

TRANSCRIPT

LEGISLATIVE COUNCIL LEGAL AND SOCIAL ISSUES COMMITTEE

Inquiry into the Closure of I Cook Foods Pty Limited

Melbourne—Wednesday, 25 August 2021

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WITNESS (*via videoconference*)

Ms Kim Rogerson.

The CHAIR: Good morning, everyone. Welcome back to anyone who is watching at home, and we would like to welcome Ms Kim Rogerson, who is here in a personal capacity to help the committee.

Ms Rogerson, if I can let you know that all evidence taken is protected by parliamentary privilege, and that is provided by the *Constitution Act* but also under the standing orders of the Legislative Council. Therefore any information you provide during this hearing is protected by law. You are protected against any action for what you say during this hearing, but if you should go elsewhere or outside and repeat those same things you will not have the same protection. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

With me today we have Ms Georgie Crozier; Ms Wendy Lovell; Dr Tien Kieu, the Deputy Chair; Ms Kaushaliya Vaghela; Dr Matthew Bach; Ms Sheena Watt; and Mr David Limbrick. Did I say Mr Ondarchie? And Mr Ondarchie—my screens were moving around as we spoke.

Thank you very much again for making the time for this committee and for this inquiry. If you would like to make some opening remarks, then I will open it up for committee discussion. Thank you.

Ms ROGERSON: Okay. First off I just want to thank you for allowing me to attend today and give you some more information about what has been going on—2½ years now. But first off I just want to start by clarifying a couple of things that Ray touched on, because I was the one who did the original sample and there was no *Listeria*. Levels were not found in the factory, but they said they found them in the actual food. So I did samplings, swabbing out at the factories. And the levels of that food were within safe levels by law; they were completely safe. *Listeria* also has a very long incubation period. It can be from seven to 70 days, so it is a very long, long time.

Now, the lady was ill with symptoms before she went into Knox hospital on the 13th. She did come from a nursing home. As they said, she might have eaten something at Christmas time or something. We do not know. She also had several other comorbidities which would have contributed—maybe to her demise, but also to her illness. I do not know whether anybody had looked at the food from the nursing home when she came in there. We do not know.

Also Greg Spicer, as he said, does not work under the *Food Act*. He is a planning compliance coordinator, and I am not sure why he was one of the ones that went into the Knox hospital. That just seemed a bit odd to me. There was not an autopsy conducted, just to let you know of that. And there were four strains of *Listeria* that were listed there that were close to the genome, but they were all below normal levels. And also too, a couple of things: closure orders must be signed by the EHO, the coordinator of public health, the manager, the director and the CEO, so it does go through a lot of different levels in order to be acted upon. As I said, it is ubiquitous, *Listeria*; we find it everywhere. But *Listeria m* is particularly toxic to vulnerable people in the community and, as I think Ray said, elderly people with other comorbidities and also pregnant women.

PrimeSafe was the company who had provided the meat to I Cook and 100 other premises. I did ask the question, ‘Why isn’t PrimeSafe and the meat being tested?’, and I was told, ‘Oh, I think they are’. But then I was also told that the packaged ham that was used by I Cook was not listed, as they did not have that batch available, which I find hard to believe because big companies like this always keep batches, the batch codes, on site for future sampling. So that was fairly—

The CHAIR: Yes. Thank you, Ms Rogerson.

Ms ROGERSON: I will try and be fairly quick with my other evidence that I have written. I do want to say I was very, very shocked by some of the falsehoods that you were told during the previous hearings. At the time I was not sure what to do when I heard what I believed were lies after lies being told to you. Some of these lies were designed to smear me, and that was particularly hurtful. To hear from former colleagues, including my superiors at the City of Greater Dandenong, lying about me to cover up their crimes was truly shocking and also pretty destructive. Having already destroyed my career and big parts of my life, they then came into the

Parliament and did everything they could to destroy my good name. I have been away from the City of Greater Dandenong for over two years now, and only now do I feel safe to say that Dandenong council operates under a culture of corruption and bullying.

When I appeared in front of you last time, I was scared, and honestly, I was concerned for my safety. I also did not know whether I should only answer questions as in court or whether I was meant to tell you the things I believed that you should know. Since my appearance I have been interviewed by Victoria Police and have told them about witnessing Leanne Johnson and Elizabeth Garlick changing and doctoring photos and body-camera video which they knew were to be used in the evidence in the criminal trial against I Cook. I knew that this was wrong and illegal, but I did not realise the importance of it. But I can assure you I was horrified. I am happy to read to you an excerpt from my police statement that makes it clear that Leanne Johnson and Elizabeth Garlick were central to the alleged crimes against I Cook. I use the word 'alleged' because, despite numerous police investigation with overwhelming evidence and the passing of more than two and a half years, Victoria Police have not laid a single charge. I ask myself on a daily basis: where are the police, why haven't they acted and who is stopping them from doing their job and delivering justice, if that is what is going on? In fact the only ones who have faced charges in this scandal are Ian Cook and I Cook Foods, and every single one of those charges was based on a lie and subsequently dropped in court. Let me be clear: I Cook Foods would never have faced criminal charges. This whole saga stank from the start.

