

TRANSCRIPT

ENVIRONMENT, NATURAL RESOURCES AND REGIONAL DEVELOPMENT COMMITTEE

Inquiry into the CFA training college at Fiskville

Melbourne — 14 December 2015

Members

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Mr Tim McCurdy — Deputy Chair

Mr Simon Ramsay

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Dr Rosemary Lester, former Chief Health Officer, Department of Health and Human Services.

The CHAIR — Welcome, Dr Lester, former chief health officer. There are a few formalities that I need to go through prior to the hearing commencing and the questions being asked. In accordance with the guidelines for the hearings, the secretary would have provided you with information advising that all evidence at this hearing is taken by the committee under the provisions of the Parliamentary Committees Act 2003 and other relevant legislation and attracts parliamentary privilege. Any comments you make outside the hearing will not be afforded such parliamentary privilege. It is an act of contempt of Parliament to provide false or misleading evidence to the inquiry, and the committee may ask you to return at a later date if there are further inquiries we need to make or further clarifications. All evidence given today is being recorded, and you will be provided with a proof of the transcript to check for accuracies prior to it being made public.

With that, thank you again for attending today. Of course we have a number of questions relating to the chief health officer's, or the health department's, involvement and contact throughout the concerns around the Fiskville training college and the chemical contamination at that site.

Just to get the ball rolling, we have heard evidence from the current acting chief health officer on 20 November, and he talked about the role of the chief health officer in the context of when there is a case of hazardous materials that have been exposed into the environment or been in contact with people and health effects, and he outlined the involvement of the chief health officer at Fiskville. Can you perhaps also just give us a bit of an overview, if you like, of the role of the chief health officer — what your role was — in relation to the situation and the issues that arose from Fiskville?

Dr LESTER — Thank you, Madam Chair. I have seen Professor Ackland's evidence to this committee, and he has correctly, of course, described the role of the chief health officer in relation to this incident. This incident is primarily an occupational health and safety issue for the workers and the staff on the Fiskville site. Where issues of public health — that is issues relating to the health of the broader community, not occupational health and safety issues — have come up through the course of the extensive investigation that has been done, then either I as chief health officer or Professor Ackland as acting chief health officer have dealt with those issues and provided the appropriate advice. As I said, I refer you back to Professor Ackland's evidence as to the role of the chief health officer in incidents of this sort.

The CHAIR — When you first heard about what was going on at Fiskville, I assume it was by way of the media, when there were allegations made about cancer clusters and so on. I guess the next step was that there was also contamination of neighbourhood properties, so it was not just within the workplace but it had then extended out onto other people's properties. At what point were you called in or did you believe that there may have been a public health issue involved in the situation?

Dr LESTER — Perhaps if I could go back to when I first became aware of the issue — and you are right that that was in December 2011 through the *Herald Sun* reports — at the time I contacted the then chief executive officer of WorkSafe and offered any advice and assistance that we might be able to give in pointing them in the direction of a health study of the firefighters. WorkSafe replied to me that the CFA was going to undertake that study and that they saw their jurisdiction as the health and safety of current employees rather than employees of decades past.

We ensured that the CFA got the appropriate advice. We advised them that Professor Malcolm Sim of Monash University was one of the leading national experts in this area of occupational and environmental health, and in fact, as you are aware, the CFA did commission Monash University to conduct that study. We were aware that the CFA commissioned the report by Robert Joy — a very comprehensive report — on what needed to be done to go forward from that point.

When the Joy report was released in June 2012, the CFA briefed a number of key agencies, including the Department of Health, as it was then. Myself and some of my key staff received a detailed briefing on the Joy report. We examined those recommendations in detail to see whether we felt that there was any public health issue that had not been addressed in the Joy report recommendations. We at that stage felt that the Joy report was very comprehensive. The recommendations for extensive environmental investigation were there, and then from our advice from the CFA they engaged appropriate environmental consultants, the Cardno Lane Piper company, to undertake those detailed environmental investigations.

The CHAIR — Can I ask now about the more recent issues around the PFOS, PFOA, or the perfluorinated chemicals, because I think there will be others that will ask about the health context around some of the

chemicals that had been burning and had contaminated soil at earlier times. Just in terms of the PFOS, can you advise the committee about levels and standards around PFOS and at what point it becomes a problem for human health? The first issue is in terms of the human blood serum. What level of PFOS do you believe is acceptable within human blood serum?

Dr LESTER — I know you have heard extensive evidence from Dr Roger Drew and Professor Brian Priestly about their very high levels of expertise in PFOS. In the position of chief health officer I am a general public health physician. I have to take advice on a variety of issues to form my professional opinions. PFOS is a very highly specialised area, so that is somewhere where I would take advice both internally from expert internal staff in the department and externally from expert consultants such as Dr Roger Drew. In terms of their evidence as to what is safe and what is not safe, I would refer back to their evidence and I do not have anything to add to that.

In reference to the particular situation that we saw at the adjoining property with the question about whether the livestock on the property was safe to enter the food chain, then I obviously formed a professional opinion based on both external advice and internal advice.

The CHAIR — As the chief health officer, you do not think that you need to come to your own conclusion about safe levels of chemicals within a human being? You do not need to — —

Dr LESTER — I come to considered professional opinions based on expert advice. I think you heard from Dr Nugent from NICNAS — and the extended name of that organisation I can never remember — —

The CHAIR — We know what you are talking about.

Dr LESTER — You know who they are. They are responsible for the classification and risk assessment of chemicals. They have thousands of chemicals. The chief health officer of the day is never going to have a position on what is a safe level of each of those chemicals in the body. When the issue of PFOS arose, then the expert advice of Dr Roger Drew was sought about that specific scenario of: was the livestock on this property safe to eat? With the testing that was performed, the calculations that were performed against the known tolerable daily intake derived from the European food standards authority, those calculations showed that even with a very conservative assumption of very high meat consumption and all meat consumption being from that farm safe levels would not be exceeded.

