

# TRANSCRIPT

## LEGISLATIVE COUNCIL LEGAL AND SOCIAL ISSUES COMMITTEE

### **Inquiry into the closure of I Cook Foods Pty Limited**

Melbourne—Wednesday, 17 June 2020

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**WITNESS**

Ms Kim Rogerson, former Environmental Health Officer, City of Greater Dandenong.

**The CHAIR:** I would like to declare the Standing Committee on Legal and Social Issues public hearing open again. Again I just remind you if you have done something funny with your phone, turn it on silent again. And I would also again like to welcome anyone who is here today in the public gallery but also who is watching via live broadcast, and that is a reminder that we are being live broadcast. That is particularly for the committee members: someone is watching you.

**Ms SHING:** We are never under any doubt, Chair.

**The CHAIR:** As you may have heard before, Ms Rogerson, the committee, as you understand, is hearing evidence in relation to our Inquiry into the Closure of I Cook Foods Pty Limited. All evidence taken at this hearing is protected by parliamentary privilege, and that is as provided by our constitution but also under the standing orders of the Legislative Council. Therefore any information that you provide today is protected by law. However, any comment that you may repeat outside this hearing may not be protected, and any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament. As we have mentioned before, all the evidence is being recorded, and Hansard is over here. You will be provided with a proof version of that transcript, and I would welcome you to have a look at that and make sure that everything that you see there is correct and as you recall it. That will ultimately go up on our website.

Now, this is not a court hearing, as big as this room looks and as bright as it is for this time of the evening. This is a parliamentary hearing, so if you would like to open up in your own words and make some opening comments, and then we will open it up for some questions.

**Ms ROGERSON:** Thank you, first of all, for having me at this hearing this evening. My full name is Kim Rogerson, and I am currently still employed by the City of Greater Dandenong, although I have not worked since 15 April 2019. That is when I left the premises. I have just got this to read, because there is so much, as Ian has explained. There is so much that I could say, but I think at this stage it is best to just condense it a wee bit.

**The CHAIR:** In your very own time.

**Ms ROGERSON:** Previously I was working as an Environmental Health Officer for seven years at Dandenong council, and for just over five years I was one of the environmental health officers—or actually the health officer—for I Cook Foods. I would inspect them on an annual basis. Again, there is a difference between an inspector and an auditor. I am not an auditor, but I do have a science degree in environmental health. I was required to inspect them on behalf of the City of Greater Dandenong. Over the years I had always found I Cook Foods to be a professional operation. Their premises were clean and food safety was a clear priority. At the end of 2018 the Coordinator of Public Health at the City of Greater Dandenong—we had a swap in coordinators—Leanne Johnson, decided to swap areas that each inspector was responsible for. I was moved to a different area, and Elizabeth Garlick took over the area in which I Cook Foods operated. In mid-January Elizabeth Garlick said to me, ‘I think that Leanne put me in this area so I could take people to court’. I was quite worried about this as it was highly inappropriate.

On 31 January 2019 I was asked by the Coordinator of Public Health at the City of Greater Dandenong, Ms Leanne Johnson, to conduct sampling at I Cook Foods. Elizabeth Garlick, who was then the area officer, was not available to do this testing, and I believe I was chosen to take these samples as I knew the premises well. I asked Leanne Johnson what type of sampling was required. She said she did not know—just sandwiches and ingredients, that was about all she could tell me—so I called the Department of Health and Human Services and spoke to Sally Aitkinson. She also could not give me clear instructions. She just said to sample sandwiches and ingredients at I Cook Foods. She told me that there was an elderly woman who had come from a nursing home that may have been exposed to listeria and there was a possible link to I Cook Foods. Sandwiches are defined as a high-risk food and should not be given to the elderly or those with comorbidities, i.e. heart disease, pulmonary oedema, pregnancy—just like soft cheese and things.

I did the sampling at 7.30 am on 1 February. I had not been given instructions to establish a chain of evidence for these samples but I believed this to be important, so I took it upon myself to ensure that a chain of evidence was recorded. I did not do an inspection of the I Cook Foods premises on 1 February because I only had several hours to get the samples to MDU Melbourne pathology unit before the samples would be unusable in terms of their growth and temperature.

I then took time off work between 18 February and early March. While on leave I found out via email that I Cook Foods had been closed. I also found out that John Bennie, the council CEO, had been unable to sign the closure notice as per the *Food Act 1984*, citing a conflict of interest—namely, that council was a shareholder of Community Chef, which is a rival business to I Cook Foods. It did not occur to me before that time that council's conflict of interest would not just relate to the closing of I Cook Foods. At this time I had begun to realise that the conflict of interest also related to council's inspections of I Cook Foods—in other words, my work. That would mean all staff would also have a conflict of interest. So to clear that up, sorry, if the CEO had a conflict of interest, then all the staff that were authorised under that council would also have a conflict of interest. In time I began to describe this conflict of interest to my friends and family as being a bit like giving Hungry Jack's the power to inspect and shutdown McDonald's.