Council eventually turned on me when I refused to help illegally frame I Cook Foods. Looking back I now realise my fate was sealed when the supervisor of planning and compliance at council, Greg Spicer, asked me to lie in what was meant to become a sworn statement designed to destroy the Cooks. There were things I refused to have included in my statement, like the conversation at the meeting that I had with Ben that never took place. I never had a meeting with Ben Cook after I collected my samples. In the end I did sign a statement that others had contributed to, as I was scared I was going to be sacked and I felt I had no choice. Leanne knew of this, and she asked me to change some of the wording of that statement into my own words because Greg had written it in a different format.

I thought the public had a right to know the council corruption and corruption within the Department of Health and Human Services. Some of that corruption happened at a level that I was not able to witness. Other things happened in front of my eyes. I knew that Elizabeth Garlick would deliberately take close-up photos and then blow them up and print them in order to misrepresent the condition of the premises. I saw the photo of broken food processing equipment, including knives and whisks. Rather than being honest and acknowledging that these were being thrown out, she pretended they were in use, and a criminal charge was created using this photo. This was standard behaviour that I was exposed to. I could not believe it when the inquiry was told by Elizabeth Garlick that it was hard to see the piece of tissue in the photo of the slug that I had earlier seen her editing. She told this inquiry it was a copy of a copy of a copy, which is a lie. I am happy to talk about any further things and anything you would like to ask me about, but most of all thank you for allowing me to report to you.

The CHAIR: Look, thank you very much, Ms Rogerson. I appreciate that for you this has been quite a roller-coaster, and so we very much appreciate you continuing to give us your time. I will just open up the questions. I still cannot quite understand why Dandenong council was doing the investigation, because it seemed that the event occurred in Knox council. I would have thought that it would have been Knox council that would have been managing this investigation, seeing it was within Knox city.

Ms ROGERSON: That is right. Sometimes that can be a bit of a grey area. The factory that allegedly made the sandwich, or made the product, was in Dandenong South, and up until the end of 2017 it was under my jurisdiction. So that I think is why I was sent to do the samples, and as this patient had entered Knox hospital, they are the ones that should have done the investigation of the nursing home as well.

The CHAIR: Are you surprised that it appears that the hospital and the nursing home were not inspected at that time?

Ms ROGERSON: Absolutely. I am horrified actually, because if this lady went into the hospital with gastroenteritis symptoms on 13 January, why weren't samples taken right then and food history and also of the nursing home? They would have had those kinds of records available. I was not informed at all about anything

until 31 January. At the time she had been, I think Ray said, readmitted, and then I did the sampling on the 1st. So no other sampling occurred until later in February.

The CHAIR: Right. Just returning back to some of the comments you made about Ms Garlick's testimony to us and the photographs that she showed. You obviously witnessed her photoshopping those photos?

Ms ROGERSON: Yes, I did.

The CHAIR: Thank you.

Ms ROGERSON: Yes. I have it in my police report. I am happy to read it to you if you would like.

The CHAIR: Thank you. Ms Garlick and Ms Johnson painted a fairly dire picture of I Cook with the photos of the broken instruments and things like that. So as someone who had been inspecting I Cook for a number of years previously, did these seem quite a stark contrast to what you knew of that business?

Ms ROGERSON: That is correct. So they went in unannounced and walked in, and that was usually how I did my inspections for I Cook. I always asked the questions: 'Okay, what is this for? What is this?'. And the answers were such as: 'They're going to be disposed of'. Whatever questions they were, they answered them clearly and honestly. They did not in any form deserve what they received, and certainly not the—I think it was—7 tonnes of food that were disposed of by Johnson and Garlick.

The CHAIR: Yes. The photos that we saw did seem to show disrepair, did seem to show pooling et cetera. This would not have been what you would have regularly seen during your inspections at I Cook?

Ms ROGERSON: No. I believe at that time they went in while they were doing cleaning. The water on the floor is a fairly normal thing, but it is cleaned every night and it is dried. So it would have been very difficult to bring that up as a charge if they had known the company or if they had even spoken to me and asked these appropriate questions of the Cooks.

The CHAIR: Yes. Thank you, Ms Rogerson. I will hand over to Deputy Chair Tien Kieu.

Dr KIEU: Thank you, Chair. Thank you, Ms Rogerson, for appearing here today again. Just very quickly, you mentioned that there were a cover-up, bullying and also corruption, and you have referred that to IBAC. So what is happening now?

Ms ROGERSON: With IBAC—it is a good question. At this stage I think the last inquiry recommended that an outside force like IBAC start an investigation. As to IBAC and where they are, I am not privy to that information.

Dr KIEU: Okay. The other thing is you have been an EHO at the City of Greater Dandenong for some time. In a statement you said that I Cook has been shown to be professional and clean and safe for food preparation. I am not quite sure whether you are there in 2016 to 2018, but the City of Greater Dandenong raised at least 13 different issues. So how do you reconcile and explain that? Were you there from 2016 to 2018?

Ms ROGERSON: Yes, I was. I Cook is a very large manufacturer, and for any large manufacturer there is always something that could be done or a recommendation. It is very hard for any of these large manufacturers to have 100 per cent compliance. So any of those items would have been written down as suggestions or requests for them to fix, which the Cooks did straightaway.

