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Proposals for regulations under the Food Act 2014 – Cost Recovery

Local Government New Zealand's submission to the Ministry of
Primary Industries

20 February 2015

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We are. LGNZ.

LGNZ is the national organisation of local authorities in New Zealand and all 78 councils are members. We represent the national interests of councils and lead best practice in the local government sector. LGNZ provides advocacy and policy services, business support, advice and training to our members to assist them to build successful communities throughout New Zealand. Our purpose is to deliver our sector's Vision: "Local democracy powering community and national success."

This final submission was endorsed under delegated authority by Lawrence Yule, President, Local Government New Zealand.

Introduction

Thank you for this opportunity to submit on the cost recovery proposals for regulations under the Food Act 2014 ("the Act"). This submission has been prepared on behalf of New Zealand's territorial authorities, who have a regulatory role under the Act.

LGNZ is a member of the Territorial Authorities Steering Group that has assisted the Ministry of Primary Industries ("the Ministry") with the development of the Act to date. We look forward to further engagement as these proposals are progressed into regulations.

Consultation questions

We are generally comfortable with the cost recovery proposals outlined in section 7 of the consultation document. Our specific comments on the Ministry's consultation questions are as follows:

i. **Do you feel that territorial authorities are able to develop cost recovery systems without an immediate requirement for regulations prescribing methodologies to be used?**

LGNZ consider that territorial authorities should be able to develop cost recovery systems without an immediate requirement for regulations. Section 205 of the Food Act 2014 sets out the process for setting fees, and territorial authorities are guided by the well-established consultative procedures that are set out in the Local Government Act 2002.

LGNZ, however, would like to discuss with the Ministry the possibility of developing guidance material for territorial authorities.

We are aware that both territorial authorities and businesses have raised concerns regarding the transparency and consistency of fees and charges. There are currently variations in the percentage of cost recovery and overhead allocation approaches adopted by territorial authorities. It is worth noting that:

- territorial authorities make decisions about cost recovery, and consequently the fees they charge, across a whole range of services they provide and will typically work towards consistency of approach across the territorial authority;
- the cost of implementing regulations will vary between areas, so if a cost recovery model is applied, fees will subsequently vary; and
- a territorial authority may choose to subsidise their fees.

There is also pressure on territorial authorities to keep costs low, while many territorial authorities face additional workloads to implement this Act and other statutory changes.

LGNZ consider that a coordinated approach between territorial authorities and the Ministry would be of value in addressing these concerns. Possible guidance material could look at issues such as (but not limited to):

- what costs are considered acceptable to be incorporated in overheads;
- whether a default fees structure, such as that adopted for the Sale and Supply of Alcohol Act 2012, would be of benefit under this Act; and
- where concerns have been raised, how cost recovery approaches could be more effectively communicated to the industry.

The Territorial Authority Steering Group would be an ideal starting point to begin this discussion.

Recommendation:

Following the completion of the regulations, the Territorial Authority Steering Group and the Ministry initiate discussions on the possibility of guidance material on cost recovery approaches for territorial authorities.

ii. What, if any, issues do you think may arise from maintaining the status quo in relation to Crown funding for the development of standards?

LGNZ is comfortable with maintaining the status quo and can foresee no issues with this approach. The development of Ministry policy and the development of standards should be treated as a public good and therefore funded through Crown funding.

iii. Do you agree that fees and charges are generally the most appropriate systems for cost recovery for services provided under the Food Act? Do you have any alternative suggestions?

LGNZ agree that fees and charges are the most appropriate systems for cost recovery for services provided under the Act. We have no alternative suggestions.

iv. Are there any methods in addition to management monitoring you can suggest to make sure that processes are delivered in a timely and cost-effective fashion?

We encourage the Ministry to ensure that any information on a review of fees and charges is communicated to affected parties in a timely manner. It is important that the results, and any consequent changes, from a review are transparent.