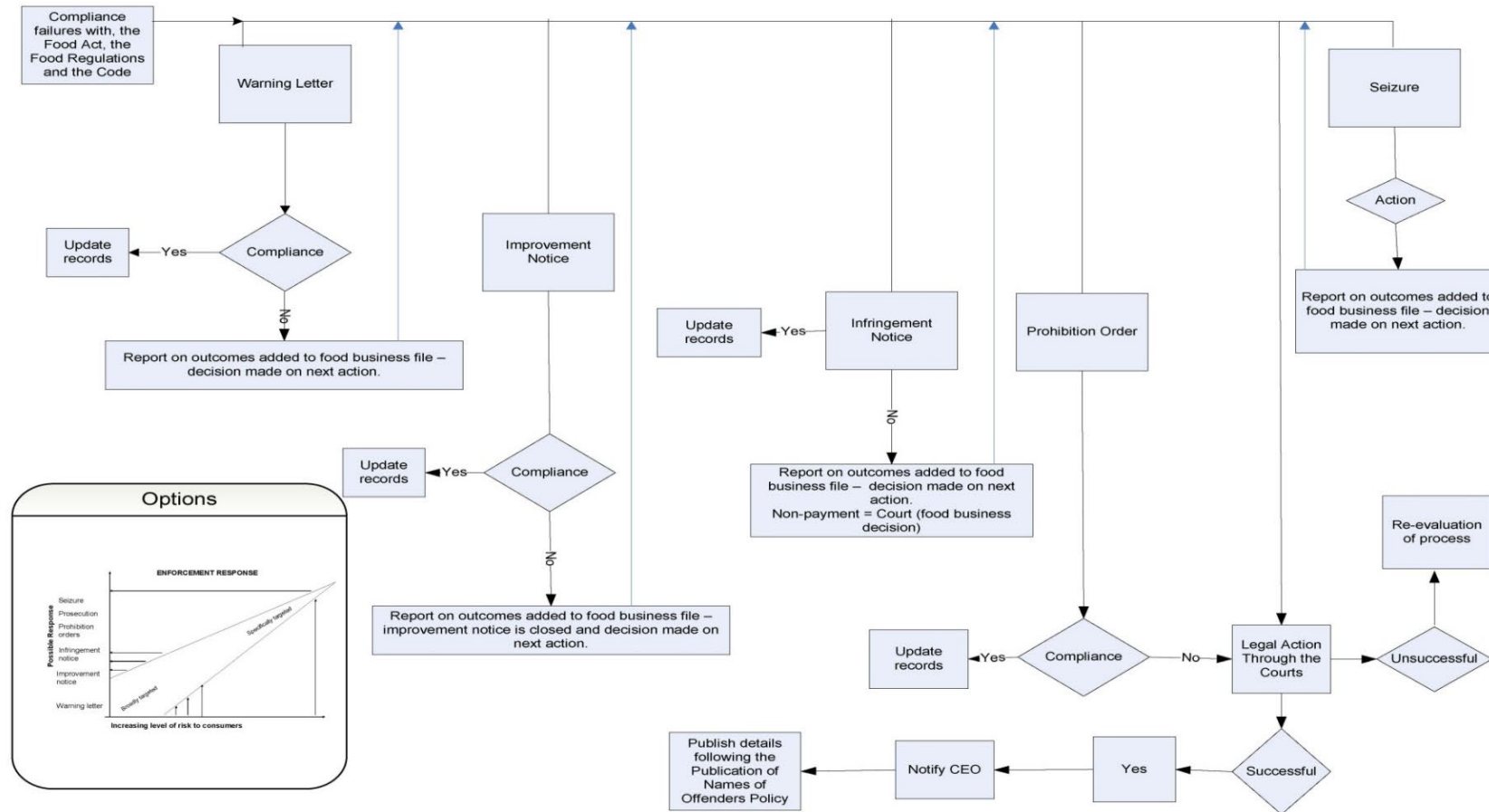
- Department of Health WA Compliance and Enforcement Guideline
- Australia and New Zealand Food Regulation Enforcement Guideline

