

Submission to the Ministry for Primary Industries

Proposal to maintain and expand New Zealand Food Safety's regulatory services under the Food Act 2014 (Food Act)



15 March 2024

Introduction

1. The Timaru District Council (the Council) thanks the Ministry for Primary Industries (MPI) for the opportunity to submit on the Proposal to maintain and expand New Zealand Food Safety's regulatory services under the Food Act.
2. This submission is made by the Timaru District Council, 2 King George Place, Timaru. The submission has been endorsed by Deputy Mayor Scott Shannon.
3. The contact person regarding the submission content is Debbie Fortuin (Environmental Compliance Manager), who can be contacted via Debbie.Fortuin@timdc.govt.nz.

Food Safety in Timaru District

1. The Timaru District Council is a local authority in the South Island serving over 48,000 people in South Canterbury. The main settlement is Timaru, with other smaller settlements of Geraldine, Pleasant Point and Temuka.
 - 1.1 Currently Timaru District Council has a total of 239 registered food control plans.
 - 1.2 Our food control plans are verified by verifiers who are JASANZ accredited.

General comments

1. Council does not support the proposed changes in its entirety and have outlined alternative approaches to a number of the proposals with a focus on efficiency and improved outcomes.
2. Council supports Taituarā's submission

Submission

The consultation document fails to sufficiently define the status of the food safety reform since the commencement of the Food Act 2014 and the current shortfalls with respect to the gaps in the Food Safety space. No evidence has been provided to support the claims that are being made in the document. Case studies are cited but there is no statistical evidence provided to demonstrate the trends that have been established since the inception of the Food Act 2014. As such we do not have a true evidenced based picture of the scale of the problem. Without the true scale of the problem being defined, it is difficult to accurately determine the resource required to ensure that the Food Act is sufficiently administered.

That being said, we do not disagree that the Food Safety Regulatory Services are under-resourced. We question whether the proposed Option 1 resourcing structure takes the right approach, and consequently has perhaps over-estimated resources needed.

The New Zealand Food Safety (NZFS) regulatory services currently have 10.3 FTE and are proposing to expand the services to accommodate 38.2 FTE under Option 1.

The alternative approaches Timaru District Council wishes to be considered, to both streamline the proposed Option 1 and better target the problem areas are as follows:

Co-Regulation

1. The consultation document focusses on co-regulation oversight with the development of practice guidance and performance rules as well as to undertake monitoring, audit and performance reporting.
2. We agree that support for TA's is needed to provide the required standard, and this would be underpinned by practice and guidance notes.
3. The current regime creates an inconsistent and unlevel playing field amongst TA's and Verification Agencies. This makes it difficult to determine accurate food safety performance information to enable correct improvements.
4. Efficiencies could be efficiently achieved by requiring all TA's to have recognised persons rather than the TA's appointing individuals to undertake verification functions and activities with no adequate uniform or consistent performance standards or monitoring programmes.
5. This would negate the need for NZFS to have a full auditing resource, as recognised persons are independently 3rd party accredited, thereby reducing the FTE required to resource this programme.
6. Should there not be an appetite to require all TA's to use Recognised Persons, then we propose that the programme is streamlined to provide resources focussing on TA's who do not employ recognised persons as these are not independently accredited.
7. We view the current Option 1 proposal for those TA's and Verification Agencies with accredited persons, as an undue burden as they will then receive double auditing

from two separate bodies, that being New Zealand Food Safety and also the 3rd party accreditor.

8. We support a partnership focus, rather than a regulatory oversight focus, which would be more in standing with co-regulation model.