The *Food Act 1984* specifies that if the CEO cannot sign the order of closure, then they must delegate. I do not know how this matter ended up with the Department of Health and Human Services or why Dr Brett Sutton was asked to shut down I Cook Foods. I also do not know why Dr Sutton decided to name and shame I Cook Foods in the media, blaming them for the elderly woman's death. Historically when we close businesses, which does happen, you never give out the name or where they are. It is private; we do it privately.

While I was off work Leanne Johnson contacted me repeatedly on the phone—I was off work for surgery, to clarify that—criticising me and implying that I had failed to properly investigate I Cook Foods. At one stage she said to me I Cook Foods had no idea what they were doing and they were a family business trying to be one of the big boys. I was horrified by her words and her attitude, which were quite vicious—in the manner in which she spoke to me.

On 22 February Leanne phoned me at home and told me that she had had many meetings with the CEO, John Bennie, mayor Roz Blades and Jody Bosman. Jody Bosman is actually a director. Leanne told me that she had told them that council had not done a proper job in relation to I Cook Foods in general. By the time I returned to work it was clear that council was determined to destroy I Cook Foods. I honestly could not believe what I was seeing and hearing. I was shocked that I Cook Foods had been closed the way it was. It immediately became clear to me that council was looking for anything they could find to destroy I Cook Foods, and if they could not find any real evidence it became apparent that staff were willing to make it up.

I was asked to collect data and reports on I Cook and do a statement about the sampling that I had collected. This was in March. I completed this statement that was approximately three pages. Leanne Johnson directed me to go back as far as 2015 and collate information on I Cook Foods. Leanne told me that there was going to be an investigation into the history, my work and all activities of I Cook Foods, including all council policies. In essence Leanne was asking me to investigate myself. I felt Leanne was determined to sink I Cook Foods and me if necessary.

During the days and weeks that followed there were many meetings about I Cook and how I had dealt with the premises over the years. In the middle of March 2019 I was asked by the planning coordinator, Mr Greg Spicer, to change my statement. Greg wanted my statement to form part of a brief of evidence. He wanted me to add information and observations of things that never took place. I was also instructed to delete words and sentences that Greg Spicer and Leanne Johnson felt were 'weak', in quotation, and favoured I Cook Foods. I felt they were determined to frame I Cook Foods and then prosecute them. I thought it was wrong for Greg Spicer to be putting the statements together for I Cook Foods because he had no knowledge or training in relation to the *Food Act 1984*.

While this was taking place Greg spoke of the conviction and the monetary penalties that would result from council going hard on I Cook Foods. Just to put it into perspective, Greg Spicer was the planning and compliance coordinator, so he had nothing to do with the *Food Act*, never worked under the *Food Act*. Greg Spicer said that he wanted all the statements against I Cook to sound the same so we can, quote, 'nail these bastards'—his exact words.

There was another member of staff at council, a senior planning compliance officer, Andrew Brady, who overheard this statement. He left the council job on 5 June 2019 but sent me an email corroborating what Greg had said to me regarding I Cook Foods. Greg Spicer also asked me to make up a scenario and put it in my statement where I supposedly warned Ben Cook that his factory was filthy and should not be operating. This never happened. I never said this to Ben because it was not true, and so I deleted this from the draft statement Greg wanted me to sign. I was not willing to tell Greg's lie in order to destroy I Cook Foods. The statement that I was eventually coerced into signing was 11½ pages long, making it seven pages longer than my initial statement.

Eventually the stress of the situation caught up with me. I had what I now recognise was a kind of nervous breakdown and have not been able to return to work. I have applied to WorkCover, but council is fighting my application. They are spending thousands of dollars with an expensive law firm—I believe it is MinterEllison—to fight me going on WorkCover despite the fact that my psychiatrist, as well as the psychiatrist council employed to assess me not once but twice and an independent psychiatrist, a psychologist and a GP have all recommended I receive WorkCover.

So now my life is in limbo. I believe I am being punished by the council for blowing the whistle and telling the truth. And I should point out that John Bennie, the council CEO, does not just have a conflict of interest when it comes to Community Chef. That is because John Bennie also sits on the board of JLT insurance; that is now part of MAV Care. MAV Care insures the City of Greater Dandenong, and he sits on that board as well. By denying my WorkCover MAV Care obviously saves money for the City of Greater Dandenong. So in essence the CEO of that council that has bullied me into a crippling depression is also on the board of the insurer that is now denying me the WorkCover I need.

