



PRACTICE NOTE 7

June 2018

FOOD ACT 2014 Verification time frames and evidence gathering

Purpose

This document sets out guidance for verifiers on means of tailoring their activities to ensure verifications are effective and efficient. That is, providing confidence that operators are providing food that is safe and suitable, while ensuring verifications do not take longer than necessary.

Approach

This document draws on the content of the Food Act 2014 (the Act). It has been developed in collaboration with multiple Territorial Authorities (TAs), Third Party Verification (TPV) agencies and stakeholders within the Ministry for Primary Industries (MPI).

Intended audience

Verification agencies, verifiers

Introduction

The process of verification is a critical component of the new Food Act regime. It helps provide confidence that food in New Zealand is safe and suitable. It is also one of the more expensive operational facets for food business operators. It is important for verifiers to strike a balance between providing a high level of confidence that food is being produced in a safe and suitable manner, and avoiding unnecessary cost to operators. This balance relies heavily on the technical skill and professional competence of verifiers.

Context

The time taken to verify a food business can vary depending on several factors including business size, staffing, complexity, and operator readiness. No verification process can guarantee food safety or suitability with certainty. If the primary intention of verification is to provide a level of confidence that the food a business sells is safe and suitable, how far should a verifier go during the process of verification?

Under the Food Hygiene Regulations 1974, food businesses were generally inspected in-line with the requirements of the first schedule of the regulations, general operator duties and certain activity-specific regulations. The Food Act 2014 takes a risk-based approach focussing on areas of activity known to affect the safety and suitability of food. No matter how much time is spent on compliance activities, no approach can provide 100% certainty around food safety. However,

the Food Act 2014 focusses on those areas most likely to provide the best 'bang for your food safety buck'.

MPI has previously set out estimated timeframes for verification, as guidance for food business operators as to the likely cost of a food business verification. This is guidance available from the following link:

<http://www.mpi.govt.nz/dmsdocument/15721-how-long-does-verification-take>

While these estimates are subject to variation, it is important that food businesses have a sense of the time commitment required for the process of verification and an idea of the costs likely to be involved. Verifiers may need to tailor their activities to a reasonable time frame without compromising the validity of the verification process.

This guidance sets out a number of strategies that can help verifiers in delivering an effective verification without spending an excessive amount of time doing so.

Preparing for a verification

The prospect of a verification can be intimidating for a food business operator. Where possible, it is worth addressing the possibility an operator may be defensive or apprehensive. Developing an open communicative relationship with operators ahead of time can help facilitate an efficient, effective verification. This fundamental aspect of interpersonal relationships is easily overlooked, but if unaddressed can impede the process of verification.

Verification Criterion and Regulation 84

The primary purpose of a verifier is to ensure a food business is operating in compliance with its risk-based measure. The degree to which the business complies with their risk-based measure contributes to determining how often the business is verified. The Food Regulations 2015 require that the following criterion are used in determining verification frequency: Operator competence; the effectiveness of process controls; the operator's activities and conduct in the business that affect the safety or suitability of food; environmental controls; and the business's compliance history (see Regulation 84):

<http://www.legislation.govt.nz/regulation/public/2015/0310/latest/DLM6683549.html>

Regulations Terminology	MPI template Terminology
Operator Competence	Confidence in Management
Effectiveness of Process Controls	Process Control
Operators' activities and conduct in the business	Food Safety behaviour
Environmental Controls	Environmental Control
Business Compliance History	Compliance History

These criteria correspond to the verification criteria set out MPI's template report as follows:

Verification topics

Under each of the criterion set out above are a range of verification topics. An approach that may assist in preparing for an effective verification that is less likely to overrun time estimates, is to prioritize verification topics prior to the event itself.

MPI has already issued guidance covering verification topics that must be covered during all verifications, these are:

- Registration / scope of operations
- Improvements and corrective actions
- Complaints and recalls
- Non-compliance
- Managing unsafe / unsuitable food

In addition to these topics, MPI has established a "Top 5" of safety and suitability risks for most food business sectors. These are important to cover during all verifications for those specific sectors. Top 5 topics are set out for many sectors at the following link:

<https://www.mpi.govt.nz/food-safety/food-act-2014/resources/top-5-food-safety-factors/>

In order to meet the requirements of Regulation 84 verifiers should include at least one topic from each verification criterion. For some food sectors this may

be possible drawing from the mandatory topics and the top 5 topics alone. By implication, verifiers do not need to cover all topics under each criterion for every verification. Each verification must include the topic 'Competency of management', all of the mandatory topics, all of the top 5 topics for the business's sector and minimum of one topic from each criterion. Notwithstanding this, over successive verifications, all verification topics should be covered.