So I as chief health officer considered that specific scenario and took advice externally from a highly recognised external consultant. My internal expert staff in the environmental health unit reviewed that advice, agreed that that was appropriate, and, in my professional opinion, I formed a judgement that those two sources of advice were correct and hence gave advice to the then Department of Environment and Primary Industries.

Mr McCURDY — In terms of the Lloyd family, who live next door, there was a stock contamination notice issued to them on 25 September 2013 and then subsequently revoked on 28 September. Did you provide any advice to DEPI on either the issuing or the revoking of that notice?

Dr LESTER — I did not provide any advice on the issuing of the notice. The notice had been issued when the then DEPI came to us and said, ‘We would like your advice on this PFOS issue’, which was then of course when the testing was arranged, Roger Drew’s opinion was sought and the calculation was made about whether this was safe or not. I then, as I have described, formed the view that there was negligible risk with this livestock entering the food chain and I provided that advice to the Department of Environment and Primary Industries, which then rescinded the notice.

Mr McCURDY — With the issuing of that notice there was some community concern. Did you take any action to allay any of that community concern?

Dr LESTER — That community concern was not relayed to me, so if there was, I was not aware of that.

Mr McCURDY — We understand that in December 2013 DEPI told Mr and Mrs Lloyd that the chief health officer — yourself — had determined that their stock posed no health or safety risk and therefore DEPI was not imposing any restrictions on them relating to the sale of their sheep. Do you agree that this advice had been given to the Lloyds by DEPI?

Dr LESTER — Sorry. Do I agree that it was given?

Mr McCURDY — Yes.

Dr LESTER — Yes, it was.

Mr McCURDY — And does this accord with your position in relation to livestock contamination in December 2013?

Dr LESTER — I am not quite sure whether you are asking me where the statutory responsibility lies for on-farm production. That lies with the then DEPI, which is now in a different department. Their role is to regulate on-farm production. Our role is to provide advice to them, just as we do to other food regulators such as PrimeSafe or Dairy Food Safety Victoria.

Mr McCURDY — Finally, in an email on 25 September 2013 that you sent to Tony Britt at DEPI you stated:

More sampling is needed to assess the hazard with certainty. ... there is no public health risk associated with lambs derived from this property.

On what basis was that decision based, that there was no risk associated with lambs?

Dr LESTER — On what basis was that initial decision made?

Mr McCURDY — Yes.

Dr LESTER — That was based on the pilot study of lambs. The calculation, as I said, presented to us by Dr Drew and reviewed by our internal staff was that there was negligible risk. In discussions we agreed that, yes, that was our position, but it should be confirmed by a much larger sample, which in fact then happened — a much larger study happened.

Mr RAMSAY — Dr Lester, I am wondering when you first became aware that the CFA had commissioned toxicologist Dr Roger Drew to conduct a test for PFOS?

Dr LESTER — I cannot recall exactly. I think it would have been about the time of the question about the livestock, but I do not recall exactly.

Mr RAMSAY — Were you personally briefed by Dr Drew, or did the CFA communicate with you in relation to the findings — the tests that he carried out?

Dr LESTER — On the livestock?

Mr RAMSAY — On all the tests, both water and livestock.

Dr LESTER — Dr Drew attended several multi-agency meetings that we had to discuss the issue. I did not ever have a personal meeting with Dr Drew.

Mr RAMSAY — Were you aware of the test results, though? Did some agency provide you with the outcome of the testing regime that he did both on livestock and on water?

Dr LESTER — The testing results were conveyed to us, conveyed to — no, sorry, I should not speculate. I cannot recall exactly who provided what test results to whom, but the tests results and the calculations were all discussed in several multi-agency meetings attended by internal staff from the Department of Health and internal staff from the Department of Environment and Primary Industries.

Mr RAMSAY — Were you comfortable that the polluter was contracting a toxicologist to provide these results in relation to the authenticity of the results as against seeking another professional opinion from another toxicologist in relation to an independent study of the test?

Dr LESTER — I think the issue is that this was part of a very broad set of investigations. The investigations arising from the Joy report are absolutely extensive, and you will see from the EPA environmental auditor's report that that report runs to 10 000 pages. So this is just one part of a very, very large investigation that was

coordinated by the CFA. The CFA kept the Department of Health, myself and the other key agencies in the loop constantly, and we liaised with the CFA constantly about the issues. I think we had an appropriate understanding and handle on the public health issues as they arose.

If you say, 'The fact that Roger Drew had been contracted by the CFA to provide toxicological advice; therefore you cannot use him', I think that does cast some aspersions on the independence of contractors. I think independent scientific contractors obviously value their professional reputation, and I do not believe that someone like Roger Drew would alter his results to suit the wishes of the CFA or anyone else. As you know, this is a highly specialised field, and there are really very few people in Australia with significant expertise. Roger Drew and Brian Priestly would be two of the pre-eminent experts.

Mr RAMSAY — I certainly was not calling into question Dr Drew's capacity and reputation to provide the testing. It was more to validate from an independent contractor in relation to the testing. You obviously were satisfied with the work that was being done by the CFA in relation to Dr Drew using those tests to form a view about the impact of livestock and water contamination.

Dr LESTER — Yes, I was satisfied.