Dr KIEU: So in terms of those recommendations, have you ever asked I Cook in the capacity of an officer to update food safety or to tend to those concerns?

Ms ROGERSON: If there was anything that was of a concern, yes, I would.

Dr KIEU: So with regard to the 13 issues, did you do anything?

Ms ROGERSON: Well, I am not quite sure what you mean or which report these 13 issues were in, but anything on a list, if there were 13 items to be done, would have been done by the Cooks.

Dr KIEU: Okay. In terms of the finding, it is still a puzzle to me, because of the scientific link, the genomic link, between the disease and the strain that was found at I Cook. They are not very common. So in your opinion why is there such a unique or closely related strain there?

Ms ROGERSON: I believe Ray actually gave a good pointer as to why. This unusual genome of the *Listeria monocytogenes*—those levels were in the safe levels of CFUs, which is the colony-forming units. These are levels that are given to us by the Doherty Institute and all of the microbiologists. They are levels that we go by when we say that it has or does not have *Listeria* or *Listeria m*, so it can still have it but be under safe levels.

Dr KIEU: Do I still have time, Chair?

The CHAIR: You have 50 seconds.

Dr KIEU: Just very quickly then, in terms of the batches. I did not hear you very clearly, I am sorry—did you mention that I Cook did not keep their batches for later?

Ms ROGERSON: No, no, no. That was PrimeSafe, which is the meat industry. So they are the ones that would send their authorised officers to the meat factories for inspections.

Dr KIEU: Okay. I think my time is up. I will wait for the next one. Thank you.

The CHAIR: Thank you. Ms Crozier.

Ms CROZIER: Thank you very much, Chair, and thank you, Ms Rogerson, for appearing before the inquiry again. We really appreciate your time. I would just like to follow up that issue about PrimeSafe. There are a couple of questions I have got here. You mentioned those who would close a business, who would be involved in that decision, is the environmental health officer; the coordinator of public health, I think you said; the manager, CEO and others. Correct me if I am wrong on that. So with PrimeSafe, if there was a meat product that was of concern, would you expect them to have been brought into the investigation for such a serious decision, to close a business, such as what happened with I Cook?

Ms ROGERSON: Yes, absolutely.

Ms CROZIER: So have you got any understanding why they were not brought into the investigation? Have you got any knowledge of why they would not or was it ever raised? These products were provided to I Cook from secondary suppliers or other suppliers. Why weren't they investigated as well?

Ms ROGERSON: Yes. I had raised that issue with the coordinator of Dandenong council, Leanne Johnson, and apparently, as I just said, PrimeSafe and where the Cooks got their meat from, their manufacturer, did not have the same batch number. Every food that we eat has a batch code number so you can trace it back. So apparently they did not have a batch of that number.

Ms CROZIER: So when did you raise that with Ms Johnson?

Ms ROGERSON: It would have been—I am not quite sure, but it could have been the middle of February, I would just warrant a guess. Yes.

Ms CROZIER: Okay. Could I just ask, in terms of the closing of the business, when you mentioned all of those individuals, all the people within those positions, could you just explain to the committee a little bit more why you bring people in when you are making this decision? Obviously it is a big thing to do, to close a business. People will lose their jobs, the business will ultimately lose business, and in the case of what we have seen with the Cooks it has destroyed their business. So could you explain to the committee a little bit more about that process?

Ms ROGERSON: Yes. So under the *Food Act* there is a way that it has to be signed. You cannot close a business with just an EHO, even though we are the person that is inspecting it. We make the recommendations, it goes to the coordinator, who then oversees the photos and everything else or does an inspection with that EHO. It then goes to a manager, who looks over it, and to the director, who signs off on it, and also to the CEO.

Ms CROZIER: Sorry, just to interrupt you, who are those people in that chain? You have got the coordinator, being Leanne Johnson. Who are the others?

Ms ROGERSON: Correct. So the manager at the time was Peter Shelton. Then we have that the director, Jody Bosman, and then we have the CEO, John Bennie.

Ms CROZIER: So all of those people would have known what was going to happen about the closure or the impending closure, based on the information that was provided to the council?

Ms ROGERSON: That is correct.

Ms CROZIER: Okay. Ms Rogerson, you have made some big claims in your evidence today about the cover-ups, the lying. You have talked about the doctored photos, but had you witnessed any other occurrences of where this has happened during your time at Dandenong?

Ms ROGERSON: No. This was over the top. It was—

Ms CROZIER: What do you mean by ‘over the top’?

Ms ROGERSON: It was as though—this is just my opinion—they had been given directions to follow it through to I Cook regardless of any of the other reports. As Ray said, he wrote a report earlier. And when I did the sampling of 1 February nobody else—it was not in my area then—had gone in after 1 February until the 22nd, I think it was, of February. They should have gone in beforehand. Yes, so—sorry.

Ms CROZIER: I think I have run out of time.

The CHAIR: You have. I will move to Mr Limbrick, thank you.

Mr LIMBRICK: Thank you, Chair. And thank you, Ms Rogerson, for appearing again. There are some very serious claims that you have made. One of the things I would like to understand, though, is—you talked about doctored photographs, and I think in your last testimony you talked about being influenced to change reports and things like this—what is the motivation here, do you think, to do this? Why would they want you to do that, and why would I Cook Foods be targeted like this?

