

## 5.3.1 Fact Sheet – Food licensing requirements for Outside School Hours Care

### Do I need a licence?

Under the *Food Act 2006* (the Act), certain food businesses must be licensed by the local council. Outside school hours care that supply food (regardless of whether the food is included in an overall fee or charged separately) are considered to be a food business and may need to hold a licence.

### Types of outside school hours care services

#### Operated by the State or a government owned corporation

The Act does not bind the State or a government owned corporation, which means that these outside school hours care providers do not require a licence under the Act. However, requirements consistent with the Act still apply and you should contact your relevant State Department for further information.

A State or government owned corporation providing outside school hours care should contact their relevant State Department for advice on their food safety obligations.

#### Operated by a private business

Under the Act, an entity other than a non-profit organisation that sells unpackaged food by retail is a licensable food business. Retail means selling directly to the consumer (the parents/students). This means that outside school hours care operated by a private business that supplies unpackaged food requires a licence (regardless of whether the food is included in an overall fee or charged separately).

However, a private business providing food as part of outside school hours care is not a licensable food business if it provides **only**: whole fruit or vegetables; drinks such as cordial, milk, Milo or juice; chips, nuts or dried fruit; or biscuits, slices or cakes that are not potentially hazardous (i.e. they do not contain fresh custard or cream and are shelf stable e.g. carrot cake, Anzac biscuits, blueberry muffins).

When finalising a menu, outside school hours care providers should also consider any healthy eating or similar requirements that may apply to their operations.

#### Operated by non-profit organisations

Under the Act, a non-profit organisation is defined as an organisation that is not carried on for the profit or gain of its individual members, and is engaged in activities for a charitable, cultural, educational, political, social welfare, sporting or recreational purpose. Non-profit organisations may include parents and citizens associations, church groups or aid organisations.

#### Licensable non-profit

A non-profit organisation that involves the sale, on at least 12 days each financial year, of meals prepared by the organisation at a particular place is a licensable food business.

A meal means food that is, or is intended to be, eaten by a person sitting at a table, or a fixed structure used as a table, with cutlery, and is of adequate substance as to be ordinarily accepted as a meal. It is important to note that even if the food business does not provide tables and chairs, the food served may still be considered a meal. Food that is *ordinarily* accepted to be eaten with cutlery at a table constitutes a meal.

#### Not licensable non-profit

A non-profit organisation is not a licensable food business if:

- the meals consist **only** of fruit, cereal, toast, or similar food

- the meals are prepared as part of an educational or training activity conducted by the organisation involving food preparation, hospitality or catering
- the meals are pre-prepared by an entity other than the non-profit organisation and are stored and heated or otherwise prepared by the organisation in accordance with directions of the meal's manufacturer
- it provides **only**: whole fruit or vegetables; drinks such as cordial, milk, Milo or juice; chips, nuts or dried fruit; or biscuits, slices or cakes that are not potentially hazardous (i.e. they do not contain fresh custard or cream and are shelf stable e.g. carrot cake, Anzac biscuits, blueberry muffins).

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### Examples of when a non-profit organisation food business is licensable

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A non-profit outside school hours care provider regularly offers eggs on toast as a breakfast option.

A non-profit outside school hours care provider offers stir fried noodles or fried rice for afternoon tea during the cooler months of the year (around 20 occasions). The food is served in a bowl with a fork and the children eat with the bowl on their lap.

### Examples of when a non-profit organisation food business does not need a licence

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A non-profit outside school hours care provider offers **only** cereal and fruit for breakfast, and sandwiches, fruit muffins, cheese and crackers for afternoon tea.

A non-profit outside school hours care provider purchases ready made frozen meals such as lasagne from a commercial supplier and reheats the meals in accordance with the manufacturer's instructions. The meals are offered for afternoon tea and no breakfast is provided.

A non-profit outside school hours care provider prepares and serves meat and salads (a meal) at a barbecue held at the end of each term (four times per year). No other meals are provided throughout the year.

A non-profit outside school hours care provider runs an extra-curricular home economics educational program once a week where older students prepare a meal (e.g. risotto) for consumption by the students. No other meals are provided throughout the year.

### What do I need to do if I don't require a licence?

It is important to note that even though some outside school hours care providers do not require a food business licence, they are still required to outside school hours care with the Act and the Food Safety Standards in Chapter 3 of the *Australia New Zealand Food Standards Code*.

Non-licensable outside school hours care providers may still be inspected by their local Council, and are subject to the same offences and enforcement actions as licensable food businesses.

### Do I need a food safety supervisor?

A food safety supervisor is a person who has advanced food safety skills and knowledge and the responsibility to oversee food safety operations within a food business on a day-to-day basis.

Under the Act, all licensable food businesses are required to have at least one food safety supervisor. If you need a food licence, you need a food safety supervisor.

See the [food safety supervisors training page](#) for information on the requirements and responsibilities of a food safety supervisor.

### **Do I need a food safety program?**

Under the Act, certain licensable food businesses must have a food safety program accredited by their local Council. There are significant penalties for not having an accredited program.

Generally, outside school hours care providers are not required to have an accredited food safety program. The *Food Regulation 2006* excludes a school aged care service under the *Child Care Act 2002*, or an education and care service under the Education and Care Services National Law (Queensland) providing education and care primarily to children who attend school in the preparatory year or a higher year from food safety program requirements.

For more information on food safety programs and food businesses required to have accredited programs, see [Food safety programs for vulnerable persons](#).

The [food safety program template](#) can be used to develop and implement a customised food safety program.

<https://www.qld.gov.au/health/staying-healthy/food-pantry/starting-a-food-business/specific-requirements/outside-school-hours-care#:~:text=Do%20I%20need%20a%20licence,need%20to%20hold%20a%20licence.>

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