

LEGISLATIVE COUNCIL LEGAL AND SOCIAL ISSUES COMMITTEE

INQUIRY INTO THE CLOSURE OF I COOK FOODS PTY LTD
SECOND REPORT

GOVERNMENT RESPONSE

APRIL 2022

ACKNOWLEDGEMENTS

The Victorian Government thanks the Legal and Social Issues Committee of Parliament for their report.

The Government acknowledges the work of the Committee Chair, Fiona Patten, and Committee members: Dr Tien Kieu, the Hon. Jane Garrett, the Hon. Wendy Lovell, Tania Maxwell, Craig Ondarchie, Kaushaliya Vaghela, Dr Matthew Bach, Rodney Barton, Melina Bath, Georgie Crozier, Dr Catherine Cumming, Enver Erdogan, Hon Edward O'Donohue, Stuart Grimley, David Limbrick, Harriet Shing, Lee Tarlamis, Tim Quilty, Dr Samantha Ratnam, and Sheena Watt.

The Government thanks the secretariat team supporting the Inquiry.

INTRODUCTION

As stated in the Government Response to the Committee's First Report (dated August 2020), the Government recognises the importance of food regulation in protecting public health and safety by reducing the risks related to food and facilitating informed food choice. Beyond our State, the Victorian Government recognises its important role as a member of the bi-national food regulatory system which encompasses all Australian jurisdictions and New Zealand – and the importance of trade of food produce and products to the State of Victoria and the Commonwealth of Australia.

A commitment to undertake a review of regulatory framework for food safety in Victoria was made in the Government Response to the First Report and will be expanded to incorporate the more complex recommendations made in the Second Report. Despite the on-going impacts of the COVID-19 pandemic, the Department of Health has commenced detailed planning of the review.

The Victorian Government has carefully considered all the Committee's recommendations from both reports, along with best practice principles and preliminary stakeholder feedback in developing this response.

RESPONSE TO RECOMMENDATIONS

Recommendation 1

That the Department of Health modifies its request protocols for food safety investigations so that all investigating agencies are provided written instructions clearly outlining the scope, focus and process for investigating a food safety issue.

Support in full

The Department has regular verbal and written communication with relevant regulators during an investigation. The nature of investigative work is that the scope and focus evolve as information is gathered and assessed. This recommendation has relevance to several protocols across the Department and will have relevance for how the Department communicates with local government, Agriculture Victoria, PrimeSafe and Dairy Food Safety Victoria. Projects to review and update the Department of Health's standard operating procedures and other protocols are currently underway. Implementation of this Recommendation will be incorporated into this existing work during 2022.

Recommendation 2

That the Victorian Auditor-General's Office undertakes the proposed audit of food safety regulation in local councils as part of its 2023–24 forward work plan. This audit should examine:

- *the guidance resources, training and advice provided by the Department of Health to councils to promote the consistent administration of the Food Act 1984 (Vic)*
- *whether the investigation of food safety incidents by local councils and the Department of Health is consistent, provides procedural fairness to food businesses and protects public safety and wellbeing*
- *whether local councils are consistently complying with their legislative responsibilities to support good food safety and public health outcomes.*

Noted

This recommendation is directed to the Victorian Auditor-General's Office.

Recommendation 3

That the Department of Health amends its Protocol for the investigation of cases of Listeriosis so that food and environmental testing is automatically undertaken at the location where a case of Listeria has been detected in a healthcare setting or in other settings dealing with vulnerable cohorts.

Support in full

In undertaking case investigations of food-borne illness, the Department of Health applies risk assessment principles. This gives effect to prioritisation of testing, which includes any location identified as a probable source of infection. This recommendation has relevance to several protocols across the Department. Projects to review and update the Department of Health's standard operating procedures and other protocols are currently underway. Implementation of this Recommendation will be incorporated into this existing work.

Recommendation 4

That the Department of Health establishes a uniform protocol for relevant authorities for the use of body-worn cameras during food safety inspections, including provisions on how captured material is to be retained.

Support in principle

The Department welcomes enhanced transparency for food regulation and the protection that body-worn cameras provide to both regulators and the regulated. However, this Recommendation gives rise to a range of complex issues that require due consideration by the Department of Health and other relevant food regulators. Issues include but are not limited to:

- scope of regulatory activities (i.e., education/ compliance/ enforcement) where body-worn cameras should be worn and the potential impact they may have on interactions and relationships between regulatory officers and food businesses;
- how any such protocol, which pertains only to food regulation, would be practically applied in the case where a regulator operates under multiple acts; and
- governance, administrative and operational issues such as: benefits versus costs; risks and liability; privacy and freedom of information requirements; occupational health and safety factors; and education required implementation.

As such, this Recommendation will be incorporated into the Department's review of the food regulatory system.

Recommendation 5:

That the Victorian Government introduces amendments to the Food Act 1984 (Vic) to require a relevant authority to provide an evidence report to a food business when it issues a closure order. The preparation of any evidence report should keep in mind the need to respond quickly to any potential public health risks.

Support in principle

The *Food Act 1984* includes emergency powers that enable regulators to make orders to 'prevent or reduce the possibility of a serious danger to public health or to mitigate the adverse consequences of a serious danger to public health'. An amendment that requires the provision of an evidence report when a closure order is issued must clearly define the scope and timing of the report and be contingent on the urgencies and imperatives of protecting public health and safety.

Any amendments to the *Food Act 1984* must also consider the Australia New Zealand Food Standards Code and will be subject to the usual consultation and regulatory impact processes. As such this Recommendation will be incorporated into the Department's review of the food regulatory system.