

Policy C9: Compliance and Enforcement



Purpose

The purpose of this Compliance and Enforcement Policy is to set out how PrimeSafe fulfills its compliance and enforcement functions under the Meat Industry Act, the Seafood Safety Act and the Food Act.

It addresses:

- (i) PrimeSafe's approach to compliance and enforcement;
- (ii) our compliance and enforcement functions;
- (iii) the tools that are available to address non-compliance; and
- (iv) the principles that underpin our decision-making.

Policy

SCOPE

This policy provides guidance to PrimeSafe staff and informs industry and the public about how PrimeSafe approaches compliance and enforcement. This policy does not set out PrimeSafe's compliance and enforcement strategic priorities.

GLOSSARY

In this policy:

compliance refers to a person's ongoing adherence to the obligations imposed on them by the laws administered by PrimeSafe.

enforcement means the use by PrimeSafe of our influence, authority and/or powers to achieve or compel compliance.

Food Act means the *Food Act 1984*.

Meat Act means the *Meat Industry Act 1993*.

Meat Regulations means the *Meat Industry Regulations 2025*.

Seafood Act means the *Seafood Safety Act 2003*.

COMPLIANCE AND ENFORCEMENT FUNCTIONS

In broad terms, PrimeSafe has two streams of compliance and enforcement functions. The first relates to facilities (including vehicles) and businesses that we licence (referred to here as “licensees”); the second relates to facilities and businesses that are required to be licensed but are not (or “unlicensed entities”).

Licensees

All licensees are required to comply with licence conditions that incorporate food safety standards and practices particular to the nature of the business or the facility it operates. In most instances, licensees are required to have a food safety program, and to engage an independent auditor—sometimes referred to as a Conformity Assessment Body—to have compliance with that program verified from time to time.

Where an auditor detects non-compliance with a food safety program or other obligation, the auditor may make a “corrective action request” (or “CAR”) of the licensee. A CAR:

- (i) explains the deviation from the obligation;
- (ii) identifies why the issue occurred;
- (iii) sets out the actions taken to eliminate the cause; and
- (iv) describes a means by which effectiveness of the correction can be verified. Auditors classify non-compliance as “minor”, “major” or “critical”, where:

Minor – A low risk situation: A non-conformance with the requirements of the standard (including a non-conformance with the licensee’s documented management system and food safety plan) where the potential impact of the non-conformance is not likely to compromise meat or seafood safety.

Major – A potential high-risk situation: A non-conformance with the requirements of the standard (including a non-conformance with the licensee’s documented management system and food safety plan) where the potential impact is likely to compromise meat or seafood safety if no remedial action is taken to correct the non-conformance within a specified period.

Critical – A high risk situation: A non-conformance with the requirements of the standard (including a non-conformance with the licensee’s documented management system and food safety plan) where the potential impact of the non-conformance is of substantial and/or immediate significance to meat or seafood warranting immediate corrective action.

Auditors are required to report all major and critical CARs to PrimeSafe for our assessment. We will then decide what response is appropriate, taking into account factors including:

- (i) whether the CAR is an isolated issue or whether it appears to indicate systemic issues with the operation of the business or facility.
- (ii) whether the alleged contravention involved or caused harm to any person, or the likelihood that it could have caused harm.
- (iii) whether previous enforcement action has been taken against the licensee and if so, whether that action related to the same issue(s).
- (iv) the seriousness of any action previously taken (e.g., whether the person was prosecuted).
- (v) whether the licensee has shown disregard for their obligations or is uncooperative with the auditor.

The types of responses available to PrimeSafe in response to major and critical CARs include:

- (i) requiring that the licensee submit to additional and/or more frequent audits for a specified period. This response may be appropriate where the CAR suggests a systemic issue that can be corrected with an auditor's education and support; it facilitates self-correction without escalation to an enforcement response.
- (ii) sending an inspector to conduct an unannounced inspection of the premises. Like an auditor, PrimeSafe's inspectors check for compliance with the obligations that apply to the business or facility. Unlike an auditor, however, an inspector may exercise statutory powers to gather and secure evidence that may be relied upon to take enforcement action, such as the imposition of a licence condition, suspension or cancellation of licence, or a criminal prosecution.
- (iii) requiring the licensee or the facility's operator to attend for an interview. This assists PrimeSafe to identify the root cause of non-compliance and will be considered (generally in conjunction with other responses) where non-compliance is repeated and an escalated enforcement response may be warranted.
- (iv) requiring a meat inspector to perform certain functions in accordance with their Meat Inspection Agreement.

Unlicensed entities

PrimeSafe considers that unlicensed entities pose a real risk to food safety (and therefore public well-being) because we cannot verify whether facilities and businesses that operate outside of the licensing scheme meet the standards required of lawfully operated businesses. For this reason, prosecution will generally be considered where unlicensed operations are identified.

APPROACH TO COMPLIANCE AND ENFORCEMENT

PrimeSafe has available to it a number of "tools" to address non-compliance. These are set out in the Compliance and Enforcement Tools section below, but their application is guided by the following principles.