Business Education and Support

1. The consultation document proposes a multi-channel service that any food business can access, along with digital and print guidance material.
2. We do not believe that this approach will make the gains in terms of the gap in education in the food business operators that currently exists in order to reach the desired level of compliance.
3. A more suitable approach would be to develop an accredited simple, clear, concise online course or modules addressing two main areas namely:
 - 3.1 Train food-based operators the ins and outs of a Food Control Plan from start to finish, outlining the food safety principles.
 - 3.2 Train food-based operators in what the verification process entails, why it is needed, what a verifier looks for and how to achieve the various topic outcomes, i.e. conforming and performing, and an “acceptable” final outcome.
4. Food-based businesses could pay to undertake the assessment/course much like is done to obtain a LCQ by Bar Managers under the Sale and Supply of Alcohol Act 2012.
5. A refresher could be required by a Food business operator where a critical non-compliance or serious enforcement action is required, in order to re-iterate the importance of compliance to those food operators who are recidivist non-compliers.

Domestic Food Safety and Suitability Rules

1. We support regular online industry and co-regulatory engagement.
2. We would like to see a more streamlined FCP with the focus on simple standards and guidelines/best practice notes rather than prescriptive inflexible topical rules. Simple standards focussing on temperature/time control for different cooking methods rather than specialised rules incorporated in FCP's for a small niche of the market.
3. It is our view that specialist niche rules/standards should be submitted by a food business operator for assessment by NZFS rather than be provided to them and paid for by the majority of the non-specialist niche food business operators.
4. We propose that regular monthly virtual forums be held with TA's to establish the gaps and work in partnership to develop the guidance documents. Those individuals participating could gain CPD points for participation.

5. Utilising the collective knowledge base of TA's with on-the-ground experience of where the gaps are, would help to reduce the total FTE resource proposed for this programme and improve consistency in approval across TA's.

Oversight of verification systems and services

1. While we support some oversight in this regard, for TA's not operating under a QMS or recognised person model, we would like to see some exemption clause or reduced form of oversight, for those TA's operating under a QMS/Recognised Person' model. To not take this approach would disincentivise TA's from operating under a Recognised Person's model.
2. Where such an exemption/or scaled down oversight is applied, the resultant outcome will create efficiencies for NZFS thereby requiring a scaled down version of the estimated resource FTE as indicated in Option 1.
3. Any additional auditing and increased oversight would impact further on the TA's resources and time which would result in further costs to Food Businesses. It is important that a balance is struck in this regard.

Nationwide Interventions to raise awareness

1. We do not support this programme being a standalone programme.
2. It could be incorporated under the food safety and suitability programme with the potential to further save on resources.

Systems Auditing

1. We do not support this programme being a standalone programme.
2. It could be incorporated into the oversight of verification systems and services, thereby having potential to further streamline resources.

Levies

1. The proposal for TA's to collect the levies on behalf of NZFS raises a number of issues for us, namely:
 - 1.1 The \$11 proposed cap for TA's would not meet our costs in terms of setting up the system to apportion the levy, the reminder letters, reconciling and transferring monies to NZFS.
 - 1.2 The matter of debt collection and who is responsible has not been addressed in the consultation document and this would add an unnecessary burden of cost and time on TA's who are already stretched.
 - 1.3 Reputational damage to Council due to the TA being the levy collectors.
 - 1.4 There could be legal implications for operators failing to pay the levy, which will be a requirement under the legislation, e.g. TA review of "confidence in

management". That would create more cost to the TA in terms of enforcement action via the FSO and Registration Authority.

2. Consequently, we do not support the proposed option whereby TA's are required to collect the levies on behalf of NZFS.
3. We further believe that the levy requires a bit more work in terms of how it is attributed to each food-based business and should be weighted for risk, and incentives built in for levels of compliance for good operators. We view some issues with the site-based proposal in that some smaller businesses, might have two sites, such as prepping at a domestic kitchen but selling from a trailer for example. We view in such cases, that it would be unfair to charge a double levy for such a business.

Conclusion

Thank you again for the opportunity to submit on this matter. We welcome the opportunity to discuss this matter further, via Debbie.Fortuin@timdc.govt.nz.

Ngā mihi

A handwritten signature in blue ink, appearing to read "S. A. Shannon".

Scott Shannon
Deputy Mayor