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**THE LEGISLATIVE ASSEMBLY FOR
THE AUSTRALIAN CAPITAL TERRITORY**



**GOVERNMENT SUBMISSION TO THE
PUBLIC ACCOUNTS COMMITTEE INQUIRY INTO
AUDITOR GENERAL'S REPORT No.6 of 2011 -
*MANAGEMENT OF FOOD SAFETY IN THE AUSTRALIAN CAPITAL TERRITORY***

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**Presented by
Katy Gallagher MLA
Minister for Health**

GOVERNMENT SUBMISSION TO THE PUBLIC ACCOUNTS COMMITTEE INQUIRY INTO AUDITOR-GENERAL'S REPORT No.6 OF 2011 - *MANAGEMENT OF FOOD SAFETY IN THE AUSTRALIAN CAPITAL TERRITORY*

The Auditor-General has prepared a performance audit report providing an independent opinion of the ACT Health Directorate's performance in implementing the regulatory framework for the management of food safety in the ACT. The Health Directorate's Health Protection Service (HPS) is the agency with responsibility for food safety regulation in the ACT. The Report considers how effectively the HPS plans, administers and monitors its food safety activities, including:

- managing the registration of food businesses
- monitoring compliance of food businesses with regulations
- managing enforcement activities
- responding to food-borne illness outbreaks.

Prior to commencement of the performance audit, the HPS had already commenced its own internal audit as part of normal quality improvement activities. This internal audit identified many of the issues raised in the Report. As such, the HPS had already commenced or completed much of the work required to address the Report's recommendations by the time of its release.

The following comments reflect the ACT Government's submission to the ten recommendations contained in the Report.

Recommendation 1

The legislative and administrative framework for managing food safety (Chapter 2)

The ACT Health Directorate should provide guidelines and/or checklists, and training, to ensure staff effectively implement the legislative and administrative framework for food regulation in the ACT.

Government Position – Agreed

The HPS has already developed comprehensive procedures for key activities such as Registration. These processes have already been, or are programmed, for internal audit through the HPS Audit Program. The improvements identified through these internal audits, along with the Report's recommendations, will guide further work in this area.

Recommendation 2

The legislative and administrative framework for managing food safety (Chapter 2)

The Health Protection Service's food safety operational financial and performance information should be reported separately by the ACT Health Directorate.

Government Position – Agreed

Processes have already been put in place to ensure that the HPS food safety operational financial and performance information can be reported separately. A dedicated food regulation inspectorate has been created and will allow for separate financial accounting of operational activities by July 2012.

Recommendation 3

The legislative and administrative framework for managing food safety (Chapter 2)

The ACT Health Directorate should pursue options to address the shortage of skilled environmental health officers. This could include encouraging a local university to provide a degree in Applied Science, Environmental Health or equivalent, and/or the needed services being provided by people skilled in other related disciplines and supported by supplementary training, if necessary.

Government Position – Agreed in part

This workforce issue is well recognised by the Health Directorate and is reflective of the situation throughout Australia. Over previous years, the HPS has been engaged in national work on this matter. However, little headway has been made with respect to resolving the current workforce shortage.

Whilst the HPS will explore training and education options with local providers, this work is not expected to yield the Report's desired results. Additionally, since the audit's commencement the HPS has successfully recruited new staff to alleviate staff shortages.

Notwithstanding this, should staff shortages persist the HPS will explore options for modified qualifications for Public Health Officer positions.

Recommendation 4

The legislative and administrative framework for managing food safety (Chapter 2)

The ACT Health Directorate should update the Health Protection Service's risk management plan to include strategies to specifically address risks to food safety resulting from inadequate staffing levels in its operational areas. This could include engaging contractors and using other service providers on a regular basis.

Government Position – Agreed

These strategies already exist within the HPS. For example, the HPS has in place two contracts with service providers to provide food safety inspector services on an 'as needs' basis.

Recommendation 5

The legislative and administrative framework for managing food safety (Chapter 2)

The ACT Health Directorate should update its website to provide comprehensive information, in targeted languages as well as in English, on food safety standards, guidelines and good practices.

Government Position – Agreed

In consultation with the Community Services' Office of Multicultural Affairs, the HPS is investigating ways to provide food safety communications material and training in languages other than English.

Recommendation 6

Managing the registration of food businesses (Chapter 3)

The ACT Health Directorate should ensure that the Health Protection Service's record management practices comply with the *Territory Records Act 2002* and Regulations; and that all files and databases contain accurate, complete and up-to-date information.