**The CHAIR:** Thank you, Ms Rogerson. I appreciate that would not have been an easy statement to write or share with us today, so I very much appreciate it. Again, we are hearing a number of names here, and I would just further stress that this is not about individuals; this is actually about the closure of I Cook Foods. That is what our terms of reference are looking at. I would also add that next week we are hearing from a number of people in our second day of hearings that have been mentioned through this evening.

**Dr KIEU:** Thank you, Ms Rogerson, for appearing here today. When you had some problems that you had with the council, had you ever contacted the department about your grievance and your concerns?

**Ms ROGERSON:** The department of health?

**Dr KIEU:** The department of health.

**Ms ROGERSON:** Never.

**Dr KIEU:** Never?

**Ms ROGERSON:** No, you do not do that. You go through HR or something like that, but you never go to the department.

**Dr KIEU:** Now the next question is: you did raise the question about the classification, so according to the *Food Act*, to provide or serve food for people in the vulnerable category, class 2a is able to do so or it has to be class 1, according to your knowledge?

**Ms ROGERSON:** So there is some discrepancy and a lot of different opinions on that class 1, class 2. Class 2 is normally reserved for cafes and delicatessens, you know, takeaways, that kind of thing, and class 1 is for people that provide food directly to vulnerable people in hospitals, nursing homes, that kind of thing. And as Ian said, he was class 2 or class 2a, which is for high-risk, and provided food for vulnerable populations. But they did not give the food to those people. They went to Meals on Wheels. So he is not really providing the food. He is providing the food to Meals on Wheels. He has no control over what Meals on Wheels then do with the food.

**Dr KIEU:** So the food went to the hospitals through Meals on Wheels?

**Ms ROGERSON:** No. Ian could answer that.

**Dr KIEU:** Just another question from your experience as an inspector in the council of Greater Dandenong. Did you have any other experience or exposure in the past to some of the listeria in particular in that particular geography?

**Ms ROGERSON:** Yes. Many times we come across a notifiable bacteria or something of that category, and it is usually dealt with quite simply in terms of a cleaning up. Samples are taken, swabs are taken. And after the business has cleaned up and everything is fine, samples are fine, they are reopened very quickly. It has never taken as long as it took for the I Cook. And right from the beginning of this there was just something wrong with this, and that is why I ended up blowing the whistle. There was just something wrong right from the beginning.

**Dr KIEU:** The level of listeria is found to be low. But from your knowledge—I do not have that knowledge—is there any level that is safe for aged people?

**Ms ROGERSON:** It is the same level for everyone.

**Dr KIEU:** The same level for everyone.

**Ms ROGERSON:** It is just that most aged people usually have some kind of comorbidity and are immunocompromised, the same as young children would and pregnant women.

**The CHAIR:** Thank you, Ms Rogerson. In your time working in this area obviously you have inspected many businesses, you have had listeria complaints, for want of a better word for it. But it seemed unusual that the Department of Health and Human Services closed I Cook Foods in this way, and I think it was on 19 February that there was a closure. In your experience working in this area have you seen the process that occurred in this circumstance happen before?

**Ms ROGERSON:** Never. It was highly irregular. I have never seen it. I have been an EHO for 10–12 years, and I have never ever seen the department of health interfere or have such an input in a closure of premises. I believe it was partly due to the fact that the CEO had a conflict of interest and could not—there is a process that you have to go through and he could not sign those orders. But normally he would delegate to someone else, to a second in charge, and he did not even do that—it just went straight to the department. I am not sure, as I was absent during that time, and when I came back from the sick leave I was on I was really kept in the dark. I was not told very favourable things, so I was kept in the dark.

**The CHAIR:** So Mr Bennie has received, I guess, the advice from your colleagues that I Cook Foods should be closed. Mr Bennie says, ‘I can’t issue that order because I have a conflict of interest’. So are you saying that normally he would just refer that—normally in your experience that would have been referred back down to Mr Bennie’s 2IC?

**Ms ROGERSON:** He usually delegates to someone. So if he is unable—so if he is on personal leave or wherever he is or he is out of the office, he delegates somebody to take that position for him, so it is delegated by law to someone else. So I am not sure why he did not delegate for it to be signed by someone else. I am not sure what happened there.

**The CHAIR:** Would Mr Bennie have done this before?

**Ms ROGERSON:** Oh, yes, many, many times.

**The CHAIR:** This was something he was well experienced in doing. Thank you.

I Cook Foods was closed for a month. In your experience is that unusual?

**Ms ROGERSON:** Highly unusual. In fact I have never seen it.

**The CHAIR:** I guess for such a big production that is quite a big thing. It is one thing to close down a takeaway store but it is another to close down—

**Ms ROGERSON:** Yes. I have never actually done it. I have worked with the cooks for five years in many really big manufacturers and I have never seen it.

