



## PRACTICE NOTE 8

August 2018

# FOOD ACT 2014

## Determining verification topic results and verification outcomes

Updated February 2021

### Purpose

This document sets out guidance for verifiers on determining appropriate verification topic results and how these contribute to a verification outcome.

### Approach

This document draws on the content of the Food Act 2014 (the Act), practice recommended by MPI and the current practice of a number of verification agencies. It has been developed in collaboration with multiple Territorial Authorities, verification agencies and stakeholders within MPI.

### Intended audience

Verifiers, verification agencies

## Context

The introduction of the Act has created a fundamental change to the way food safety is approached in New Zealand. A primary component of the food safety regime is the process of verification.

During the course of their duties verifiers examine a variety of verification topics. For information about these topics, visit the [Food Safety Academy](#).

The verification topic results collectively feed into establishing a verification outcome. It is imperative that verification topic results and verification outcomes are understood as distinct from each other. This guidance first sets out the different classifications of verification topic results then describes how these are part of determining a verification outcome.

## Verification Topic Results

Establishing results for each verification topic helps verifiers form a picture of how well a food business is operating its risk-based measure, and improves consistency in the way findings and verification outcomes are classified. Topic results are classed as either performing, conforming, non-conforming or non-complying. More details about these outcome classifications follow.

Please note that the following classifications hold true for both Food Control Plan and National Programmes (NPs). Businesses operating under NPs do not require written procedures and we only require them to maintain a more limited range of records. A graduated approach to verification is applied according to risk.

## Performing

A verification topic should be classed as performing when:

- The operator is fully meeting applicable requirements of the Act. The operator can demonstrate sound knowledge of the applicable requirements of the Act and how to meet these; and
- There are systems and procedures in place that are documented where required; and
- Procedures are routinely followed; and
- Full records are available where required.

## Conforming

A verification topic can be classed as conforming when:

- Observations made during verification indicate the potential for a current activity to deteriorate into non-conformance if it is allowed to persist; or
- Systems and procedures require slight updates or amendments.
- Recording sheets/systems are in place with minimal gaps in recording.

## Non-conforming

A verification topic can be classed as non-conforming when:

- Applicable requirements of the Act are not fully met by the operator but the deficiency(s) are not likely to affect the safety or suitability of food; or
- There is a definite need for improvement in systems and procedures; or
- There are isolated or sporadic lapses in implementation of procedures; or
- There is a consistent failure to keep records, or absence of required recording sheets that do not directly relate to controlling food safety and suitability.

## Non-complying

A verification topic can be classed as non-complying when:

- Applicable requirements of the Act are not met and findings can be referenced to an offence provision in part 4 of the Act.

- A significant deficiency or failure to manage risks or comply with an applicable requirement of the Act is evident to the extent that it is reasonably likely to have an adverse effect on human life or public health. In other words the food safety and/or suitability is threatened either immediately (this would be a Critical Non Compliance) or in the future if improvements aren't made; or
- Procedures and systems that directly impact safety and suitability of food are absent or insufficient to manage the risks; or
- Procedures and systems are not followed and this constitutes a risk to food safety and suitability directly; or
- A number of non-conformances against an applicable requirement of the Act exist or there is a pattern of non-conformance of a single requirement over successive verifications.

