



Mr Bruce Notley-Smith MP
Chair
Legislative Assembly Public Accounts Committee
Parliament of New South Wales
Macquarie Street
Sydney NSW 2000

By email to PublicAccountsCommittee.PAC@parliament.nsw.gov.au

Dear Mr Notley-Smith MP

Thank you for your letter of 27 November 2017 requesting further information about the NSW Food Authority's response to the Auditor-General's performance audit report - *Monitoring food safety practices in retail food businesses*.

The Auditor-General's 2016 performance audit report acknowledged that NSW has a lower rate of foodborne illness than the national average and this reflected some good practices by both the Food Authority and councils. I am pleased to inform the Public Accounts Committee that foodborne illness rates, particularly those relating to *Salmonella*, continue to decline in NSW.

A detailed response to each of your questions is provided in the accompanying Attachment.

Thank you for the opportunity to provide this information. If you require further information I can be contacted on 02 9741 4700.

Yours sincerely

Dr Lisa Szabo

Chief Executive Officer

ATTACHMENT 1

Response to questions raised by the Public Accounts Committee on 27 November 2017 concerning the implementation of recommendations in the Auditor-General's performance audit report - *Monitoring Food and Safety Practices in Retail Food Businesses*

Recommendation 1(b) and 1(c)

Can the NSW Food Authority please clarify its legislative powers in relation to applying conditions and limitations on the exercise of functions by enforcement agencies under the Food Act 2003?

The legislative powers in relation to applying conditions and limitations on the exercise of functions by enforcement agencies are detailed in Part 9, Division 2 of the *Food Act 2003* (the Act).

In summary, the Food Authority is authorised to appoint (s111), or vary the appointment of (s111A), a relevant body to be an enforcement agency for the purposes of the Act provided the Food Authority has consulted with the relevant body and considered any representations made and resources and skills available to the relevant body. The Food Authority is authorised (s111B) to impose conditions or limitations on the exercise of enforcement agency functions and to revoke such conditions or limitations, provided these are imposed or revoked according to requirements for appointment in s111 or variation of appointment in s111A.

The Food Authority is authorised (s111C) to issue guidelines in relation to the categories of functions exercised by appointed enforcement agencies, their obligations in respect of those functions, the information the Food Authority will provide in relation to prospective appointments and the process and timeframe the Food Authority will follow when making appointments.

Recommendations 1(a), 1(d) and 2(a)

Can the NSW Food Authority confirm whether the system it has proposed to develop will address the broader information required to effectively monitor and oversee the regulatory functions conducted by enforcement agencies, including councils, on its behalf?

Yes. Collecting detailed inspection data in real time will allow the Food Authority to accurately assess the regulatory performance of each enforcement agency as follows:

- That enforcement agencies are exercising their regulatory functions in an appropriate and timely manner;
- That enforcement agencies are inspecting retail food businesses in an area according to a risk-based approach;
- Confirm that enforcement agencies apply follow-up enforcement actions as necessary;
- Provide data with sufficient granularity to identify the number, locations, and types of retail food businesses failing to comply with specific parts of the food safety requirements;

- Reveal common areas of non-compliance so specific education and training programs can be developed;
- That enforcement agencies are making appropriate progress towards meeting their annual inspection targets;
- Provide trend data required to develop appropriate performance benchmarks for the Food Authority and enforcement agencies to monitor food business compliance and ensure regulatory functions are delivered consistently by all enforcement agencies;
- Allow the linkage of foodborne illnesses to business type, food and location in a single database for trend analysis;
- Reveal areas of regulatory performance requiring improvement and areas of best practice;
- Provide data to inform the periodic review of guidance documents.

Recommendation 1(b)

Can the NSW Food Authority confirm the following:

- 1. That new instruments of appointment will be issued for all enforcement agencies, including councils*
 - 2. That the new instruments of appointment will have a review timeframe (validity date range)*
 - 3. That the revised guidelines for enforcement agencies will include roles and responsibilities that clearly define:*
 - The expectations and accountabilities for conducting food safety inspections to meet quality requirements; and*
 - The corrective, or other action, the NSW Food Authority will take if the enforcement agencies' inspection and monitoring practices do not meet requirements.*
1. Yes, the Food Authority has consulted with all enforcement agencies and new instruments of appointment were issued to enforcement agencies (all councils and the Chief Executive of the Office of Environment and Heritage in respect to Kosciusko National Park) on 22 December 2017. The new appointments come into effect on 1 July 2018.
 2. The new instruments of appointment are made for a period of five years and will be revoked on 30 June, 2023.
 3. Consultation with councils on the revised guidelines occurred between March and August 2017. The revised guidelines were issued to enforcement agencies formally on 22 December 2017 together with their instrument of appointment.

The revised guidelines are available at www.foodauthority.nsw.gov.au/guide.

The new appointments and refreshed explanation of enforcement agency roles and responsibilities are supported by three rounds of training for enforcement agency staff over 12 months. This commenced in September 2017.

The guidelines clearly explain the overarching roles, responsibilities, accountabilities and expectations of enforcement agencies.

The roles, responsibilities, accountabilities and expectations of enforcement agencies are also explained for the following specific areas:

- Activity reporting
- Food complaint referral
- Reporting of legal proceedings
- Submitting food samples for testing
- Urgent food safety response
- Appointing authorised officers
- Enforcement agency compliance (includes the corrective actions the Food Authority will take)
- Fees and charges
- Food complaint management
- Food premises assessment report (includes expectations and accountabilities for conducting food safety inspections)
- Managing non-local and complex issues
- Register of penalty notices
- Regulating mobile and temporary food businesses
- Risk-based inspection frequency (includes guidance on business risk classification)
- Seeking assistance