ORGANISATIONAL

- [Appendix 1 Letter of Non-compliance](#)
- [Appendix 2 Improvement Notice](#)
- Appendix 3 Hard copy Infringement Notice
- [Appendix 4 Withdrawal of Infringement Notice](#)
- [Appendix 5 Letter with Prohibition Order](#)
- [Appendix 6 Certificate of Clearance](#)
- [Appendix 7 Notification to not issue certificate of clearance](#)
- [Appendix 8 Seizure Notice](#)

Document Control					
Document Responsibilities:					
Owner:	Chief Executive Officer	Owner Business Unit:	Manager Community Wellbeing		
Reviewer:	Manager Community Wellbeing	Decision Maker:	Council		
Document Management:					
Adoption Details	Res278/12 25 September 2012	Review Frequency:	biennial	Next Due:	2021
Review Version	Decision Reference:	Synopsis:			
DOC/455720[v3]	Council Decision 168/22 16 August 2022	Policy reviewed and updated with amendments to position titles and delegations, and clarifications.			
DOC/455720[v2]	Council Decision 049/20 17 March 2020	Consolidate policies and corporate guidelines in accordance with revised Policy Framework.			
DOC/455720[v1]		Converted from Mydocs to CM9			
CP-026036	Res 132/19 28 May 2019	Reviewed with no changes			
CP-026036	Res 104/17 21 March 2017	Reviewed with no changes			
CP-026036	Res 82/15 17 March 2015	Reviewed			
Date Printed	23 August 2022				

Figure 1 Graduated and Proportionate Use of Enforcement Options



APPENDIX 1

Our Ref:

Your Ref:

Enquiries: ☎ (08) 9792 7

E-Mail: {email name}@bunbury.wa.gov.au

{ Click on here and type Date - Date Month Year }

{ Click on here and type Address }

Dear

RE: (PREMISES NAME), (PREMISES ADDRESS) – NON-COMPLIANCE WITH FOOD LEGISLATION

An assessment of the above mentioned premises was conducted on **(DATE)** by City Authorised Officer, **(NAME)**. At this time, the following items were observed as requiring attention in order for the food business to comply with the *Food Act 2008*, the *Food Regulations 2009* and the *Australia New Zealand Food Standards Code*:

Exact nature of breach, specific clause breached, required remedial action in terms of desired outcome (timeframe for compliance).

These works shall be completed within the timeframes specified in brackets. Should the works not be completed within the allocated timeframes, further action will be taken in the form of an improvement notice and/or infringement notice in accordance with the *Food Act 2008*. A reassessment of the premises will be conducted of the food business to ascertain compliance.

Please note, offences under the aforementioned legislation incur maximum penalties ranging from \$5,000 to \$100,000 for an individual and from \$5,000 to \$500,000 for a body corporate.

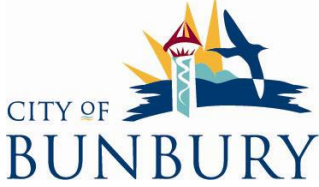
Should you have any queries regarding this matter or extenuating circumstances that you are not able to complete the works within the required timeframe, please contact **(NAME)** on **(PHONE NO)**.

Yours faithfully

{Click on here and type Name }

{CLICK ON HERE AND TYPE POSITION }

APPENDIX 2

 <p>CITY OF BUNBURY</p>	<p>IMPROVEMENT NOTICE <i>Food Act 2008 Part 6 Division 1</i></p>
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Issued to:

Name of Proprietor:

Name of Food Business:

Address of Premises:

State:

Post Code:

Take notice that an assessment of the above mentioned premises by City of Bunbury’s Authorised Officer **(insert name)** on the **(insert date)** revealed that, in accordance with Part 6 Division 1 Section 62 of the *Food Act 2008*, there are reasonable grounds to serve an Improvement Notice under Section 63. These grounds are detailed within the following table:

Item	Issue(s) of non-compliance to be rectified:	Action to be completed (date):	Compliance observed	
			Y/N	Date
Number of additional pages attached:				
Notice served:		Date:	Time:	

Take further notice that the above matters must be rectified within the time specified and non-compliance with this notice may result in issue of a Prohibition Order under section 65 of the *Food Act 2008* which may prohibit the handling or conveyance of food or the use of specified equipment or other actions within the food business premises.