## Non-conforming vs non-complying

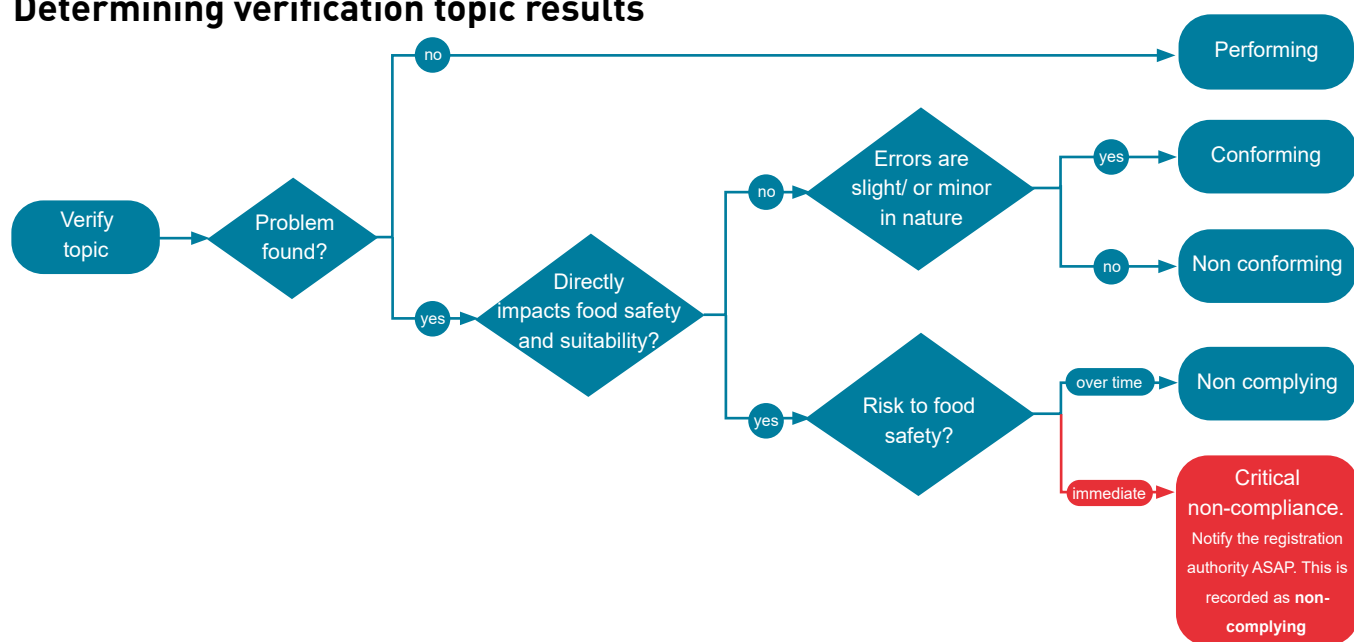
The terms “non-conforming” and “non-complying” used in guidance are to explain the difference in severity of findings. The term “non-conforming” in relation to verification topic results was coined to describe a finding that is not likely to affect the safety or suitability of food (non-conforming) and does not breach an offence provision of the Act. Regulation 105(4) of the Food Regulations 2015 may assist verifiers in determining whether one of their findings is a non-conformance or non-compliance. This guidance is principally based on this regulation.

## Performing vs conforming

The performing topic result should be used when no adverse findings have been detected for a particular verification topic.

The conforming topic result should be used when minor deficiencies are found. Verifiers may want to communicate an opportunity for improvement to a business in these circumstances.

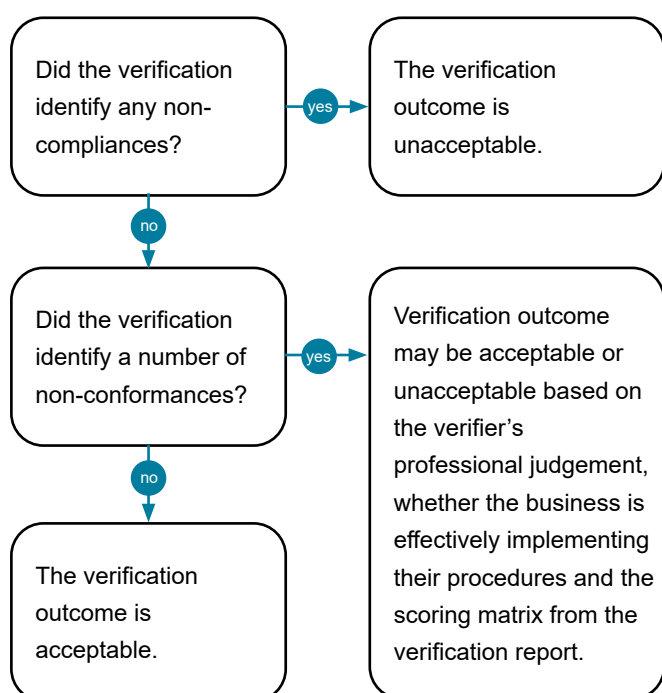
## Determining verification topic results



## Verification Outcomes

There are only two possible verification outcomes recognised under the Food Act 2014: **acceptable** or **unacceptable**.

Verification topic results will help determine whether the verification outcome is acceptable or unacceptable. This flowchart sets out how possible verification topic results relate to verification outcomes:



Any report generated by a verification should unambiguously ascribe either an acceptable or unacceptable outcome.

Having determined a verification outcome, the verifier can assign an appropriate performance-based verification frequency for the food business.

## Summary

The course of a verification will identify verification topic results that will either be performing, conforming, non-conforming or non-complying.

The collection of topic results will then be used to assess whether the verification outcome is acceptable or unacceptable.

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