**The CHAIR:** Okay. Keeping time myself. Again, Ms Shing, you are taking for Mr Tarlamis, and then we will come back to Ms Maxwell.

**Ms SHING:** Yes, I am. Thank you for your description of what has happened, Kim. I am really sorry; it sounds like it has been a very, very rough time for you and I hope you are okay. I would like to talk about the conflict of interest issues that you have just gone through, not just in your outline but also in response to questions from the Chair. If Mr Bennie had a conflict of interest and your evidence is that everyone else would also have a conflict of interest, to whom should Mr Bennie have delegated the decision to sign the order if nobody else within council was not also conflicted? I am trying to wrap my head around that bit.

**Ms ROGERSON:** A conflict of interest means if he is the CEO, then the EHOs there and other authorised officers would also have a conflict because we work for the council and he is higher up the chain. He is supposed to delegate it to someone else, but that somebody does not work under the same legislation or the same *Food Act*, but they would still have a conflict of interest because they still work for the council.

**Ms SHING:** So everyone within the council was conflicted out?

**Ms ROGERSON:** I believe so, yes.

**Ms SHING:** So in the absence of being able to go to anyone else within the council to sign that order, where else should Mr Bennie, in your opinion, have gone?

**Ms ROGERSON:** Well, first off, the conflict of interest is questioned—you know, under question.

**Ms SHING:** What do you mean by that?

**Ms ROGERSON:** Meaning whether or not he should have had that conflict of interest, and that is not for me to say. If he chose to go to the department, I have no knowledge of that because I was not in the office at that time.

**Ms SHING:** So it strikes me from what you are saying, though, that if Mr Bennie has identified a conflict of interest before taking a decision that is against the interests of I Cook, then in fact hasn't he done the right thing?

**Ms ROGERSON:** Not necessarily if he has got a conflict. Yes, he has owned up and said he has got a conflict of interest, but that conflict of interest affects I Cook Foods.

**Ms SHING:** Yes, but that is my point that I am trying to get to the bottom of. I am trying to understand how it is that in identifying that conflict of interest he has done something less than the standard required to declare a conflict of interest and to exempt yourself from the decision-making process in the first place. Again, you talk about how you have never seen this happen before.

**Ms ROGERSON:** No, never.

**Ms SHING:** I Cook, based on your five years of experience with them and what I think sounds to me like a very close working relationship in terms of the fact that you know each other—you had been working for the Cooks and I think you said for other large businesses, big manufacturers—you had never seen this before. I Cook had never been closed before.

**Ms ROGERSON:** No.

**Ms SHING:** At the point at which the conflict of interest is declared, it is around making a decision that was adverse, that negatively impacted upon I Cook. I am trying to understand how that is in fact something that in your mind warranted a whistleblowing situation where in fact he has done the right thing in declaring it. Help me to understand that.

**Ms ROGERSON:** The whistleblowing was not specifically targeted at any conflict of interest. It was for the falsification of my statement.

**Ms SHING:** Right; okay. So that then goes back to Mr Spicer, I think you had referred to, and their planning coordinator's request that you change your statements to sound the same so we could, quote, 'nail those bastards'?

**Ms ROGERSON:** Correct.

**Ms SHING:** And when was it that you got that request to change your statements? Was it after the 18th?

**Ms ROGERSON:** Yes. I was not at work.

**Ms SHING:** So you were on leave?

**Ms ROGERSON:** In early March, so it was probably around mid-March.

**Ms SHING:** Okay. So mid-March would have taken us to the period when I Cook was closed.

**Ms ROGERSON:** I believe they were still closed. I am not aware of the date. As I said again, knowing that I knew I Cook and everything, they kept me in the dark quite a bit. Leanne and management kept me in the dark.

**The CHAIR:** Ms Shing, you will have another time. You will get your own turn.

**Ms SHING:** I am happy to just forgo my turn if I can slot in one final thing in here. Based on WorkCover and the issues that you have got that you have talked about and the fact that that might be subject to a separate process—we will leave that to one side—do you have any history of performance assessment or management prior to this particular issue arising with I Cook?

**Ms ROGERSON:** No.

**Ms SHING:** So a completely unblemished employment history?

**Ms ROGERSON:** Yes.

**Ms SHING:** Okay. Thank you very much for that. There you go. I am done. Silence from here on in.

**Ms MAXWELL:** Sandra, thank you for coming. As others have acknowledged, this must be a very difficult time for you. My first question, which is what Ms Shing has just asked you in fact, was around your work ethic and professionalism, and has that ever been questioned before. There is certainly no disregard for you in that question, but I think that you have very satisfactorily answered that. My next question is: have you ever been coerced to fabricate documents in any other situation within your career?