Ms ROGERSON: For I Cook Foods to be targeted like this was very unfair and, as I said, again, over the top. It was just not right, right from the start. It just did not feel good. And some of the evidence that I had given last time as well—I think I have said that as well in that statement—yes, I am not sure.

Mr LIMBRICK: Okay. And you spoke in your opening remarks about corruption. What do you mean specifically by that?

Ms ROGERSON: There was—literally, as I said, I can read this part from my police report—the doctoring of the evidence and the changing of evidence. Now, one of the things was that when I had done my original sampling, I sent it off to MDU, but I did it under chain of custody. Leanne Johnson did not want me to, but I decided to do it anyway. So I am really glad that I did. So with the corruption of that is my statement, and also my initial statement that I did was shown to IBAC but it did not form part of the brief. And also when I witnessed what Elizabeth Garlick was doing in getting rid of the paper tissue out of the photograph, I knew it was very wrong.

Mr LIMBRICK: And you said that you were glad that you used the chain of custody. What was your fear of not using the chain of custody?

Ms ROGERSON: So Leanne did not say anything. She said, ‘Oh, I don’t know; it’s probably not necessary’, but I had a very strong intuition that I needed to do this. So I had called the department of health—there was a whole other story involved with that—and pretty much they said, ‘Oh, look, it doesn’t really matter’. But I did choose to do it on my own. What it does mean is that two officers are with the food at all times, so you cannot both disappear off to somewhere. It has to be in your custody at all times, which is what it was, and it was signed off as such at MDU. They were not sent to the Doherty Institute or any other place, these samples, because they were relating to a death—even though I did not know that at the time. This was the first. It was signed off at MDU as in the chain of custody.

Mr LIMBRICK: Did you fear that the samples might be tampered with?

Ms ROGERSON: Could be. You do not know. That is part of the doubt when you send something via courier to one of these departments. You have to be very sure that no-one has opened it and looked at it. We seal it with tape and all of that, but you just do not know what has happened. So I took that upon myself. I felt that it was imperative to follow that chain of custody.

Mr LIMBRICK: Thank you very much.

The CHAIR: Thank you. Ms Vaghela.

Ms VAGHELA: Thanks, Chair. Thanks, Ms Rogerson, for your time today to join us. My question to you is: why are food premises like I Cook Foods that produce meals for consumption by vulnerable clients in hospitals and aged-care services required to have a safety plan that outlines how they control and manage food safety hazards, including Listeria?

Ms ROGERSON: So you are asking why are they? That is mandated by the Department of Health.

Ms VAGHELA: So had you previously requested I Cook Foods review and update their food safety plan to be compliant with these requirements?

Ms ROGERSON: Only once did I ever have to do it, and it was a minimal change. It was more a formatting issue.

Ms VAGHELA: Okay. So they did have a food safety plan?

Ms ROGERSON: Yes, they did.

Ms VAGHELA: Okay.

A member: It was a formatting issue.

Ms ROGERSON: Correct.

Ms VAGHELA: Okay. So if they did have this, what is the usual process undertaken by people like you—EHOs—when notified by the Department of Health about a case of Listeria in the community? What sort of record-keeping and documentation requirements are there for EHOs inspecting local food premises?

Ms ROGERSON: Are you specifically—

Ms VAGHELA: What sort of record keeping do you do?

Ms ROGERSON: Okay. We write a report. At the time that I did my sampling, on 1 February, there was not any time to do an inspection. So an inspection of a large manufacturer takes several hours. I was only there to do the sampling that day. In order to get it under chain of custody and to MDU takes a quite a long time, because you have a lot of forms to fill in and you have to maintain temperature. So that is one of the things that I did. Sometimes you would do an inspection just afterwards. At that time I did not do an inspection, and as I said, these premises were not in my area after 1 January 2019, but they were not inspected even after the death of the lady. The EHO, who was Elizabeth Garlick, did not do any other sampling.

Ms VAGHELA: We had Leanne Johnson from the City of Greater Dandenong, who confirmed that DHHS found that the business did not have a Listeria management plan. Is that correct?

Ms ROGERSON: No, that is not correct. The Listeria management plan—all big manufacturers always have that in their food safety plan, and theirs was for the clean-up. They knew what to do. They are a large manufacturer. They knew what to do, and they did.

Ms VAGHELA: So they knew. But in terms of record keeping, were you able to see whether they did have it? Because that is what our understanding was—that they did not have it.

Ms ROGERSON: They had a pest report to be done, and the Listeria plan was of the clean-up. So, yes, they would have had that. They did have that actually.

Ms VAGHELA: Because, as Dr Kieu was saying, we have been given a list of a few of the findings. At I Cook Foods there were 13 findings. In the past, particularly in 2017, there was—

Mr ONDARCHIE: These have been asked and answered. They have been asked and answered.

The CHAIR: Excuse me, Mr Ondarchie, you will have your turn. Thank you.

Ms VAGHELA: So, yes, *Listeria mono* was found in 2017. I just wanted to know, if it was found in the past, whether there was a Listeria management plan and I Cook Foods knew how to handle an outbreak?