Mr RAMSAY — That leads me to into my last question in relation to the role of PrimeSafe in relation to the livestock. Brendan Tatham, who is the CEO of PrimeSafe, said:

Each of the times that PrimeSafe has inquired of the chief health officer, 'Is there a reason that the livestock should not enter the food supply?' —

and this goes to my parliamentary colleague's question —

the answer has been, 'No, there is no reason they should not enter the food supply'. So there has been therefore no requirement for PrimeSafe to take any action.

I clearly remember him quoting that evidence to the committee. Does this accord with your recollection of the advice that you provided to PrimeSafe?

Dr LESTER — PrimeSafe were a party to the discussions about this incident of livestock on that adjoining period. PrimeSafe were fully involved in the discussions and fully in agreement with the conclusions. They raised no objections to the conclusions. When Mr Tatham has said that each time he has raised issues we have said that there is no risk, I cannot actually recall any other incident where, since Mr Tatham has been at PrimeSafe, he has asked us for advice. I cannot recall that; I am not saying that it has not happened.

Previous to Mr Tatham, with the previous CEO we had a couple of occasions around about algae blooms in the Gippsland Lakes and the safety of seafood. On at least two occasions that I can recall we have said, 'No, the seafood is not safe to eat', and therefore PrimeSafe issued a prohibition on the selling of seafood from the Gippsland Lakes. Coming back to your question I do not actually recall another occasion where Mr Tatham has asked me in my capacity as chief health officer for advice. He may have asked Professor Ackland, the acting chief health officer, at times when I have been on leave or offline for other things.

Mr RAMSAY — I suspect he probably did that because PrimeSafe may well have been in uncharted waters in relation to PFOS levels in livestock given there are no MOIs or industry guidelines or standards for residues going into the food chain. I guess he needed some comfort from yourself that in fact there was no potential impact to human health.

Dr LESTER — That is right.

Mr RICHARDSON — Thank you, Dr Lester, for coming in. My question goes to the cancer studies in the Monash University study and the Cancer Council study. The committee heard evidence from Professor Ackland on 20 November that the chief health officer had no involvement in the commissioning or establishing of the cancer studies carried out by Monash University and the Cancer Council. Can you comment about why it was left to the CFA itself to commission these studies without the involvement of the chief health officer, with particular regard to section 21(a) of the Public Health and Wellbeing Act, which states 'to develop and implement strategies to promote and protect public health and wellbeing'.

Dr LESTER — Perhaps if I start at the end of your comment first, yes, the Public Health and Wellbeing Act gives very broad powers to the chief health officer, but that is not a reason to ignore the legislative and administrative distinctions which exist — for instance, WorkSafe has a legislative responsibility for workplace health and therefore workplace health is managed by WorkSafe. Yes, there is that very broad statement that you read out about the Public Health and Wellbeing Act, but the specific legislation of WorkSafe takes precedence. You might say that — and it is — road safety is a very important public health issue, but the chief health officer does not run road safety. TAC runs road safety. Although the act is intentionally very broad, there are important distinctions. As I said, the legislative distinctions are very important to recognise so that the chief health officer does not cut across what is the legislative responsibility of WorkSafe and the employer of course.

When I mentioned at the start of my evidence that when I became aware of the issue at the end of 2011, I contacted the then chief executive officer of WorkSafe and said, ‘We are able to provide any assistance and advice to you in commissioning a study of the firefighters’. As I mentioned at the start, WorkSafe indicated that the CFA would be leading that, and we provided advice to the CFA that Monash University, and Professor Malcolm Sim in particular, was a leading authority. So to say that I had no involvement was actually not correct. Of course as chief health officer I am interested in the health of the firefighters, but the legislative responsibility is WorkSafe and the employer.

Mr RICHARDSON — Can I take you to your comment about the Joy report? In terms of saying that it is very comprehensive, when it was absent of any health assessment, in terms of your portfolio and your responsibilities how is it comprehensive in that regard when it only runs up to 1999? Could you elaborate further on it being comprehensive from a health perspective?

Dr LESTER — In terms of requiring a comprehensive risk assessment of both the on-site and the off-site risks, it required that those very comprehensive risk assessments be undertaken. It is only with those with the environmental contamination so that we know what environmental contamination is there. Then we provide an advisory role to the Environment Protection Authority as to what the health effects might be. The first step has to be to commission a comprehensive environmental and health risk assessment, and then we will provide advice on any public health issues that arise out of that environmental risk assessment. As I have mentioned to you, the Cardno Lane Piper reports were very comprehensive. The EPA independent environmental auditor has found that they are quite satisfactory. I note that Mr Kieran Walshe, whom, as you are aware, the CFA appointed as an independent implementation monitor, also considers that all of those things have been satisfactory.

Mr RICHARDSON — Going to 2011–2012, upon discovering some of the issues around Fiskville, beyond allowing the CFA to commission its own study, what practices and what procedures did the chief health officer’s office effectively undertake in advice to the department, the Secretary to the Department of Health and the minister at the time? What advice was provided by your office?

Dr LESTER — The secretary and the minister were kept appropriately briefed on the major issues. They were aware that CFA was commissioning the Joy report. They were briefed when the Joy report came out on what the recommendations were and the fact that the CFA had committed to implementing each of those recommendations.

Mr RICHARDSON — Subsequent to the Monash report, what action did the office of the chief health officer take in terms of that overarching policy under section 2(a)? What actions had your office taken in response to that report, and what advice did you provide to government subsequent to the Monash study?

Dr LESTER — I do not recall specific advice subsequent to the Monash study but, again, this is a study of firefighters, occupational health and safety. But I do not recall what specific advice was provided to the minister on that.

Mr RICHARDSON — Should advice have been provided, given it was a pretty comprehensive study on linking effects of past practices with a gap of 14 years, 15 years from 1999 through in the Joy report? Should there have been advice provided to government on how it should have acted or how they could have responded?