Signature: _____

APPENDIX 3

Refer hard copy Infringement Notice

APPENDIX 4

 <p>CITY OF BUNBURY WITHDRAWAL OF INFRINGEMENT NOTICE <i>Food Act 2008</i> Section 126(7) and <i>Food Regulations 2009</i> Regulation 54(2)</p>		Notice No.
Alleged Offender	Family name or body corporate name and ACN:	
	Other names:	
	Address:	No. Street Name:
		Postcode:
Infringement notice	Infringement Notice No.:	
	Date of issue:	
Alleged offence <i>[*delete whichever is not applicable]</i>	Description of offence:	
	<p><i>*Food Act 2008 Section</i> _____</p> <p><i>*Food Regulations 2009 Regulation</i> _____</p>	
Designated officer withdrawing notice	Name:	
	Title:	
	City of Bunbury	
	Signature:	
	Date of notice:	
Withdrawal of infringement notice <i>[*delete whichever is not applicable]</i>	<p>The above infringement notice issued against you has been withdrawn. If you have already paid the modified penalty for the alleged offence you are entitled to a refund. *Your refund is enclosed.</p> <p><i>or</i></p> <p>*If you have paid the modified penalty, but a refund is not enclosed, to claim your refund sign this notice and post it to:</p> <p>City of Bunbury PO Box 21 BUNBURY WA 6231</p>	
	Signature:	

APPENDIX 5

Our Ref:

Enquiries: ☎ (08) 9792 7

<Proprietor name>

<Food business name>

<Proprietor address>

<Suburb> <State> <Postcode>

To <Proprietor name>,

FOOD ACT 2008

PROHIBITION ORDER UNDER SECTION 65

WHEREAS:

1. You are the registered proprietor of a food business trading as <name of food business> located at <address of food premises>; and
2. The City of Bunbury is satisfied from an assessment of the above mentioned premises on the <date> that reasonable grounds (refer to attached schedule for details) exist in accordance with section 65 (1) for the service of a prohibition notice.

TAKE NOTICE THEREFORE that pursuant to section 65 of the *Food Act 2008*, the City of Bunbury orders that –

Provide details of prohibition; for example –

- *no food intended for sale is to be handled on specified premises or a specified part of specified premises;*
- *no food intended for sale is to be conveyed in a specified vehicle;*
- *specified equipment is not to be used in connection with food intended for sale;*
- *no food intended for sale is to be handled by a food business in a specified way or for a specified purpose; or*
- *no other specified activities in relation to food intended for sale are to be carried out on specified premises or a specified part of specified premises.*

This prohibition will remain in force until a certificate of clearance has been issued to you by the City of Bunbury.

FURTHER TAKE NOTICE that failure to comply with this order may result in:

- the issue of an infringement notice under the *Food Regulations 2009* which carries penalties of \$500 for an individual or \$1,000 in the case of a body corporate; or
- legal action through the Courts for contravention of section 68 of the *Food Act 2008* which carries maximum penalties of \$50,000 for an individual or \$250,000 for a body corporate.

Signed:

Name: <insert full name of authorised delegate>

Title: TEAM LEADER ENVIRONMENTAL HEALTH/MANAGER COMMUNITY WELLBEING

DATE:

CERTIFICATE OF CLEARANCE – SECTION 66

This prohibition remains in force until a certificate of clearance has been provided by the City of Bunbury.

In order to obtain a certificate of clearance you may request an authorised officer to reinspect the premises affected by this prohibition order at any time after the order has been served. A certificate of clearance will only be issued if the inspection reveals that the premises are (a) not a serious danger to public health and (b) the person on whom the prohibition order was served has complied with the prohibition order and any improvement notices served on the person.