Ms ROGERSON: Yes, they did.

Ms VAGHELA: So they did have. So what is the standard practice taken by local government to enforce the *Food Act* when areas of concern are identified at a food production premise?

Ms ROGERSON: We do an inspection and we write a report and we send it to them, and then, if necessary, we follow up.

Ms VAGHELA: So some of the programs—

The CHAIR: I am sorry, Ms Vaghela.

Ms VAGHELA: I will come back to it.

The CHAIR: Ms Lovell.

Ms LOVELL: Kim, thank you for your presentation. I would just like to go to the point that Dr Kieu raised—and again it was raised by Ms Vaghela—that there had been 13 items that had previously been investigated with I Cook. But weren't they all investigated and I Cook cleared of any wrongdoing in those 13 items?

Ms ROGERSON: Yes.

Ms LOVELL: Thank you. You explained that any large manufacturer would have a number of issues raised over time. How often in your experience do those sorts of issues occur?

Ms ROGERSON: I inspected these places at least once, sometimes twice a year, because I went in without making an appointment, and they usually had something that had to be done.

Ms LOVELL: Thank you very much. And could we just ask about the photos of the water lying on the floor in I Cook's factory? Do you know what time these photos were taken and why the water was there?

Ms ROGERSON: I believe they were doing some cleaning, so obviously there would have been water on the floor if they were cleaning. I am not sure of exactly what time. I think what is foremost and should be reiterated is that the editing of legal evidence and the tampering with this evidence is more important than some water on the floor.

Ms LOVELL: Excellent. I would just like to ask—you said earlier that you have been asked to lie in a statement, and basically it sounded as if you had been given a statement that was already written for you by somebody else and then you were asked to put some of it into your own words. Is that standard practice? Has that ever happened to you before?

Ms ROGERSON: Not with the previous coordinator, no. There were some times that the manager—the previous manager, Peter Shelton—would ask us to do that, but normally I would write my own statement. But in this case Greg Spicer, the coordinator of planning compliance, was the one doing my statement, or adding and changing things. I did ask about that, and I was told, 'Oh, he knows what he's doing'—Leanne said. And I did question her as to why the planning compliance coordinator was putting together statements under the *Food Act*.

Ms LOVELL: It seems to me you think there was quite a deal of pressure within the City of Greater Dandenong to have this finding against the Cooks to close them down. How far up the tree in the City of Greater Dandenong do you think that pressure was coming from?

Ms ROGERSON: The CEO, and then perhaps outside sources.

Ms LOVELL: And when you say ‘outside sources’, do you believe those sources were within the government, within the department or in other companies?

Ms ROGERSON: I believe the department of health.

Ms LOVELL: Department of health.

Ms ROGERSON: And there was also another manufacturer—that was Community Chef—as well. There were issues surrounding that too.

Ms LOVELL: And why do you believe that the department of health and Community Chef would have been putting pressure on the city of Dandenong to close down I Cook Foods?

Ms ROGERSON: Look, probably the best person to ask questions of like that would be Ian, who will be on this afternoon. He can give you a more thorough answer to that.

Ms LOVELL: Okay. Do you have an opinion yourself?

Ms ROGERSON: At this stage I do not really want to give my own opinion.

Ms LOVELL: Okay. All right. Thank you.

The CHAIR: Thank you. Ms Watt. Sheena Watt.

Ms WATT: Good afternoon, Ms Rogerson. Thank you so much for appearing before us today. I was not around last time, so I just have a few questions for you. I will start with the first one. You had quite significant experience as an environmental health officer, as you were outlining in your opening remarks. Based on your professional training and your knowledge of the *Public Health and Wellbeing Act 2008* and the *Food Act*, I am just wondering: do you think that it is an acceptable risk to knowingly allow food to be supplied to vulnerable cohorts in healthcare settings, particularly pregnant women, people that are immunocompromised, the elderly and others, particularly if it has been manufactured in a kitchen where there is evidence of *Listeria* contamination?

Ms ROGERSON: No, it should not be given to them.

Ms WATT: Excellent. Thank you. So what responsibility did the City of Greater Dandenong and furthermore the department have to respond to the findings of the food samples collected at the premises of I Cook that indeed tested positive for not one but four strains of *Listeria*, noting also that the deceased patient’s sample contained a strain that was highly related?

Ms ROGERSON: I cannot comment to what happened or what was said at different echelons of hierarchy.

Ms WATT: It is more about: what are the responsibilities, in your view, of the City of Greater Dandenong to respond to the findings of the sample?

Ms ROGERSON: All right. So when I got the original samples back, in which all the swabs were fine—all the other samples were within normal levels—I had a conversation at that time to let the Cooks know that they needed to do a *Listeria* clean-up, which requires chlorine and everything to be washed down and cleaned, which they did do.

Ms WATT: Which they did do. I just had a question: for five years, indeed, you had responsibility for the area that covered I Cook and had particular responsibility for I Cook over those five years. I am just wondering: what steps did you take to ensure you avoided any biases in your reporting and ensure that your inspections were rigorous and objective?

Ms ROGERSON: Ian will attest to that. He actually said that I was tough but fair.