Dr LESTER — The government obviously needs to have advice provided. As I said, I do not recall specifically when those pieces of advice were provided to government, but they were kept informed appropriately with all of the key steps.

Mr RICHARDSON — Should it have rested with the CFA, or should it have rested with the Department of Health or WorkSafe? Who should have been responsible for ensuring that that advice went to government in terms of post the Monash health study and what government should do to respond to some of that? Where did responsibility lie? Was it your office? Was it WorkSafe? Was it the CFA? Which authority was responsible?

Dr LESTER — In my view it would be WorkSafe that is responsible. It is a clear occupational health and safety issue.

Mr RICHARDSON — We heard evidence this morning that the EPA relies on WorkSafe. Then there is a catch-all that obviously the obligation is on the employer, and that is a catch-all. But the legislative requirements are there for proper oversight and protection of Victorians by the chief health officer, by the department of health, by WorkSafe, by the EPA, yet we have this circular motion where there is a referral to WorkSafe by the health department, there is a referral from the EPA and then WorkSafe is relying on advice from the department of health and from the EPA to make its assessments. You see that there is a statutory or a functional issue there — —

Dr LESTER — Can I just stop you there? I am not aware that WorkSafe has ever — whether they have said to you, but they have certainly never said to me — said that they are relying on the chief health officer's advice —

Mr RICHARDSON — No, the department of health.

Dr LESTER — the department of health's advice as to how to run their statutory functions.

Mr RICHARDSON — So how does it make a health assessment then? Do they interrelate with the department of health? Where does the health responsibility then rest and when does your office and the department of health become involved?

Dr LESTER — With WorkSafe?

Mr RICHARDSON — Generally in the protection of Victorians from a health — or is it all WorkSafe's responsibility and then there is just an advisory function?

Dr LESTER — That is right. WorkSafe may seek our advice, and of course if they wanted to seek our advice we would give it, but WorkSafe undertakes enormous numbers of investigations independently of our office and does not seek advice. That is up to them as to how they fulfil their statutory responsibilities; it is not up to us.

Mr RICHARDSON — Just to clarify, the health assessment then is primarily all on WorkSafe, not the chief health officer, not the Department of Health — —

Dr LESTER — For occupational health and safety issues, yes.

Mr RICHARDSON — In terms of Fiskville and post the Monash study it would not have been convention then to have the Department of Health and the office of the chief health officer involved with the minister providing that advice. It should have been WorkSafe's domain — —

Dr LESTER — The Monash study is an occupational health and safety study. Responsibility for occupational health and safety is with WorkSafe. Broader community health issues are the responsibility of the department and the chief health officer. But the Monash study was specifically an occupational health and safety issue, so that was a matter for WorkSafe.

Mr RICHARDSON — But your office did not see a need to then, from that study and from its findings, take any action to advise the minister or the department on broader health policies or broader health and wellbeing of Victorians post that study?

Dr LESTER — As I said, I cannot recall exactly when advice went up about that study, but of course that is a very important thing for government as a whole to consider.

Ms WARD — One of the things that I am most interested in regarding the neighbouring properties to Fiskville is that given that the CFA has advised us that they stopped using PFOS-based foams, or foams with PFOS and PFOA in them, in 2007, in the advice that you have received is there any explanation to explain why neighbours have such high readings of PFOS in their systems that are well above the Australian average and that are also well above the firefighters' average?

Dr LESTER — What I was advised was that the testing of the family on the neighbouring property, the results there were within the range that people exposed to background levels are seen to have. A couple of them were at the higher end of that range, but they were well below what we call the no observed effect level, which is the level of concern. No-one from the adjacent property had levels approaching that of concern.

Ms WARD — I understand that, and I am interested in this benchmark, if you like, but does it not ring alarm bells or cause concern when the whole population has got one reading, more or less, they are all about the same, yet there is a definite spike in one particular very small community that is occurring well after the use of this chemical has ceased?

Dr LESTER — I would dispute the fact that the whole population has a reading about the same, because if you look — —

Ms WARD — We have an average.

Dr LESTER — If you look at some of the material that Dr Drew presented, it shows quite a wide range. He has quoted an average, but there are quite wide ranges. Dr Drew's evidence has indicated that the level at which health effects could start to be shown is well above the average level seen in the general population, something in the order of 20 times.

Ms WARD — Does it concern you that there is this spike nearly a decade after this chemical has ceased being used and these people who are living there have not lived there that long? Does it concern you that they have PFOS readings that are higher, much higher, considerably higher, than the Australian average?

Dr LESTER — When you say a spike, my understanding — and this is what I was advised — is that the readings are within the range of what is normally seen. They are well below the no observed effect level. When you say a spike, we might go to my house and test my family, and we might just happen to be on the higher end of the range that is seen, so when you say it is a spike, these are test results which are at the higher end of the range but which are well below the level where a health effect might be expected to be seen.

Ms WARD — I understand that, but considering that they are higher than firefighters who were regularly exposed to this foam and that this family has never been exposed to this foam, how do you explain how their levels are so high, and is it concerning that they are?

Dr LESTER — I do not have any knowledge of the levels in the firefighters, so I cannot comment.

Ms WARD — They are well under what these levels are.

Dr LESTER — I cannot add anything to the answer I have just given you.

Ms WARD — Okay. Why do you think it is also being detected in sheep that have been born well after firefighting foam with PFOS and PFOA has ceased to be used?

Dr LESTER — The thing about PFOS is that it is unfortunately very persistent in the environment, so even though it was phased out of the firefighting foams in, I believe, 2007, it is unfortunately very persistent in the environment, and unfortunately it was detected in the dams on that neighbouring property, and that led to the concern about the sheep, given that they drink from the dams. Given that PFOS was detected in the dams, it is not surprising that there were certain levels detected in the sheep. But as we said, through the comprehensive risk assessment, that proved not to be at levels which were of concern.

