



# Food Act Inspection and Fee Policy

<b>Reference Number:</b>	Section 10 No. 1
<b>Responsible Department:</b>	Strategy & Development
<b>Related Policy/Procedure:</b>	Nil
<b>Date of Adoption:</b>	19 August 2003
<b>Current Review Date:</b>	23 October 2018
<b>Minute Reference:</b>	Item 12.3.4 2018/406
<b>Version Number:</b>	Amendment No. 4
<b>Applicable Legislation:</b>	Food Act 2001, Food Regulations 2002
<b>Next Review Date:</b>	1 October 2021
<b>Review Frequency:</b>	Triennially or as required by legislative or procedural changes

## 1. Background

This policy has been formulated from guidelines, legislation and advice prepared by Environmental Health Australia, and the South Australian Department of Health. The Food Act 2001 came into force on Sunday, 1 December 2002 along with the Food Regulations gazetted in November 2002.

The Food Act 2001, and Regulation 11 of the Food Regulations 2002 provides for Councils as enforcement agencies to charge an inspection fee for carrying out any inspection. Regulation 11 (b) states inspection fees 'may be recovered by the enforcement agency as a debt from the occupier of the premises, or from the owner or operator of a food transport vehicle (as the case may be).'

A number of Councils, including the Light Regional Council, use the Australian Food Safety Assessment (AFSA) system for conducting inspections. This process enables Councils to assess the level of compliance with the Food Safety Standards, determine the risk associated with the business food processes and activities that assist in determining risk classification and inspection frequency.

The fee inspection system should be simple, easy to administer, transparent and where possible achieve cost recovery.

## 2. Policy Definitions

- 2.1 Food Business Classification – A food business classification is determined in accordance with the South Australian Department of Health Food Business Risk Classification system. It allows SA food businesses to be assessed based on their inherent food safety risk, with an inspection frequency tailored that reflects the risk.
- 2.2 Not for Profit Organisation – Applies to organisations that have been endorsed by the Australian Taxation Office as income tax exempt and can produce the written tax office endorsement documentation.
- 2.3 Inspection Fee – The maximum fee prescribed in Regulation 11 of the Food Regulations 2002, as amended and adopted by Council in its annual Schedule of Fees and Charges.
- 2.4 Notification – Section 86 of the Food Act requires proprietors of a food businesses to notify Council upon commencing a food business operation, the food business is transferred to another person or there is a change in the name or address of a food business.

## 3. General Principles

- 3.1 Section 37 of the Food Act 2001 (the Act) allows for authorised Environmental Health Officers to inspect food premises in accordance with those powers described within the Act.

Policy No:	Section 10 No. 1	Date of this Policy:	23 October 2018	Page 1 of 3
Version:	Amendment No. 4			

- 3.2 Food premise inspections are conducted on a systematic approach, subject to risk classification and inspection frequencies, from a public complaint, or request from the South Australian Department of Health.
- 3.3 Business proprietors are not informed of the date or time of the inspection, but are required to assist the Environmental Health Officer(s) during the inspection process as defined by the Act.
- 3.4 Not for profit organisations may, at the discretion of Council's Environmental Health Officer, be required to produce written evidence of endorsement from the Australian Tax Office.

**4. Inspection Frequency**

4.1 Risk classification:

- 1. Top inspection priority - when business compliance is low and risk classification is high.
- 2. Medium inspection priority - when business compliance is high and the risk classification is high. Also when business compliance is low and the risk classification is low.
- 3. Low inspection priority – when business compliance is high and the risk classification is low.

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\*1 = top priority    2 = medium priority    3 = low priority

4.2 That Council's Environmental Health Officer conducts food business inspections in accordance with the risk classifications and inspection frequencies.

Classification	Frequencies (every x months)		
	Starting point	Maximum	Minimum
P1	6	3	12
P2	12	6	18
P3	18	12	24

P4 Classification food businesses are low risk. They require an inspection to confirm risk classification and may require subsequent inspection upon notification of change in activity or complaint.

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4.3 The classifications of P1, P2, P3 and P4 are determined in accordance with classification system and are set and adjusted accordingly by the authorised officer at the time of inspection and subsequent assessment. The classifications and inspection frequency is also determined subject to:

- Type of foods, preparation processes;
- Past breaches of Food Act 2001, Food Standards Code and recorded incidents (compliance records from previous inspections);
- Attitude of present management towards hygiene and food safety;
- Technical knowledge on hygiene and food safety matters;
- Cleanliness of food business; and
- Any other factor that may constitute a change in the food safety risk and general hygiene.

**5. Inspection Fees**

- 5.1 That Council impose inspection fees from routine inspections to the proprietor of the food premises as notified with Council.
- 5.2 That Council not impose an inspection fee for follow-up inspections related to minor non-compliance issues of the Food Act, where an improvement order is not issued.
- 5.3 That Council impose an inspection fee for follow-up inspections to determine compliance with improvements orders and prohibition orders issued for offences and breaches of the Food Act.
- 5.4 That Council not impose an inspection fee for follow-up of complaints received from the public or the South Australian Department of Health.
- 5.5 That Council not impose an inspection fee for not for profit organisations as defined.
- 5.6 That Council impose an inspection fee for 'Priority 4' classification at a reduced rate equivalent to 50% of the inspection fees for small businesses 'as defined in 2.3'.
- 5.7 That Council not impose an inspection fee for host organisations or individual food stalls or vans of festivals, fetes and shows that are registered under the Food Act 2001 or another Local Council area.
- 5.8 That Council impose an inspection fee for food vans at festivals and shows that a registered food businesses with Light Regional Council. Exemption to the inspection fee will be given if the food van has recently been inspected by Council's Environmental Health Officer in accordance with the inspection schedule.
- 5.9 That Council not impose an inspection fee and refer follow-up inspections for mobile food vans that have completed their notification process in another Council area.
- 5.10 That Council not impose an inspection fee for businesses that are externally assessed by the Meat Hygiene Board or the Dairy Authority.

## 6. Authorised Officers

- 6.1 Environmental Health Officers must have approved qualifications (as determined by the South Australian Department of Health), skills, knowledge and preferably experience in the administration of the Food Act 2001 (the Act) and be delegated by Council to be authorised under Section 94 of the Food Act 2001.

## 7. Policy Review

- 7.1 The Food Act and Inspection Fee Policy shall be reviewed as required by Council's Environmental Health Officer or due to amendments to the Food Act 2001 or Regulations 2002 and gazetted amendments.

## Policy History

Policy adopted 19 August 2003, refer Council Minute 10.2.2, Page 2003/312

1. Amendment No 1 adopted at Council meeting held on 23 August 2011, Minute I&RS9.3.1/2011, Page 2011/206
2. Amendment No 2 adopted at Council meeting held on 22 July 2014 Minute 11.4.1 at Page 2014/293
3. Amendment No. 3 adopted at Council meeting held on 25 October 2016 Minute Item 12.3.1 at Page 2016/421
4. Amendment No. 4 adopted at Council meeting held on 23 October 2018 Minute Item 12.3.4 at Page 2018/406.