**Ms ROGERSON:** Yes. Dandenong council has a habit of changing statements.

**Ms MAXWELL:** So what is done about that? What is the process for staff who are actually asked to do that? Does Dandenong council have a policy to ask you to fabricate documents?

**Ms ROGERSON:** Well, they do not tell you to fabricate. It is more, 'Can you change this and remove that?' or 'Add this'. So they think that they are amending your statement, but they are actually changing the flavour of what you were saying. My statement is my statement.

**Ms MAXWELL:** So you are saying the actual content and the meaning of the statement is actually—

**Ms ROGERSON:** And the meaning sometimes, yes.

**Ms MAXWELL:** Just my last question: when was your last conversation with Dandenong council in regard to their duty of care to support you? If you have had one, what was said in that regard?

**Ms ROGERSON:** I have not spoken to Dandenong council since I left there on 15 April. I put in for WorkCover on 3 May, so I have not spoken to anyone from Dandenong council and no-one has spoken to me.

**Ms MAXWELL:** So no-one has reached out to you?

**Ms ROGERSON:** No-one has reached out, no.

**Ms MAXWELL:** Thank you, Sandra.

**Mr ERDOGAN:** Thank you for coming along today to the hearing. I guess I have got a few questions, but I will keep them brief. One point I think you touched on was that the Dandenong council has a habit of changing statements. Have they done this to other businesses before?

**Ms ROGERSON:** Yes.

**Mr ERDOGAN:** That are facing—

**Ms ROGERSON:** Yes. The previous manager would always ask you to change your statement.

**Mr ERDOGAN:** What about this manager at the time?

**Ms ROGERSON:** Well, she was fairly new, so I did not have any statements that had to be written. She had only been there a year or 18 months or something—not for that long—and I had not had the need to do a statement concerning any premises.

**Mr ERDOGAN:** I understand. And you said that you went in on 1 February to the premises.

**Ms ROGERSON:** Yes.

**Mr ERDOGAN:** So did you personally collect the food samples?

**Ms ROGERSON:** I did.

**Mr ERDOGAN:** But what else did you do besides collect the food samples in your role?

**Ms ROGERSON:** On 1 February I went in there about 7.30 in the morning. I collected I think 23 samples in all, 12 food and 11 swabs. These samples I took—when you are doing a chain of custody you need a witness and another officer with you, so I took somebody with me and we ‘bagged and tagged’, as we say, and timed and temperature and everything. All food went into an esky with ice so it was temperature controlled, but you have a limited time to make sure all that food gets to where it needs to go.

**Mr ERDOGAN:** Have you ever dealt with the department before, because you said you did not deal with them on this occasion?

**Ms ROGERSON:** I called them when Leanne Johnson could not give me adequate information about the kind of samples that we required. I called Sally Aitkinson, and she said, ‘The lady was old. She didn’t know where she ate. She may have eaten here, there—we don’t know’. *Listeria* has a very long incubation, especially *Listeria mono*. It has quite a long incubation period, so she could have had something at Christmas dinner and it still would have affected her. But with also her other things that had affected her health, listeria would have affected her.

**Mr ERDOGAN:** Just one question, which Ms Shing already touched on but I just wanted to ask again in a different perspective. You said that the council CEO declared his conflict, and from that point on I guess council—you believe as an officer you are conflicted or your investigation is conflicted. In that case, what would be the appropriate body to investigate if council cannot? If council is conflicted, is it the department that is the right body to investigate?

**Ms ROGERSON:** Normally what happens if he is not there is he delegates, but this has come to the attention afterwards. When you think about the conflict of interest at the time and most of the time that somebody is closed or you need the CEO’s signature and he is not there, he delegates it, so it is delegated up the chain. There are various members that can sign that, so there was always somebody there who could have signed it.

**Mr ERDOGAN:** But do you believe because the CEO was conflicted the council officers would have been conflicted and that is why they did not sign it?



**Ms ROGERSON:** Perhaps. Again, it is difficult for me to answer. I was not there.

**Mr ERDOGAN:** Who can investigate, I guess—in a situation where council cannot investigate, would the department normally investigate? Or you have never seen the department ever in your time?

**Ms ROGERSON:** No. We would seek advice from the department of health in terms of if it was a notifiable disease of any kind. If it was a food-related issue, if it was an outbreak, we sought clarification from the department in terms of the numbers, where it was. But we were the ones that did the active work in terms of taking the food dyes, the history and all the legal work that was involved.

**Ms VAGHELA:** Thanks, Ms Rogerson. You mentioned that Dandenong council has a habit of falsifying documents, changing documents. Can you please give me some examples of the situations where the council have asked you to do that?