Ms WARD — We have also learnt that it can be transmitted through grass as well.

Dr LESTER — Yes, if there is PFOS on the grass, but with the levels in the sheep we come back again to the calculation that showed that even eating lots and lots of sheep from that farm would not produce levels in humans which would be of concern.

Ms WARD — In relation to community engagement we have been advised by the current chief health officer that he was not able to speak for you but he understood that you had engaged with stakeholders, and you had engaged with particularly the CFA, in consideration of what needs to be done. Can you talk through with us the community engagement that you undertook once we learnt about the PFOS contamination and once you learnt about the lambs and the sheep testing and so on what role that took and how it went?

Dr LESTER — We did not do any specific community engagement at that time. We were aware that the CFA medical officer was conveying the results of the testing back to that family, the family on the property. We were aware that the CFA was regularly posting community updates in the local newspaper and on their website. We were aware that the CFA was keeping the community informed about the progress of all of the recommendations of the Joy report, not just particular ones, so we did not undertake any specific community engagement above the CFA.

Ms WARD — Is there a reason why you decided to leave that with the CFA and not take on the role yourself?

Dr LESTER — Again it is an issue of fragmentation. As I said, this was a very, very large investigation and issue that the CFA were managing. In terms of continuity and making sure everything fitted together, that seemed to make sense. It could perhaps have been done another way, but I think the key thing is that if any public health issue had not been handled appropriately, the appropriate advice had not been given, then I of course would have stepped in and acted. We kept in very close contact with the CFA. I personally was satisfied that everything was being done to address the public health issues accordingly, therefore I was satisfied.

Ms WARD — In general terms and in general experience, whose responsibility is it to engage with the public to allay their concerns or talk them through their concerns around potential health risks regarding exposure to hazardous chemicals?

Dr LESTER — Again I think the important thing is that the public get clear and accurate information. You might say that it may have been the department of health that gave the results. As I said, the CFA were undertaking coordination of this very, very comprehensive investigation and it was agreed that they would continue to coordinate this. I do not think you can say it is anyone's responsibility. The important thing is: is the information clear and accurate? If any members of the community had any concerns and came to us with concerns, of course we would have taken steps to investigate those concerns.

Ms WARD — Is it usually the role of the polluter to explain what the ongoing effects of their pollution are to a community?

Dr LESTER — I think this is a pretty unique situation in that this is such a big investigation. The Joy report was so comprehensive. I know that the EPA in their submission said they considered the Joy report to be very comprehensive. There was an enormous body of work, which you have heard about, which the CFA has undertaken. They have committed to an independent implementation monitor, Mr Walshe, so it is a little bit more than, 'Well, this polluter is just giving a few results on the side'. It has been part of an enormous package of activity.

Ms WARD — We have heard quite a bit around PFOS. The current chief health officer gave evidence to the committee that it was determined that PFOA was not a chemical of concern at Fiskville. PFOA has been clearly identified as a contaminant at Fiskville. For example, the conclusions of Professor Joy's report say that:

Sampling and analysis of soil, surface water and sediments undertaken for the IFI by Golder Associates at Fiskville has shown that levels of a small number of residual contaminants, notably PFOA and PFOS, exceed human health or ecological guideline values.

We know what you think about PFOS. What do you think about PFOA, and what was your attitude to that while you were chief health officer?

Dr LESTER — It is important to separate out the on-site environmental contamination, which is the CFA occupational health and safety issue. Where the department of health and the chief health officer become

involved is with offsite contamination — that is, issues for the broader community. For the offsite contamination investigation, PFOS was the only chemical of significant concern which was identified.

Ms WARD — PFOA is in the creek down to around about 1.5 kilometres, I believe, so there is PFOA pollution that does extend beyond the boundaries of Fiskville.

Dr LESTER — That is right. PFOA was identified, you are quite right, to some extent down the creek, and in discussion —

Ms WARD — Which means that it has gone through properties as well.

Dr LESTER — it was agreed that the risk would be mitigated by putting signs on the creek that the water should not be drunk and if there were fish in the creek, which was highly unlikely given the nature of the creek, they should not be eaten. That was agreed that that was appropriate mitigation of that risk.

Ms WARD — My colleagues have already addressed this. There is so much compartmentalisation of how we are going through the information that we are obtaining around Fiskville and of agencies variously identifying each other in terms of who is responsible for what and who is overseeing what. It seems to be incredibly messy. Personally I am finding it quite frustrating because it is a challenge trying to narrow it down and get some concrete answers as to who did what, when and why. Have you recognised this frustration yourself? Are you seeing that there are agencies that are not perhaps taking a more proactive role in terms of addressing pollution and its effect on the environment and people? It is not just the EPA I am talking about; I am talking about all the sectors that have been involved. Everybody defers to each other, but there does not appear to be anyone who can make a definitive decision.

Dr LESTER — I think that what you are saying is actually an argument for having CFA coordinate the whole thing, because if you had different agencies coordinating different bits, that could lead to some fragmentation. I agree that there are arguments both ways, but having CFA oversee the whole lot is saying, ‘Well, that means everything is being done through one body’. I do not agree with your statement, certainly in relation to the department of health or the chief health officer, that people are saying, ‘Well, that’s their responsibility’ or ‘That’s someone else’s responsibility’. I think I and Professor Ackland have been quite clear about what exactly is our responsibility and what is not. Occupational health and safety on-site issues are not. We are very happy to take responsibility for the decision-making and the advice with respect to the public health issues. As I mentioned before, if I had felt that there was any public health issue which was not being addressed and appropriate action being taken, then of course I would have acted.