Ms WATT: Okay. And what about you? What things did you personally take on board to ensure that you were free from any influence of those organisations?

Ms ROGERSON: I did not know them out of work; I had no conversations with them out of work, so I treated them like any other manufacturer.

Ms WATT: Okay. All right. I just was keen to know what steps you had taken as the previous inspector. Thank you for that. I reckon I might be about done, Chair, so thank you.

The CHAIR: Great. Thank you. Deputy Chair.

Dr KIEU: Thank you. In your opinion there were some very serious things that happened up to the CEO level and outside influences, including other manufacturers and perhaps the department of health, which are very serious if proven. So do you think those are the motives for the changing of your statement? So the first question is: do you still have the original statement that you wrote? And secondly, what has been changed and to what effect?

Ms ROGERSON: Okay. So my statement was actually changed. There were four versions of it, and I have, I believe, three versions of it but I do not have the original first one. The Dandenong council would not give that to me after I left, so I only have the last three. As to whether the statements were changed because of influence from the CEO, I cannot answer that because the only people that had influence on my statement were Leanne Johnson and Greg Spicer at that time.

Dr KIEU: Yes. In signing the order for the closure or temporary closure of I Cook, the acting Chief Health Officer at the time did say that, and may I quote:

No one single piece of information was used in isolation to come to that decision. Rather, it was the collective picture of public health risk ...

So what do you think about that decision? Because, according to what Professor Sutton said, there were several or collective evidences. Do you think that was the appropriate action?

Ms ROGERSON: I was not there—actually at work—when that happened, so I was not privy to conversations or anything that went on, and again, as I said, I was not the EHO for that area.

Dr KIEU: Okay. This has come back through the genomic evidence. You mentioned that this is at a lower or safe level of Listeria.

Ms ROGERSON: Correct.

Dr KIEU: Is that level mandated or is it just—

Ms ROGERSON: Yes, it is mandated by the state government and all of the registered microbiology units, like Doherty Institute.

Dr KIEU: Do you think that the level is safe even for people that are vulnerable, like pregnant women, like the elderly, like immunocompromised people?

Ms ROGERSON: Well, they should not be given that food to start with.

Dr KIEU: Sorry, what do you mean by that?

Ms ROGERSON: Food that is of high risk to that vulnerable cohort should not be given to those people. So you would have to question the scientists at these various institutes as to why they chose those levels.

Dr KIEU: Even though it may not be set for those people?

Ms ROGERSON: Again, you would have to ask them about their criteria for making those levels.

Dr KIEU: The other thing, quickly, is that you just mentioned that you have made some statement to the police for the investigation.

Ms ROGERSON: Yes, I have.

Dr KIEU: Is it available to the committee?

Ms ROGERSON: Yes, I can read it to you. I will read you the statement—just the paragraph of what was said.

Dr KIEU: It is up to the Chair. We may not have the time.

The CHAIR: Ms Rogerson, I wonder if you would be willing to send a copy of that to the committee secretariat.

Ms ROGERSON: Okay.

The CHAIR: Thank you. Dr Kieu, you have 30 seconds.

Dr KIEU: Thirty seconds—I think I will wait for my next round.

The CHAIR: Okay, thank you. Mr Ondarchie.

Mr ONDARCHIE: Ms Rogerson, thank you for presenting today and being so open and frank with us. I know it must cause you a great deal of stress. I almost feel like paraphrasing Hamlet today: something seems rotten in the state of Dandenong. But I would like to ask you about your relationship with the City of Greater Dandenong as you went through this process and now.

Ms ROGERSON: Okay. Oh, gosh. That is a can of worms. My relationship at the time with Dandenong when this all came out in the open was tenuous, because there was some bullying, some definite gaslighting. There were conversations and things that I was told that were not very nice in nature, to the end of which, after I had completed an investigation they wanted me to do, they then took me off my work.

Mr ONDARCHIE: Okay. And since you have departed, in terms of your support et cetera, how has that been?

Ms ROGERSON: I have had nothing from Dandenong. I had a few emails to begin with, which I found quite stressful, so I requested that they did not contact me.

Mr ONDARCHIE: Okay. Did you have access to employee support, like WorkCover or anything like that?

Ms ROGERSON: Yes, I did. I tried for that, but it was refused not once but twice. But they refused to go to mediation. For the WorkCover, when I applied for it, they would not agree to it. And they also had a letter from a lawyer sent to the self-insurer of Dandenong council asking to deny my request.

Mr ONDARCHIE: Who is the self-insurer?

Ms ROGERSON: At that time it was JLT. JLT then became MAV Care. John Bennie, the CEO at that time, sat on the board of MAV Care.

Mr ONDARCHIE: At the time that your claim was rejected?

Ms ROGERSON: Yes.

Mr ONDARCHIE: I will come back to that. How much time do I have left, Chair?

The CHAIR: Two and a half minutes.

Mr ONDARCHIE: Thank you. Then I would like to take that opportunity, because I am really interested: could you read me that paragraph that you wanted to talk about?

Ms ROGERSON: Yes, sure. Okay.