In accordance with section 67 the request for re-inspection must be in writing and is to be forwarded to:

CITY OF BUNBURY
MANAGER COMMUNITY WELLBEING
PO BOX 21
BUNBURY WA 6231
FAX: 08 9792 7184

or presented in person during office hours (Monday to Friday 8.30am to 5.00pm) to:

CITY OF BUNBURY ADMINISTRATION OFFICE
4 STEPHEN STREET, BUNBURY WA

GROUNDS FOR ISSUING PROHIBITION ORDER

<insert grounds here>

APPENDIX 6

Our Ref:

Enquiries: ☎ (08) 9792 7

<Proprietor name>

<Food business name>

<Proprietor address>

<Suburb> <State> <Postcode>

FOOD ACT 2008

CERTIFICATE OF CLEARANCE UNDER SECTION 66

Following an assessment of the food business registered to:

[name of proprietor]

located at:

[address of food business]

by the City of Bunbury's authorised officer:

[name of officer]

on the:

[date of assessment]

the City of Bunbury is satisfied that:

[provide details of the premises/part of the premises, vehicle or equipment/the handling of food by the food business in a specified way or for the specified purpose or the carrying out of the specified activities]

are not/is not [delete appropriate] a serious danger to public health; and the person on whom the prohibition order dated:

[date of prohibition order]

was served has complied with the prohibition order and improvement notices dated:

[date of improvement notices if applicable]

served on the person.

Signed:

[name of authorised delegate]

**TEAM LEADER ENVIRONMENTAL HEALTH/MANAGER COMMUNITY WELLBEING
CITY OF BUNBURY**

DATE: [insert date]

APPENDIX 7

Our Ref:

Your Ref:

Enquiries: ☎ (08) 9792 7

E-Mail: {email name}@bunbury.wa.gov.au

{ Click on here and type Date - Date Month Year }

{ Click on here and type Address }

Dear

RE: (PREMISES NAME), (PREMISES ADDRESS) – NOTIFICATION TO NOT ISSUE CERTIFICATE OF CLEARANCE

An assessment of your food business by City Authorised Officer, (NAME), on (DATE) was conducted in response to your written request, following the issue of a prohibition order under the *Food Act 2008* on (DATE).

In accordance with Section 67 of the *Food Act 2008*, a Certificate of Clearance will not be issued in relation to the abovementioned prohibition order as the assessment revealed that <insert information> is/are a serious danger to public health and the prohibition order and improvement notices have not been complied with.

As such, the prohibition order remains in place and shall be complied with until a Certificate of Clearance is issued.

Failure to comply with a prohibition order incurs a maximum penalty of \$50,000 for an individual and \$250,000 for a body corporate.

You may apply to the State Administrative Tribunal for a review of a decision of the City to refuse to give a certificate of clearance within 28 days after the day on which notification of the decision was received.

Please contact me on (PHONE NO.) should you have any queries.

Yours faithfully

{Click on here and type Name }

TEAM LEADER ENVIRONMENTAL HEALTH/MANAGER COMMUNITY WELLBEING

APPENDIX 8

 <p>CITY OF BUNBURY SEIZURE NOTICE</p> <p><i>Food Act 2008 Section 50</i></p>		Notice No.
Alleged Offender	Family name or body corporate name and ACN:	
	Other names:	
	Address:	No. Street Name:
		Postcode:
Seizure notice	Seizure Notice No:	
	Date of issue:	
Alleged offence [*delete whichever is not applicable]	Description of offence:	
	<p><i>*Food Act 2008 Section _____</i></p> <p><i>*Food Regulations 2009 Regulation _____</i></p>	
Description of items seized		
Location where seized items are being held		
Designated officer issuing notice	Name:	
	Title:	
	City of Bunbury	
	Signature:	
	Date of notice:	
Right of appeal	<p>In accordance with Section 57 of the <i>Food Act 2008</i>, a person claiming to be entitled to any item seized under the Act may, <u>within ten (10) days after the date on which the seizure took place</u>, lodge an application with the court for an order disallowing the seizure.</p> <p>The application to the court cannot be heard unless the applicant has served a copy of the application on the City of Bunbury.</p>	