Ms WARD — Does it concern you that we have not been advised and there do not appear to be any plans yet to remediate the neighbouring properties to Fiskville?

Dr LESTER — Remediation is a matter for the Environment Protection Authority.

Ms WARD — It is.

Dr LESTER — Obviously I have been retired for nine months so I cannot comment on what has happened in the nine months since I have been retired.

The CHAIR — Who told you that Dr Drew was the expert on human health and PFOS? How did you know that he was the expert?

Dr LESTER — Through my internal staff in the environmental health unit.

The CHAIR — They told you that?

Dr LESTER — Yes.

The CHAIR — And are you aware that there are a lot of differences of opinion around PFOS? We have heard from probably six different experts and they have told us six different things in terms of the health effects of PFOS on humans. Are you aware there is a discussion about at what level PFOS may harm people and whether it harms people at all? Have you heard any of that debate or discussion?

Dr LESTER — Yes, I am aware that there are different opinions. I am aware that the department recently commissioned Brian Priestly from Monash University to undertake an updated literature review.

The CHAIR — Of similar opinion. Did you try to find anybody that might have a different opinion so that you could perhaps gather the whole circle of information rather than just rely on the information from one sector of this debate?

Dr LESTER — I think it comes back to the fact that Dr Drew is eminently qualified to provide that advice. Of course — —

The CHAIR — He is being paid for by the polluter. Do you think there is a governance issue? This is not about having a go at Dr Drew, as you were trying to say before. This is about a governance issue. Is it right to rely solely on the advice of the polluter's consultant, and if you are talking about the peer review, a person who is also of similar mind to the original consultant, rather than providing more robust advice from people with different points of view?

Dr LESTER — This is a very highly technical area so there is not going to be a big field of people who are specialist in this area. I was advised by my internal staff that Roger Drew was one of the pre-eminent experts. His work was later peer reviewed by Brian Priestly. If you are saying, 'Those two have worked together in the past, they are of similar mind' — —

The CHAIR — The evidence that we have received was they had similar views, as opposed to others that we heard from that had perhaps different views.

Dr LESTER — At the time when we had a recognised expert I relied on his advice externally. I have expert internal environmental health scientists who critique that advice accordingly. I look at the advice from the external expert, I look at the advice from my internal expert staff and come to a considered view as to whether I accept that advice or not, in my professional opinion — —

The CHAIR — But you said you were not an expert in this so you needed to rely on others, so surely you could get more than one point of view if you are talking about people's health. We are not just talking about a bit of grass or a lake, we are talking about the health of children, the health of human beings.

Dr LESTER — Of course. That is why I of course do not rely solely on external consultants. That is why there is a small group of very highly skilled, dedicated staff in the department of health who also provide that advice.

The CHAIR — In terms of the stock contamination notice, did you provide any advice for the issuing of the notice? I think before you said maybe not. Did you provide advice around the issuing of the notice?

Dr LESTER — Sorry, can I just come back to the previous question about relying on advice? As well as the external advice, internal advice — —

The CHAIR — A literature review, I understand — was that the internal advice?

Dr LESTER — No, this was making a decision about the livestock and the safety, so external advice, internal advice both said to me, 'These calculations are correct, they're logical. Therefore there is negligible risk'. I, in my public health expert view, assessed those and said, 'Yes, I feel that I accept this advice. That makes sense to me. This seems to be the right course of action'. Subsequently that work has been peer reviewed. The EPA independent environmental auditor has found no issues with any of that. Mr Walshe's latest report has found has found no issues with any of that.

The CHAIR — I am not sure what you mean. I do not think the auditor is doing a health risk assessment.

Dr LESTER — Surely if the — —

The CHAIR — And Walshe I do not think is considering this either.

Dr LESTER — Surely if they had concerns about the process or the steps — —

The CHAIR — They think the chief health officer probably is the expert in this, and everyone we hear from — whether it is the department, the Environment Protection Authority, the Department of Defence, whatever — is relying on the advice of the chief health officer who then is relying on the advice of Dr Drew and that is it. There is no further expansion of the advice or any thorough looking at or alternatives put. That is what we see in terms of the evidence that we have received.

Dr LESTER — That is just not correct, because it has been peer reviewed. It is not correct.

The CHAIR — Where did you get the other advice then — from whom?

Dr LESTER — No, what I said to you was we take advice from — in this case it was Dr Roger Drew. It is scrutinised by internal experts in the environmental health unit. A decision is made. After that it is peer reviewed, by in this case Brian Priestly. It has been looked at by the EPA environmental auditor, who said he is satisfied that the health risks from off-site use are negligible.

The CHAIR — I understand they relied on the advice of the chief health officer.

Dr LESTER — I think that the environmental auditor, if he or she thought that there was any issue about that, would bring that to attention.

The CHAIR — In terms of the stock notice being issued, was there any input by the chief health officer on the issuing of the notice?

Dr LESTER — No, I did not provide any advice on that.

The CHAIR — Okay. Once the notice was issued a meeting was called. How did you get involved in consultations or discussions about that notice?

Dr LESTER — The then Department of Environment and Primary Industries contacted me and said that there was this of issue of concern, so we agreed to meet, work out a way forward. That is when the testing and the assessment by Dr Drew happened and the advice went back to — —

The CHAIR — Did you feel under any pressure, because it would have been a pretty disastrous situation if there was an issue about PFOS in livestock and that notice had to continue? Did you just think purely about the health issues, or did you think about other things as well?

Dr LESTER — The health of the public is absolutely the primary concern in the position of chief health officer. As far as I was concerned, no advice would be given back to the Department of Environment and Primary Industries until I was satisfied that it was the correct advice.