PrimeSafe's response to non-compliance—and our role as a regulator more broadly—is protective rather than punitive. In other words, PrimeSafe's role is not to punish contraventions but to take the steps necessary to protect consumers of meat and seafood produced in Victoria from the consequences of unsatisfactory food handling practices. In doing so, our work also secures the reputation of the Victorian meat and seafood industries for both domestic and international markets.

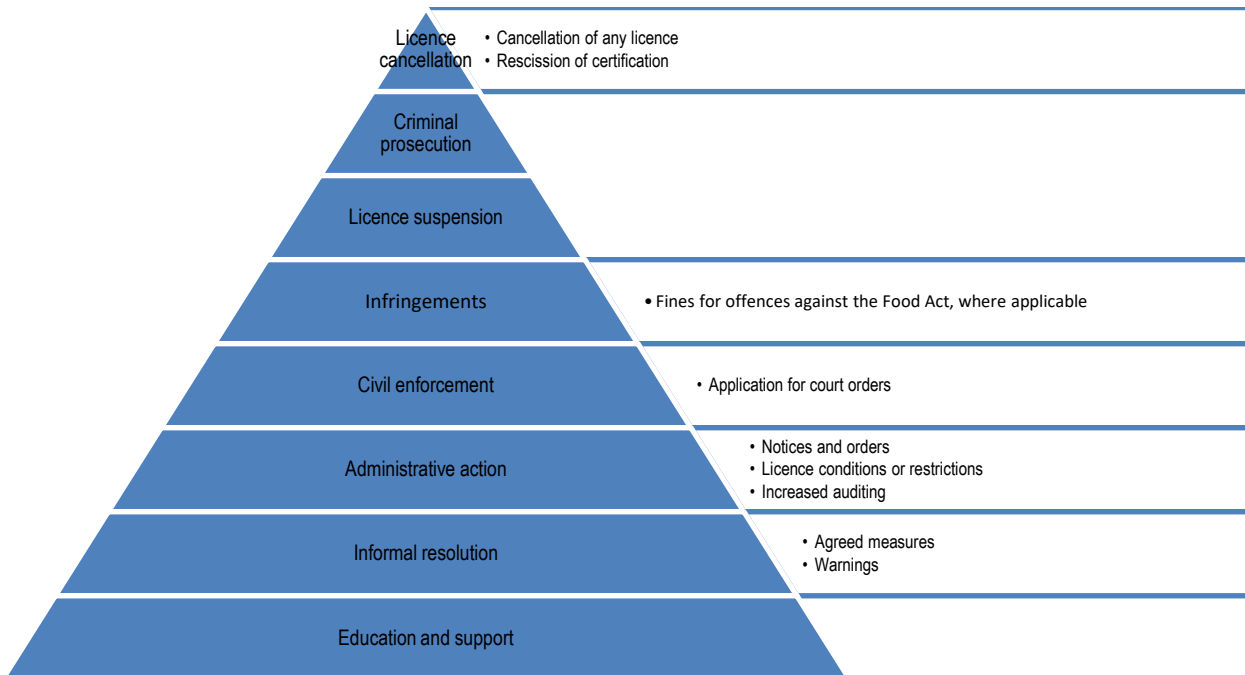
Like many regulators, PrimeSafe adopts a responsive regulatory model that escalates enforcement actions from informal resolutions to more serious interventions: in broad terms, the more serious the contravention, the more interventionist PrimeSafe's response is likely to be. The degree of seriousness, in turn, is usually assessed against the risk associated with a contravention (see "Assessment of seriousness" section below). This approach emphasises both our commitment to encouraging voluntary compliance unless or until a firmer response is required. It also recognises that most non-compliance is not wilful and can be readily corrected, and so the highest level of intervention is generally reserved for those who do not wish or have chosen not to meet their obligations.

PrimeSafe uses a graduated enforcement model. Most issues are resolved through education and corrective action. More serious or repeated non-compliance may result in stronger regulatory action, including prosecution or licence cancellation.

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The diagram below sets out how PrimeSafe's compliance and enforcement activities escalate from industry-wide education and support to criminal prosecution and licence cancellation where the non-compliance is particularly serious:



Factors which influence the selection of regulatory action:

In determining which “tool” is the most appropriate in a particular circumstance, PrimeSafe will generally have regard to the following factors:

- the seriousness of the alleged acts or omissions, including whether these were of a merely technical nature.
- the need to protect the public, having regard to how the product was harvested, manufactured, handled, stored or transported.
- the need to maintain public confidence in Victoria’s meat and seafood industries.
- the need to deter similar acts or omissions.
- whether any person was harmed in connection with the alleged contravention.
- whether the alleged contravention raises a matter of general or special importance.
- whether the alleged contravention involved dishonesty, or behaviour that was wilful or reckless.
- the personal circumstances of the offender.
- the extent to which the person has acknowledged their conduct and demonstrated a willingness to change.
- the extent to which the person cooperated with PrimeSafe during its investigation of the matter.
- whether the contravention is an isolated incident or is a consequence of systemic failures.
- whether a court outcome may assist to determine the rights of others (for example, to seek compensation).
- whether there is a history of complaints about the business or facility, and the extent to which any such complaints have been substantiated.
- the likely expense and effectiveness of using a particular tool.
- whether there are any grounds for special leniency.
- any other relevant consideration.