**Ms ROGERSON:** There have been quite a number. I cannot give you right now off the top of my head, but many, many times I have been told to change my statement for other cases, for other—

**Ms SHING:** You might want to take that on notice, if there are things that you cannot provide right now.

**Ms ROGERSON:** But I do not have access to council—

**Dr BACH:** Can we show Ms Rogerson a bit of respect and allow her to speak for herself? Is that all right, Chair?

**The CHAIR:** Mr Bach, please. I think given Ms Rogerson's position and having left the council and the reasons for her leaving—if there are things that you do remember, please feel free to let us know, but I am not going to request any further information.

**Ms ROGERSON:** I was not there. I left because I could not—

**Ms VAGHELA:** Yes. I will continue with my questions.

**The CHAIR:** Thank you.

**Ms VAGHELA:** I will just continue with my questions.

**The CHAIR:** Continue, Ms Vaghela.

**Ms VAGHELA:** So that means you are saying it has happened with other businesses, so why did you not raise or—

**Ms ROGERSON:** I did raise it many times with the previous manager, who pretty much told me that I was stupid, I did not know my job, he knew what he was doing and that I did not know how to write a statement, even though he was uneducated in terms of what we did.

**Ms VAGHELA:** So out of seven years that you worked at the Dandenong council, you have had dealings with I Cook for about five years?

**Ms ROGERSON:** Correct.

**Ms VAGHELA:** Over those five years, you have been in a situation where council has asked you to change documents for other businesses?

**Ms ROGERSON:** Yes.

**Ms VAGHELA:** You kept doing that but for this one, when it came to this, you maybe felt that now it was a time to probably—

**Ms ROGERSON:** This was over the top.

**Ms VAGHELA:** Okay. So in terms of the statement that you have prepared today, have you prepared your statement by yourself or have you shown the content of the statement to—

**Ms ROGERSON:** I have written many statements about this.

**Ms VAGHELA:** So the one that you read out today, here in the committee, was it prepared by you and in consultation with the Cooks, or is that just your statement?

**Ms ROGERSON:** I had no consultation with the Cooks at all. I have had very little contact with the Cooks at all. My issue is a separate issue; I am still trying to gain WorkCover and all the other things in what they have done.

**The CHAIR:** Thank you.

**Dr BACH:** I might pick up where we have left off, and again, thank you so much for being with us, Ms Rogerson. Regarding this insinuation of your connection with the Cooks, how would you describe your relationship with them? You have obviously worked alongside them—

**Ms SHING:** No, it is not an insinuation.

**Dr BACH:** Regarding your relationship with the Cooks, can I ask you a—

**Ms ROGERSON:** I do not mind answering this question.

**Dr BACH:** Let me ask the question, Ms Rogerson, if that is all right. Thank you so much. So would you describe your relationship as a personal one or is it a professional relationship that you have with the Cooks?

**Ms ROGERSON:** Professional. It was only professional.

**Dr BACH:** All right. Thank you very much. Now, in your experience—because we have talked about the shutting down of the Cooks' business—in your experience, what is the process for shutting down businesses? Would you mind talking us through that, the businesses that have breached the *Food Act*?

**Ms ROGERSON:** Sure. Normally, with a business that is below par, shall we say, and does not comply with the Food Standards Code, normally, you would have a chat with them and say, 'Look, you know, you really need to step it up' or 'You really need to do'—you know, 'This is what you need to do'. And then you go back the next day or something and you say, 'Okay. Look, you still haven't done this. I can still see rodent faeces; I can still see' blah, blah. And you would say, 'Okay, you need 24 hours. I'm going to give you 24 hours to' X, Y, Z. If it is still not done, then you would start writing notices. Then I would take it to the coordinator to say, 'Okay, here are some photos. This is what I've done. This is how I've done it. Where should we go?' or 'This is how I would like to proceed'.

So I have quite a bit of experience in that. I always like to give people the opportunity to correct details, because sometimes they are only minor details, minor things. There is not any single premises that I have ever been to that you could not find something. There is always something. And every time you do an inspection, it is a psychological, emotional kind of—you know, how to talk them through the process of what they need to do in order to satisfy health standards.

**Dr BACH:** Thank you very much. Have I still got a little bit of time, Chair?

**The CHAIR:** Yes, you do.

**Dr BACH:** Thank you very much. You talked about the report that you wrote and the pressure—

**Ms ROGERSON:** The sampling, yes.

**Dr BACH:** yes—that was placed on you to make changes.

**Ms ROGERSON:** Yes.

**Dr BACH:** Would you mind talking us through that in a little bit more detail? You talked about the fact that you were both pressured, if I remember correctly from what you have said already, Ms Rogerson, to remove some of the content that you already had in the report, and then to sign off on additional content. Would you mind providing us a little bit more detail about both those elements?