The CHAIR — Who else was at that meeting apart from the department of primary industries? The CFA was there?

Dr LESTER — Yes, there was a representative from the CFA. I do not recall exactly if a PrimeSafe representative was there, and there was more than one meeting, but PrimeSafe was certainly party to the discussions.

The CHAIR — Anybody else? Were there any members of the government or ministers or ministers' advisers at the meetings?

Dr LESTER — No, no ministers' advisers.

The CHAIR — There was no discussion with you and any government member or ministerial adviser around this issue of contamination?

Dr LESTER — That is not the question you asked me. You asked me if ministers' advisers came to that meeting with the multi-agencies.

The CHAIR — Okay. Was there any contact between yourself and any ministers, ministers' advisers or government members around this issue?

Dr LESTER — I spoke regularly to the minister's office, the minister's advisers, on a range of issues. I do not recall — —

The CHAIR — But on this issue?

Dr LESTER — I do not recall exactly on this issue. There was a formal briefing put to the minister on this issue. I am sure that I would have communicated informally as well, but I do not recall exactly. But there was a formal briefing put to the Minister for Health on this issue.

The CHAIR — Thank you.

Mr RICHARDSON — Just one more. Dr Lester, with your experience and knowledge now of the Fiskville inquiry and your learnings and the learnings of the government around the Hazelwood mine inquiry, is there any advice you can provide to the committee on how we get away from the culture of the segregation between the environmental side of things of the EPA and their domain and the department of health that is purely the domain of health? How do we better interrelate that? Because we have found in evidence to the committee that there seems to be an action in silos effectively, when if there is an environmental issue, the chances are it is going to also impact on health and then also on an OH&S level. Do you have any advice or any knowledge to offer to the committee, now nine months out of that role, that may be able to break down some of those barriers?

Dr LESTER — I am actually surprised that you say that and surprised that people have given you that evidence, because when I was in the department I thought that we actually worked well with the Environment Protection Authority. Obviously their role is to determine environmental contamination, and our role is to provide health advice on the basis of the data that they can give us. I always felt that when I was chief health officer, and certainly the environmental health team in the department of health, I thought worked very well with the Environment Protection Authority. Of course things can always be improved — communication can always be improved — but I am actually quite surprised you say that.

Mr RICHARDSON — We had evidence from the EPA today that they were not really in the field until 2011, until the Joy report, so there is a real absence there. WorkSafe was on site 117 times but cannot tell us exactly the nature of the orders that were issued, and there were some orders and we are still awaiting their advice. Then the department of health is not on site unless it goes beyond. But, as Vicki said before, there is a bit of uncertainty around the PFOS and PFOA and what orders have been made to the community. So where the responsibility lies, then, seems to be opaque, from evidence that we have heard. How do we make that better correlated so everyone, from a community standpoint, is better informed — that is it not just an environmental issue and then the department of health is not involved until it is a health issue? How do we get that different culture is probably what I am asking. But if you are saying it is fine, that is something that we would take in evidence.

Dr LESTER — What I am hearing that you are saying is, 'Well, nothing is a health issue until it has been shown to be contaminated in the environment'. That is a reality of life. The department cannot be commenting on things that have not been shown to be a risk, so we are reliant on the EPA — the department of health is reliant on the EPA — to document contamination, provide adequate and appropriate data on the level of contamination, so that then the risk assessment can be made and appropriate and proportionate advice can be given to the public on the health effects of that contamination. I hear what you are saying, but I think that is the way the legislation is.

Mr RICHARDSON — We heard today that they acknowledge that they do not take a proactive approach.

Dr LESTER — Right.

Mr RICHARDSON — And Auditor-General's reports have been scathing on their inability to enforce and to deliver accountability. So if they are the stop-go before the department of health is on the scene, there seems to be some systemic issues across the board, then. Which one is going to be proactive in taking a lead in ensuring the health and safety of Victorians from an environmental and a health perspective? While there are a lot of learnings to go through this inquiry and from Joy, then what are some of those learnings? We are just seeking your advice on that. That was the nature of my question.

Dr LESTER — Right.

Ms WARD — The EPA did note today that they believe that advice coming from only one source regarding PFOS and PFOA is not optimal and they expect to seek further advice from other professionals and experts in the area. Do you think that this is something that the department of health and possibly the office of the chief health officer should undertake — ongoing studies in terms of understanding PFOS and PFOA and look through other literature reviews that are around throughout the world regarding the effects of this chemical? Because we are hearing quite different reports. There are so many studies showing a variety of different results, but a number of results which many of us on this committee find concerning. Do you think that we need to have more people, especially from a government agency, have this knowledge themselves?

Dr LESTER — Sorry, I have just lost the track of that a bit.

Ms WARD — That is all right. It was a long question.

Dr LESTER — At the start you said that the EPA said that it was not optimal to have one opinion on PFOS?

Ms WARD — To base so much on — their comments were words to the effect of, and I am going to paraphrase — —

Dr LESTER — Yes.

Ms WARD — so forgive me — that one name continually keeps coming up and it flagged with them that that is not the best-case scenario, that they do need to have information from a variety of sources, not be so reliant on one source.

Dr LESTER — Just on that, before I lose my train of thought again, the EPA has had a very good practice of having reports and protocols peer reviewed, as has the department of health had a good practice of having reports and protocols peer reviewed, and that is what happened in this instance. So this saying, ‘Well, you are only relying on one opinion’, does not take account of the peer review process.