Government Position – Agreed

Record management processes and procedures already exist, however it is agreed that compliance needs to be improved. Steps will be taken to improve overall compliance with the *Territory Records Act 2002*. This will include staff undertaking further training in records management, improved oversight of related work and enhanced internal auditing.

Recommendation 7

Managing the registration of food businesses (Chapter 3)

Registration of food businesses should be improved by the ACT Health Directorate:

- a) ensuring timely follow-up of overdue registrations (within two months); and
- b) ensuring that a delegated manager formally reviews and approves re-registrations where a business has not complied with requirements. The delegated manager should document reasons for their decision.

Government Position – Agreed

The implementation of a dedicated food regulation inspectorate team coupled with effective procedures for undertaking and documenting food business registrations will help to ensure registrations are followed up in a timely manner.

The HPS is currently working to ensure that there is a higher level of compliance with existing procedures. This has included an additional internal audit of the registration process for a six week period during November/December 2011.

Changes to the *Food Act 2001* made by the *Food Amendment Act 2012* (enacted by the ACT Legislative Assembly on 21 February 2012) will also require food businesses to publicly display their food business registration certificates. This provision may also improve compliance with food business registration requirements.

Recommendation 8

Monitoring compliance of food businesses with regulation (Chapter 4)

Complaint management should be improved by the ACT Health Directorate:

- a) conducting complaint investigations in a timely manner (within seven days);
- b) including in the *Public Health Complaints* database additional information such as the nature of the complaint, progress towards managing it and whether the complaint has been closed; and
- c) ensuring that the complaints database is accurate and complete.

Government Position – Agreed

The HPS has a complaints management process that has been the subject of an internal audit which also identified issues with processes being followed as directed. To remedy this situation, further work will be undertaken to improve compliance with relevant procedures and to manage the use of the database. For instance, the complaints procedure contains steps to prompt staff to record adequate information about complaints (e.g. nature, completion). Staff will receive training in the use of this procedure to improve compliance. The database currently provides adequate information regarding progress of complaints.

Recommendation 9

Monitoring compliance of food businesses with regulation (Chapter 4)

Implementation of Food Safety Programs by food businesses should be improved by the ACT Health Directorate:

- a) updating the *Health Manager* database to ensure that it captures sufficient information to facilitate effective management of the food businesses Food Safety Programs;
- b) preparing a list of food businesses that require a Food Safety Program; and
- c) ensuring that key activities such as determining the audit frequency for a registered business, under Section 12 of the Food Regulation 2002, and the supporting audit program, are completed and implemented.

Government Position – Agreed

The HPS is currently investigating ways to capture data on businesses requiring Food Safety Programs on the *Health Manager* database. In October 2011, the HPS commenced recording in the database those businesses needing a Food Safety Program. The HPS will also finalise the section 12 determination of audit frequencies and create an audit program schedule to ensure affected businesses are audited in a systematic and timely fashion.

Recommendation 10

Managing compliance (Chapter 5)

Compliance with food safety legislation should be improved by the ACT Health Directorate:

- a) considering the effectiveness of enforcement activities used in other jurisdictions such as on-the-spot fines, and 'naming and shaming' of businesses;
- b) promptly completing its public consultation and impact assessment of the proposed food business rating scheme; and
- c) encouraging food businesses to immediately voluntarily display current food business registrations pending any amendments to food safety legislation.

Government Position – Agreed

The HPS has commenced implementation of many key components of this recommendation.

On 8 December 2011, the Food Amendment Bill 2011 was introduced into the Legislative Assembly. The Bill's amendments aimed to improve food safety and regulatory transparency in the ACT. Four amendments were proposed in the Bill:

- i. mandatory display of a closure notice when served a prohibition order that closes the premises
- ii. mandatory display of food business registrations
- iii. creation of a public register of food businesses convicted of an offence against the *Food Act 2001*
- iv. introduction of a trained Food Safety Supervisor for registered food businesses.

On 21 February 2012, the Bill was unanimously supported by the Legislative Assembly. With the exception of the Food Safety Supervisor requirement, the amendments have commenced. The trained Food Safety Supervisor requirement will commence in August 2013 to allow sufficient compliance time for the food industry.

Public consultation on the proposed food business safety rating scheme (also known as 'scores on doors') has been completed and the Regulatory Impact Statement (RIS) is nearly complete. The way forward on this project will be influenced by the findings of the RIS.