**Ms ROGERSON:** So my original statement was only approximately three pages long. I was asked to do a statement of my sampling, which is, 'I went to the premises. I took X, Y, Z samples and swabs of here, there and everywhere. I took X food, Y food—blah, blah', you include all those kinds of details, 'I left the premises at what time'—and that was it. So I did not have a conversation with Ben, as he alleged, and I do not believe Ian was there, so there were no further conversations with them. Also because I just had this strange feeling, that is why I chose to take it upon myself to do chain of custody and take a witness with me.

**Dr BACH:** So what was the purpose of adding in to the report, as you say, these ongoing conversations?

**Ms ROGERSON:** Mr Greg Spicer had wanted, as I said, all these statements to sound the same—to reflect poorly on I Cook. So when I said they were 'clean containers', for instance, he said, 'Take out the word "clean"'.

**Dr BACH:** Really? So that was one change he wanted.

**Ms ROGERSON:** That was one change. That was just one of many. So for instance in my professional opinion—he, remember, never works under the *Food Act* and never has—a clean container is a clean container. It is not a sterile container. It is what you would get your takeaway food in. It is a clean container, and that is what the samples were put into. So he made me take out all of those words that were favourable to the Cooks.

**Dr BACH:** Notwithstanding the fact that you have said from time to time in your role you were pressured to make changes to documents—quite specifically, by the sound of your testimony—did the nature of the changes that were requested of you here strike you as rather odd?

**Ms ROGERSON:** At times, yes.

**The CHAIR:** Just to remind you, Ms Rogerson, everything you say here is completely protected.

**Ms CROZIER:** Thank you, Ms Rogerson, so much for being here. I know it is very late. You have provided us with some very valuable information in your testimony, so I do appreciate you doing that. I want to go back to the point about Mr Spicer. As you said, he was the Planning Compliance Coordinator.

**Ms ROGERSON:** Correct.

**Ms CROZIER:** So why was he put into this position to be acting as an EHO?

**Ms ROGERSON:** I actually questioned Leanne; I actually did ask that question. I said, 'Why is Greg doing these? He's got no knowledge of the *Food Act*'. She said, 'Oh, he just knows what he's doing'. I just kind of felt that she was trying to pass the—that if something went south it was his fault kind of thing. I am not sure why he was doing it. I am not sure.

**Ms CROZIER:** So were those reports that were changed and altered then sent to the department of health for the Chief Health Officer to make the decision that he did?

**Ms ROGERSON:** I am unable to answer that because I was not there, and remember the other officer, Elizabeth Garlick, then took over when she got back to work. All I was involved in was the actual original sampling, which I did not get the results for.

**Ms CROZIER:** So you are not aware of—

**Ms ROGERSON:** Of went on, no.

**Ms CROZIER:** All right. So just in relation to again when you questioned the role of Mr Spicer, to go back to the point of the conflict of interest, I do not understand why the entire council would be in a conflict of

interest and why if he has come into that position, a very specific position in terms of the knowledge that you need to conduct the work that you need to be doing, and he did not have that experience—

**Ms ROGERSON:** I am not sure why he did it, Greg Spicer. I have no idea as to why he was putting these together. But I know that he was doing it. I was not privy as to why he was putting these together, but as I said, I did ask. But he is not an authorised officer under the *Food Act*.

**Ms CROZIER:** No, and my next point is if he is not an authorised officer—

**Ms ROGERSON:** He is an authorised officer under planning, compliance and all the other ones, but not the *Food Act* or the public health Act.

**Ms CROZIER:** And my next question is: because of this being such a significant decision in terms of the next steps that occurred, if he is not an authorised officer under the *Food Act*, have you had experience of anyone in that position before—

**Ms ROGERSON:** No, I have not.

**Ms CROZIER:** taking on the responsibility that he had?

**Ms ROGERSON:** No.

**Ms CROZIER:** No. It just seems curious that he had quite a—

**Ms ROGERSON:** Substantial, yes.

**Ms CROZIER:** role in this one decision and what happened.

**Ms ROGERSON:** Yes, correct.

**Ms CROZIER:** Did anyone else speak to you about their concerns about his position or what had happened?

**Ms ROGERSON:** No, they did not. It was eerily quiet, if I can say that. There was a lot behind closed doors that I was not privy to, so—

**Ms CROZIER:** But you did make the point in January that Ms Garlick said, ‘I think they have put me in this area to take people to court’.

**The CHAIR:** That was Ms Johnson.

**Ms ROGERSON:** It was Elizabeth Garlick, in mid-January.

**The CHAIR:** Ms Garlick?

**Ms CROZIER:** Was it Elizabeth Garlick? She said that?

**Ms ROGERSON:** Yes.

**Ms CROZIER:** Why would she say that? In what context?

**Ms ROGERSON:** Look, I do not know. She was known to enjoy the legal process of making briefs and putting things together and doing all that, and my own belief, or my own feeling, is there were some people that ended up in court questionably.