Ms WARD — No, but that was the testimony today, that they feel that the same name is recurring too many times and that they need to seek information from elsewhere, and I would assume that that would include international experts as well if Australia is limited in the knowledge that we have here. The crux of my question is, I guess: do you think that the department of health, and possibly your former office, has a role to play in ensuring that we do have greater knowledge of this pervasive chemical that we appear to have so little knowledge of at the moment that we are reliant on so few individuals? Is there a role for government agencies to play in being more proactive in understanding what PFOS and PFOA can do to human bodies in the environment?

Dr LESTER — The department of health is not a research organisation. The department of health is resourced, barely, to undertake the day-to-day investigations and health advice that need to be given. The department of health is not a research organisation. The department of health commissions reports, commissions literature reviews when things come up. I think that of course the better our information, the better our knowledge, the better decisions we can make, and of course that is something we should encourage.

Places like the National Health and Medical Research Council, which is Australia’s pre-eminent medical research organisation, perhaps it is up to them to commission further studies on PFOS, commission further research if that is felt necessary.

Ms WARD — You mentioned NICNAS earlier. Have you received much advice from NICNAS, because we understand that their views on this chemical are much more conservative than what some of the other advice you are receiving is?

Dr LESTER — No. When I was in the role I did not receive any advice from them.

Ms WARD — Did you consult? So you did not seek advice from NICNAS?

Dr LESTER — No, I did not.

Ms WARD — Is that uncommon? Would you normally go to them?

Dr LESTER — No.

Ms WARD — Because they have been issuing bulletins around this chemical since about 2002.

Dr LESTER — No. I did not seek their advice.

The CHAIR — So the chief health officer's advice was sought about the contamination of livestock?

Dr LESTER — Yes.

The CHAIR — Was there any advice sought in terms of the neighbours or the general issue around PFOS? Was advice sought on that as well, or was it just about the livestock?

Dr LESTER — Sorry, from Dr Drew?

The CHAIR — There was a contamination notice issued.

Dr LESTER — On the livestock, yes.

The CHAIR — You were asked to be involved on the livestock.

Dr LESTER — Yes.

The CHAIR — I am talking not about the livestock contamination for human consumption but the contamination of people. Was any advice sought on whether there needed to be something done about that, whether it was the contamination at the site, whether it was the neighbours — the Lloyds or others — whether the chief health officer should make a statement about the general issue of PFOS or PFOA?

Dr LESTER — We certainly discussed the issue of the people with the CFA and other agencies. We felt it important that the family on that property was tested. We knew that the CFA medical officer was going to do that. We made sure that that happened, and we were reassured that the results were well below the no-observed-effect level, so yes.

The CHAIR — Who reassured you of that?

Dr LESTER — Sorry?

The CHAIR — How were you reassured of that?

Dr LESTER — That was relayed back to me that those tests had been well below the no-observed-effect level.

The CHAIR — For the Lloyds?

Dr LESTER — Yes.

The CHAIR — But who provided that information? The CFA provided that to you?

Dr LESTER — Yes.

The CHAIR — So again the polluter provides the chief health officer with the information — just the raw data or just the assessment that it was all okay?

Dr LESTER — The assessment, but again the CFA contracts an independent medical practitioner. Again I would not be putting aspersions on an independent medical practitioner just because he or she is paid from the CFA.

The CHAIR — You say it is aspersions. It is just I suppose good governance, I would have thought, that most people would think that it ought to be somebody one step away, not because that person is going to do anything or whatever, but it is just good governance to ensure there is no conflict.

Dr LESTER — Again, it could have been done that way, but it came back to the continuity of all of the things which were going on at the time and not fragmenting too many of them up. But yes, it could have been done a different way.

The CHAIR — And in terms of within the population, I know that there were meetings held with staff at Fiskville and so on. That may be an occupational health and safety issue or a workplace issue, but now that I guess — or even at the time that you were there — there was a number of other discoveries in terms of PFOS contamination at other places. Had there been any thought about a strategy or any sort of proactive awareness raising or — —

Dr LESTER — When you say PFOS contamination of other places, where do you mean?

The CHAIR — I think there was Oakey in Queensland. There just seems to have been a bit more of a heightened awareness, and the everyday person in some cases now knows what PFOS is. I mean, none of us knew what PFOS was until we started with this investigation, but it has now become something that people are becoming aware of. Was there any thought about having some sort of program to provide information and the most up-to-date information to people who need to know?

Dr LESTER — In terms of that community, or do you mean more generally?

The CHAIR — In terms of that community within that area, or generally if it was becoming more of an issue now that you became aware of it?

Dr LESTER — This was at the time an isolated incident. It was the first time in my professional career dealing with that area that this had come up as an issue. That is why it needed to be treated as a case on its own, be investigated very thoroughly as a case on its own and have the risk assessment done thoroughly. We have talked about the issue of provision of information.

In terms of broader things, as I said, this was an isolated incident. PFOS has been used very heavily in firefighting foam, so it was obviously something which was going to be there at Fiskville — firefighting foams are not generally as concentrated across the area. In terms of the myriad of public health issues which arise every day, this was not something which we said, ‘Gosh. We have now got to have a special program for PFOS’. It is one of the ongoing risk assessments for environmental contamination that happens all the time between the EPA and the department.

The CHAIR — Looking back, do you think you would have done anything differently, or do you think it was all done the only way that it could have been done?

Dr LESTER — No. I think it was done extremely thoroughly. I think the risk assessment, the decision about negligible risk was done very thoroughly, and I think that all of the reports and assessments which have been done after that have not demonstrated anything other than the fact that this was assessed very thoroughly, and the fact that the public health risks in this instance are negligible.

The CHAIR — Thank you very much for coming in today.

Dr LESTER — Okay. Thank you.

The CHAIR — This public hearing is now adjourned. I thank everybody in the gallery.

Committee adjourned.