For the initial verification of a food business, a broad scope may be more important. For routine verifications, planning a more restricted list of verification topics may be quite satisfactory. The verifier can cover more topics than planned if the evidence gathered doesn't give them confidence that they have a comprehensive understanding of the business operations and that it is operating in a manner that will produce safe and suitable food.

Preparing a business operator by supplying a checklist of things or people the verifier will definitely need to see / record / check may also help reduce the time involved in a verification. Mandatory topics and the "Top 5" topics for each food sector will generally have common elements that a verifier will need to check. These could be communicated to food business operators ahead of time.

During the verification

High-risk businesses generally have to meet higher standards of evidence provision than that of lower-risk businesses. Any Food Control Plan operator can reasonably be expected to provide more detailed records for the purposes of verification, whereas a National Programme operator may only need to maintain a minimal set of records covering matters like staff training or approved suppliers for example. Information gathering should be tailored to the risk based measure each verifier is dealing with.

When it comes to identification of non-conformances or non-compliances during a verification there is an important question for verifiers to consider – How much evidence is enough? The decision as to how

far a verifier should go when reviewing records and reality checks is aligned to the degree of risk involved with that area of activity, the compliance history of the business and the professional judgement the verifier brings to the process.

Example:

During a verification an issue with the labelling of a breakfast cereal product is identified. In an ingredient list "oats" are referred to as "pats" and "apricots" as "aplicots" but the presence of potential allergens was clearly noted. Initially, this was not raised as a CAR, as it appeared these were simple spelling mistakes that could be corrected without major food safety concerns.

However, as a minor issue was identified the verifier made the decision to look at the labelling of another range of products and discovered packaged "Yummy num-num" oat bars were labelled as gluten free. It was communicated to the business operator that this constituted a critical non-compliance and was contrary to the provisions of the Food Standards code.

Having ascertained there was a significant issue with labelling at the site, the verifier raised a corrective action request (CAR) to require the operator to address the deficiency, informed the registration authority and made a recommendation that all labelling be reviewed to ensure it complied with Food Standards Code requirements.

It is important to acknowledge that over-collection of evidence during a verification does not represent good practice. It wastes the time and effort of those involved. It is down to the professional competence and judgement of the verifier involved to collect sufficient evidence to provide them with a sound understanding of a food business's operations.

It is possible information provided for one line of inquiry during the verification covers multiple topics. Considerable time can be saved by avoiding asking questions that have already been answered during a separate part of the verification process.

Use of photographic, audio or video technologies may reduce the time spent in recording verification details. However, it is important any records gathered in this manner are clearly tethered to the verification record. This may require some additional text and consideration of storage, retention and security issues.

The time required for an effective verification will vary according to the skill and preparedness of the food business operator. A verifier may need to tailor their approach according to whether a business is competent in an area. Verifiers can consider information as it is provided by an operator and decide whether further observation, questioning or reviewing of records is required or if the business has appropriately met requirements.

Post-verification activities

A range of activities may occur post verification depending on the agency and food business involved. Generally, a verification report will be finalised and sent to the food business operator, confirming the details of any findings discussed during the exit meeting.

Many organisations have developed standardised reporting templates and/or standardised text that can allow for quick and effective compilation of a customised report. Template text of this kind may have more value in describing operations that are performing well. Non-conformance or noncompliance issues may require a high degree of customised comment.

Establishing effective communication channels with the registration authority involved can assist in dealing with serious issues identified during verifications in a timely manner.

Where possible, CARs should be closed out based on evidence that can be emailed or mailed to the verifier. Generally, the expensive process of

revisiting the site is not likely to be necessary unless there is a specific reason to undertake a “reality check”.

During the process of verification it may become evident that a simple change in operation or record keeping could speed the process of future verifications. These can be shared with the business operator as opportunities for improvement that could save them time at the next verification.

Top Tips Summary

Preparation for a verification

- Foster an effective working relationship with business operators ahead of a verification.
- Prioritise verification topics: Mandatory topics, Top 5, one topic from each criterion.
- Communicating to operators what will definitely need to be checked.

During verification

- Scale evidence gathering to the nature of the risk-based measure.
- Don't over-collect evidence. Collect enough to give you confidence in your findings.
- Has one line of enquiry already answered a question you haven't asked yet?
- Consider use of technology to record evidence. Link evidence to the verification file.
- Consider the demonstrated competency of the operator and evidence they present. Gathering of evidence can be tailored accordingly.

Post verification

- Consider the use of standardised text where appropriate.
- Build an open, communicative relationship with the registration authority.
- Avoid unnecessary follow up visits.
- If opportunities to improve the verification process present themselves discuss this with the business operator.

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