**Ms CROZIER:** How many health officers are there at Dandenong again?

**Ms ROGERSON:** There are six areas, so there are six environmental health officers.

**Ms CROZIER:** Okay. Just on that one point on the six health officers, were they consistent? Was there any sort of change in the roles that they were doing—like the planning officer with Mr Spicer—during your time? I

mean, I do not understand why they have gone back to the 2015 date. I do not understand why they asked you to go back to that date.

**Ms ROGERSON:** So they were looking for something. In other words, that might have been around the time I started with I Cook. Now, I think part of it is that there is a big difference between an environmental health officer and an auditor. We are not auditors. The auditors are totally different. We all have science degrees, environmental health degrees, but we are not auditors—right? We are there to do a little bit of this, a little bit of that, a little bit of this, a little bit of that in terms of the Food Standards Code that we work under, but we are not auditors listed with the department of health. So when we go in and do an inspection, we do so on an annual basis. And I do not know whether EHOs should actually be in manufacturers because there is no real need, and EHOs are not trained for manufacturing and the processes, because they are quite complex and EHOs are not necessarily trained, as I said. We have a science degree and environmental health and a lot of different courses and things that we have done. I was also an ex-nurse, so there is a lot of stuff that we do know, but we are not auditors—just to clarify that.

**Ms CROZIER:** I understand the difference. Thank you.

**Ms LOVELL:** Thank you for your evidence tonight; it is good. Is Community Chef's facility actually located in the City of Dandenong?

**Ms ROGERSON:** Good question. I think it is in Cheltenham, so I believe so, but I have never been there and never had any dealings with them.

**Ms LOVELL:** So given the really important role that local government play in food safety regulation as the regulator and inspector of food safety, do you think it was appropriate that Mr Bennie took a role on a board of a food-producing company?

**Ms ROGERSON:** You are asking for my professional or personal opinion?

**Ms LOVELL:** Well, I guess that, you know, this has created his conflict of interest. So is it appropriate that somebody who is playing such an important role puts himself in that position?

**The CHAIR:** Ms Rogerson, really, it is a personal opinion.

**Ms ROGERSON:** It is really not appropriate. Really, I mean, it is like, as I said, let's tell Hungry Jack's to go audit McDonald's.

**Dr KIEU:** Let us talk about the general culture at the city of Dandenong when you have been pressured to change the statement a few times in the past. The last time it was over the top, so you did not agree to that. So, first of all, did anyone know about you in particular being pressured, and is that kind of culture widespread in the city of Dandenong, particularly in your department?

**Ms ROGERSON:** The previous manager would change statements all the time because he wanted them to sound a certain way or whatever, and I am not sure whether he was in the transit police or anything and if he wanted them to be written how a police report would be written. But it is a little bit different when you are talking about food and bacteria and viruses and temperature control. It is little bit different, and it is more difficult to understand. So I am not sure why he did that and why he did not just accept my statement for my statement, which you would normally do in a court of law when you give evidence.

**Dr KIEU:** Is it a widespread culture?

**Ms ROGERSON:** It was, yes.

**The CHAIR:** Thank you. Ms Maxwell, I know you wanted to just quickly cover something off.

**Ms MAXWELL:** Yes, just quickly. I know it is late and everybody is tired, but I just wanted to say, Ms Rogerson, an apology for calling you by your Christian name previously.

**Ms SHING:** I did it too. It has been a long day. My apologies.

**Ms ROGERSON:** That is okay. Something else that I would like to point out: we talk about food as ready to eat or not ready to eat. So ready-to-eat food is a salad or a sandwich; it is ready right now, ready to eat. So if it is not ready to eat, it means it needs to go through heat processing to over 75 degrees. And we look at that kind of thing, the holding temperatures in bain-maries for temperature control, because the temperatures that bacteria like, as Ian says, are between 5 and 60. So these are the things that we look at in terms of safety—not necessarily the ponding of water. That is not necessarily going to affect the food that is ready to eat right that second. So it is about risk. We really look at the risks and how to apply them to the business.

**The CHAIR:** Thanks for that clarification, Ms Rogerson. It sounds like it is an extraordinary but impossible science to get everything perfect, but yes, this is about risk management. I very much appreciate your time. I appreciate everyone's time, the committee members' time. Thank you for making this time at such a late hour. Ms Rogerson, we will send you, as I mentioned, a transcript of this evening. We greatly appreciate you giving up your time for us this evening. And I think we can declare the hearing closed. Thank you, everyone.

**Committee adjourned.**