It was only after CGD dropped all criminal charges that I became aware of the doctored image on the brief of evidence against I Cook. The evidence they produced to support this charge was the photograph taken by Garlick, and I assume her statement. Garlick did not have her camera on that day.

Actually, sorry. I am looking at—sorry, I am reading the wrong thing. Anyway, okay.

In approximately mid-March to early April I was standing at my desk. The office is open plan to allow people to look across the entire floor. Garlick's desk was directly behind mine and only approximately 2 metres away. I heard Garlick and Johnson speaking softly behind me. This was unusual and appeared sneaky. I found this suspicious and began looking over at them. I heard Johnson say something along the lines of, 'Why is there a hold-up? Why is media and comms taking their time? Would you be able to do this?'. That was a question to Elizabeth Garlick. Garlick responded, 'Yes, I would'. Johnson said, 'Well, go and get it'. She was referring to a thumb drive. I saw Garlick's computer screen, which had the image of a slug on the concrete flooring. In the lower left-hand side of the image were the remains of a white tissue. However, I could clearly distinguish the slug, tissue and floor. The slug would have been approximately 2 centimetres in length and the tissue evidence approximately 4 to 5 millimetres in length. There was only one individual piece of tissue. I know this picture was taken by Garlick on approximately 18 February 2019 from an inspection she undertook of I Cook. It was alleged that Garlick located this food within the manufacturing area at I Cook. The photo was open on her screen and I saw Garlick with a little red circle on the screen, which I believed to be some kind of cropping tool in the program. The red circle was around the tissue remnant like it was going to be removed from the picture. I asked Garlick and Johnson what they were doing. Johnson said, 'Just cleaning it up and removing personal conversations', which was the photos and video. I turned back to my desk and continued working.

The CHAIR: Thank you. We will just have to leave that. Thank you. Ms Vaghela.

Ms VAGHELA: Thanks, Chair. Chair, I would highly appreciate it if Mr Ondarchie does not interject while I am asking the question in my allocated time, because he has done it twice. My questions are not directed to him, they are directed to the witnesses. Thank you.

The CHAIR: Thank you.

Ms VAGHELA: So I would like to ask Ms Rogerson. She has alleged that she was asked by the council staff to add information and the observation of things that never took place during her inspection of the I Cook Foods facilities, and she said that she was instructed to delete words or sentences from her report. What I want to know is: was Ms Rogerson the only EHO who was asked to do this or were other EHOs also asked to amend the reports?

Ms ROGERSON: Again, I do not know whether other officers were asked. I did not read their statements. In the past they have been. And I just want to reiterate again that this was not an inspection that I did. I only went there on 1 February to do samples for MDU.

Ms VAGHELA: Yes, but historically were you the only one asked to change the reports, or were other EHOs also asked by the council staff?

Ms ROGERSON: There were many times in the past, for other premises, that I was asked to change, modify, add words, delete them in my statement, yes.

Ms VAGHELA: Did you raise that issue with anybody?

Ms ROGERSON: Yes.

Ms VAGHELA: And nothing was done?

Ms ROGERSON: Correct.

Ms VAGHELA: The photos that we have seen of the I Cook Foods inspection that was done show off disrepair. If you had gone to do that inspection, would that have been of concern to you?

Ms ROGERSON: It would have, but those photographs were taken—as I have said here and was going to read: Elizabeth Garlick had a camera that would zoom into a very, very small area, whereas I would take a true photograph of that area, which was more honest.

Ms VAGHELA: So Ms Rogerson, have there been other instances in your time working as an environmental health officer for either the City of Greater Dandenong or another employer where you felt it

was not necessary to act upon reports of food safety concerns, including the presence of Listeria and foreign objects in foods? Have there been any other instances in your time working as an EHO, whether at the Dandenong council or another employer, where you saw a few safety concerns and you did not report? Were there any other instances?

Ms ROGERSON: No, I reported everything in my reports.

Ms VAGHELA: And as the environmental health officer responsible—because you said you were responsible for five years out of seven years that you worked at Dandenong council—what steps did you take to ensure that you were conducting inspections in a very vigorous and objective way?

Ms ROGERSON: Okay. That has been answered already, and I also answered that in, I believe, the last parliamentary inquiry. So I have just answered that.

Ms VAGHELA: So there was no potential bias there?

Ms ROGERSON: No.

Mr ONDARCHIE: Come on.

The CHAIR: Continue, Ms Vaghela. You have 1 minute.

Ms VAGHELA: Thank you very much. Thank you, Chair; I am done.

The CHAIR: Thank you. Dr Bach.

Dr BACH: The previous questioner could have just asked the same question for a third time, to see if she got a different answer. Ms Rogerson, thank you so much for having the courage to present to us again. I want to say at the outset that when you talk about the hardship that you have gone through, and bullying and harassment in particular, I believe you. At the first inquiry I was sat very close to you, and I still have such a strong recollection of how much you shook, if you do not mind me saying, as you were giving your evidence. You were clearly incredibly scared, and I think, given that Labor Party members of this committee saw that the first time around, the way that they have quite shamefully again today gone after you is quite dreadful, Ms Rogerson—

The CHAIR: Dr Bach, please, if you would like to stick to questioning Ms Rogerson, rather than commenting on other members.

Dr BACH: Ms Rogerson, did officials at Dandenong council plant that slug?

