

Cost recovery proposal to maintain and expand New Zealand Food Safety's core regulatory services under the Food Act 2014

A submission to the Ministry for Primary Industries

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What is Taituarā?

Taituarā – Local Government Professionals Aotearoa is an incorporated society of nearly 1000 members drawn from local government Chief Executives, senior managers, and council staff with significant policy or operational responsibilities. We are an apolitical organisation. Our contribution lies in our wealth of knowledge of the local government sector and of the technical, practical, and managerial implications of legislation.

Our vision is:

Professional local government management, leading staff and enabling communities to shape their future.

We help local authorities perform their roles and responsibilities as effectively and efficiently as possible. We have an interest in all aspects of the management of local authorities and supporting communities from planning and infrastructure to civil defence and emergency management. We are interested in having excellent regulatory services, and healthy well-functioning relationships between central government and local government.

Introduction

Thank you for the opportunity to give feedback on the proposals to maintain and expand the Ministry for Primary Industry's (MPI's) regulatory services under the Food Act 2014 (Food Act).

We recognise that there is a significant health issue with food importation that needs to be addressed, namely, frozen berries with Hepatitis A, and tahini with salmonella. MPI is responsible for regulation of food importers, not local authorities. Therefore, it is disappointing to us that local authorities are included as part of the solution to MPI's problem.

The consultation is wide ranging and we have limited our responses to two items that would have a significant effect on local authorities, levy collection for MPI, and greater oversight of local authorities.

Part 1 of our submission contains a summary and recommendations. Part 2 provides discussion and elaboration of our views.

Part 1

Summary

Firstly, concerns about monitoring food importers were raised in a recent report from The Auditor General¹. From this report, it is clear that more needs to be done to support the general public to ensure that the imported food they eat is safe. The issue does not affect local government food regulators apart from the method of levy collection, therefore we do not support the proposal to use a local government passthrough system to collect the increases in fees.

Secondly, there is a proposal in the consultation document for greater oversight of local authority's food regulation. It refers to there being "challenges to deliver a nationally fair and consistent registry and enforcement functions between 67 territorial authorities and New Zealand Food Safety"². However, aside from this vague statement there are no identified unfairness or consistency problems in the consultation document. On the contrary, councils' Environmental Health Officers hold environmental health degrees such as Bachelor of Health Science, operate at a high standard, and are held in high regard by the food sector.

Without an identified problem to solve, we fail to see real benefits to food safety from increased central government oversight of local government regulation. We do not support the proposal to increase regulation of local government food regulation.

¹ <https://www.oag.parliament.nz/2024/food-safety>

² Page 19, [Proposal to maintain and expand MPI's regulatory services under the Food Act 2014](#)

Recommendations:

1. We recommend that central government collects its own fees for its regulatory processes. However, should councils be obliged to collect the fee:
 - a. at a minimum MPI needs to have a robust communications plan to inform affected businesses of the new regime, and work with local authorities on specific wording on invoices so it is clear the fee is from MPI not local authorities;
 - b. MPI work with councils to ascertain accurate cost recovery for billing;
 - c. the administration fee, if set in legislation, will erode with inflation over time and become too small to cover actual costs. We recommend that the fee be set in a regulatory instrument that can be easily reviewed and updated on a frequent two-yearly basis;
 - d. we recommend that enforcement procedures and sanctions belong to MPI for non-payment for the reason that local government does not want the optics or responsibility for collecting MPI's bad debts.
2. We recommend keeping the status quo for the oversight of local government systems and services for the reason that there is no identified problem with local government regulation.

Part 2**Territorial authorities collecting increased levies on behalf of MPI***Optics*

The proposal is for territorial Authorities to collect the new Domestic Food Levy on MPI's behalf when a business registers with their local Territorial Authority. Businesses will assume that the agency collecting the levy will directly benefit from it. That is, the levy will be seen as Council fees, not MPI fees. Even if there is an additional line to indicate that the levy belongs to MPI, the invoice will still be associated with the council through their branding. This puts MPI at arm's length from businesses and any ill-feeling associated with the levy.

There is no value to local government in participating with central government to collect MPI's fees. For local government, there is a distinct optical downside in becoming central government's levy collector, and conversely, there are advantages to central government in

for local government to collect its fees. Central government will avoid being directly associated with the increase in costs but gain all the benefits of extra revenue collection. This lopsided type of arrangement where one party benefits more than the other drives to the heart of poor central government/local government relationships. For this reason, our recommendation is that central government collects its own fees for its regulatory processes. At a minimum, MPI should have a robust communications plan to inform affected businesses of the new regime, and work with local authorities on specific wording on invoices so it is clear the fee is from MPI.

Administration fee

The proposal is that councils recoup their administrative billing costs. The stated assumption³ is that it will take councils an average of five minutes of additional work on top of existing registration processes to collate, track and transfer collected levy revenue to MPI. At an estimated hourly rate of \$135.00, this works out to \$11.00 per levy payment. The notion being that the additional billing costs are negligible, as the levy process can be added onto any existing registration process. However, it will take local authorities longer than five minutes to set-up the pass-through system, manage relationships, maintain the system, monitor payments, aggregate payments and on-pay MPI. We recommend MPI work with councils for accurate cost recovery amounts.

The administration fee, if set in legislation, will erode with inflation over time and become too small to cover actual costs. We recommend that the fee be set in a regulatory instrument that can be easily reviewed and updated on a frequent two-yearly basis.

Bad debts

There is a lack of clarity about what would happen in the instance of non-payment of the levy. Given that it is a pass-through system, the debt belongs to MPI not local government. We recommend that enforcement procedures and sanctions belong to MPI for non-payment. Local government does not want the optics for collecting bad debts for MPI.

Increased MPI Oversight of Territorial Authorities

The next proposal is to align, support, and improve the quality of service provided by Territorial Authorities. However, there is no evidence given to indicate that the service provided by Territorial Authorities is lacking and that further intervention is required by MPI.

Vague allusions to differences between 67 territorial authorities is not a problem. On the contrary, the system set up by the Government – where independent verifiers and local councils set their own fees – essentially guarantees that prices may vary. Councils set their fees using their Revenue and Financing Policy which takes account of the public and private benefit accorded to the services they provide. There is variation within local government as to the use of fixed fees, hourly charges and combinations thereof. Independent verifiers

³ Page 39 [Proposal to maintain and expand New Zealand Food Safety's regulatory services under the Food Act 2014 \(Food Act\) \(mpi.govt.nz\)](https://www.mpi.govt.nz/propose/2014/food-act/)

presumably charge what it costs to do the verification plus an amount they deem appropriate to make a profit for their business.

The potential threat of a regulatory failure across councils is remote. Councils' Environmental Health Officers hold environmental health degrees, such as Bachelor of Health Science, operate at a high standard, and are held in high regard by the food sector. Environmental health officers are a pivotal part of food health regulation and there are no problems identified with the current system.

Without an identified problem to solve, we fail to see benefits to food safety from increased central government oversight of local government regulation. On the contrary, we see the down side that it will increase business costs and only result in more expense for regulation's sake.

MPI is also a regulator of systems and services and as such does not have an oversight body. There is no parallel mechanism available for MPI to monitor itself because it has a gamekeeper – poacher dilemma. The same expert pool of regulators work for both MPI and local authorities. The proposal for additional monitoring of local authorities is only for part of the regulatory system and is unnecessary.

For the reasons above, we support the current mechanisms for councils to set their fees, and recommend keeping with the status quo for the oversight of co-regulator systems and services.



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