Ms ROGERSON: Yes.

Dr BACH: Under questioning from other members, it has consistently been put that, despite what you have said, which I think is very useful for us, about Listeria being ubiquitous—that was the word you used earlier in your evidence—shouldn't this step, this nuclear step of shutting down I Cook Foods, have been taken based on the evidence that is being presented? If I Cook Foods had represented such a significant public health risk, would you, in your experience and given your expertise, have expected some other people to have become sick?

Ms ROGERSON: Absolutely, yes.

Dr BACH: Okay. Thank you. There were some questions earlier about record keeping and whether or not the record keeping of I Cook Foods was appropriate and adequate. I was taking some notes as you were talking, but I confess my notes are not fulsome. Was the record keeping of I Cook Foods at this time appropriate or not?

Ms ROGERSON: Yes, they were. It was appropriate.

Dr BACH: Okay. And look, without wanting to comment on other members, they have got more front than Myer, Ms Rogerson, for going after record keeping, given the appalling state of the report, if you can call it that—the government report—on which I Cook Foods was shut down. I mean, if Myer was still actually operating, given the government's COVID bungles, well, then, they have got more front than it.

The sandwiches—that was obviously given as the reason for shutting down I Cook Foods, the fact that this poor lady had consumed sandwiches, and yet earlier on we heard that it was actually impossible that this lady could have consumed sandwiches from I Cook Foods. This may be beyond your remit, but you have not had an opportunity to comment on that quite startling evidence, which really was the key catalyst for reopening this inquiry.

Ms ROGERSON: Yes. Look, as Ray said in his reply before, you could not say unequivocally that this lady ate something or anything—sandwich—from I Cook Foods.

Dr BACH: And yet the Chief Health Officer, even though a report had been provided to his underling before I Cook Foods was shut down, specifically gave I Cook Foods sandwiches—despite what Dr Kieu said earlier about a range of factors, the Chief Health Officer specifically gave the sandwiches from I Cook Foods as the reason to shut down this business?

Ms ROGERSON: That is correct.

Dr BACH: All right. Thank you. Nothing further from me, Chair.

The CHAIR: Thank you, Dr Bach. Ms Watt.

Ms WATT: Thanks, Ms Rogerson, for sticking with us. I might be the last one. I was not around last year for this inquiry, so my apologies if my questions were particularly harsh to you. I was not familiar that there was shaking and other things that Mr Bach spoke of. I do have a question for you. I will be quite quick. Having previously been an inspector, I know just how very challenging this work can be—not in food, I must confess, though. The report from the last inquiry—I will just go to that—states, and the committee found, that the closure order signed by the acting chief officer was prepared and served on valid grounds and for proper purpose. Can you explain to me in your opinion what you believe to be valid grounds and a proper purpose for the issuing of a closure order?

Ms ROGERSON: Okay. Just to save time, I go back to Ray's testimony just an hour or so ago, when he explained that system to the panel. It was exactly the same kind of pattern that we would do as well at Dandenong council.

Ms WATT: Okay. And if there are in fact vulnerabilities there with the service of that food to vulnerable cohorts, do you believe that the standard in fact should be quite stringently held? I mean, we are talking about people who are immunocompromised and pregnant, so their risk there is incredibly high. And we have seen the unfortunate death that happened. Do you have any commentary on a particular standard difference between those food settings that provide to the general public and those that provide to the high-risk cohorts?

Ms ROGERSON: Not at this time. Again, you would have to ask that of the scientific institute.

Ms WATT: Okay. That is all right. Did you have any thoughts or commentary to be made about conducting those checks and the standards which you apply when they actually are providing food services to vulnerable cohorts such as immunocompromised and sick people?

Ms ROGERSON: Are you talking only about manufacturers or are you talking about—

Ms WATT: Food manufacturing, yes.

Ms ROGERSON: All manufacturing? Yes, there is.

Ms WATT: So is there a different, higher standard when it comes to Listeria plans and other things, or is it essentially the same?

Ms ROGERSON: It is essentially the same.

Ms WATT: Okay. And that includes—what do you call it?—the clean-up and the things that need to happen afterwards?

Ms ROGERSON: Correct.

Ms WATT: All right. So there was just some earlier evidence around the acceptable level, and you will excuse me because it was quite technical—100 grams per something.

Ms ROGERSON: CFUs are colony-forming units, so that is how it is plated. And that is where the scientists or the specialists would count those units, yes.

Ms WATT: Yes. Thank you for explaining that. I just wonder: is there a difference between those acceptable levels when it comes to food manufacturing places that are providing services to vulnerable cohorts versus those that provide services to—

Ms ROGERSON: It is the same level.

Ms WATT: They are the same level, all right. It is not that clear. All right. I believe that is it for me, unless there is more time remaining, Chair.

The CHAIR: Thank you, Ms Watt. Ms Rogerson, thank you very much for your time again today. We appreciate it no end. Thank you for your candour and certainly your stoicism and courage in continuing with us. That concludes this part of the hearing. The committee will take a break and reconvene at 12.45. Thank you, and thank you again, Ms Rogerson.

Ms ROGERSON: Thank you for having me.

Witness withdrew.