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Assessment of seriousness

In considering the seriousness of a contravention, PrimeSafe employs a structured, multi-factored framework that focuses on, and weighs up: harm (whether actual or potential); culpability; scale; duration; and the extent to which the conduct departed from the statutory purpose. This may be expressed in the following matrix:

Factor	Low	Medium	High
Harm	Minimal	Moderate	Significant or systemic
Culpability	Inadvertent	Negligent	Reckless/intentional
Duration	Isolated	Repeated	Systemic/long-term
Scale	Few	Multiple	Widespread

In this framework, harm is the primary driver of seriousness. Harm may be actual or potential:

- **actual harm** may involve financial loss, physical injury or illness, environmental damage, market distortion and/or loss of consumer confidence.
- **potential harm** involves consideration of foreseeability, and whether the risk—if eventuated—could have caused widespread, systemic or significant damage, or harm to vulnerable persons.

Consideration of the scale and duration of a contravention involves an assessment of the number of people (if any) affected by the conduct, its persistence or repetition, while an evaluation of a person’s culpability involves objective evidence of the person’s state of mind (that is, whether the conduct was deliberate, negligent or inadvertent).

The assessment of seriousness will also have regard to the purpose of the laws administered by PrimeSafe—principally, public health and consumer protection—and any penalty imposed by the law with respect to a contravention. For example, a contravention that may attract a term of imprisonment is objectively more serious than a contravention that may attract a small fine or an administrative sanction.

COMPLIANCE AND ENFORCEMENT TOOLS

This section describes the various enforcement “tools” at PrimeSafe’s disposal for the purpose of promoting compliance.

Education and support

It is the responsibility of those engaged in the meat and seafood industries to understand and comply with the laws and other obligations that apply to them. PrimeSafe publishes guidelines and other documents on its online [Resources Library](#). It engages with industry and experts to ensure that its guidance is up-to-date and consistent with best practice. We also offer support, in the form of advice, about the steps that a business needs to take to be compliant, and in some instances can offer template documents such as food safety programs.

Education is a foundational tool in promoting compliance and driving consistent and safe industry practices. Wherever PrimeSafe encounters non-compliance, we draw attention to the relevant requirements and offer advice as to where further assistance may be obtained.

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Informal resolution

Almost all identified non-compliance will require some form of corrective action. So long as doing so is consistent with PrimeSafe's approach to compliance and enforcement, the preferred method of addressing non-compliance is through an immediate and informal resolution.

"Informal resolution" refers to an agreement or arrangement between PrimeSafe and the licensee to correct an issue. Such an agreement is generally accompanied by the provision of education or support to the licensee to correct any misapprehension about the licensee's obligations. Examples of informal resolution include:

- an undertaking to take a minor corrective action (such as cleaning a surface or disposing of a product);
- an agreement that the licensee amend its food safety program to clarify or change a process;
- the imposition by consent of conditions or restriction on the licence.

Informal resolution may be used in conjunction with other compliance and enforcement tools but is generally not available for an unlicensed meat processing facility, meat transport vehicle or seafood business.

Informal resolution is always dependent on the consent or agreement of the licensee; without cooperation, PrimeSafe must consider compulsory processes.

Administrative action

"Administrative action" is a broad term referring to a response that relies on a statutory power or function but that does not involve the initiation by PrimeSafe of a court process. Administrative actions are not available with respect to unlicensed facilities, vehicles or businesses.

The types of administrative actions that we can take are:

Directions and prohibitions

Under section 74 of the Meat Act or section 53 of the Seafood Act, the Chief Executive of PrimeSafe may, by notice in writing:

- (a) direct that animals be removed from a meat processing facility;
- (b) prohibit the use of a meat processing facility for a specified purpose;
- (c) prohibit a person from using, or allowing the use of, a particular vehicle as a meat transport vehicle;
- (d) prohibit a person from using, or allowing the use of, meat transport vehicles generally;
- (e) direct that seafood be removed from a premises or vehicle; or
- (f) prohibit a person from using a premises or vehicle in relation to a particular seafood business.

A direction or prohibition is a targeted measure used to address a serious deficiency in a facility or business. Although a notice does not prohibit the operation of a whole facility or business, it can result in considerable disruption to ordinary operations.

A notice making a direction or prohibition will only be issued if the Chief Executive Officer has considered a report from an inspector or authorised officer on the subject matter of the notice, and considers that it is in the interests of public health that the notice be issued. It is a criminal offence for a person to fail or refuse to comply with such a notice.

Because these notices may only be issued in the interests of public health, failure to comply will generally warrant a robust response. That response will usually involve a written demand for immediate compliance with the notice and may be followed by an application for an enforcement order, a criminal prosecution and/or the suspension or cancellation of the

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person's licence.

Orders under the Food Act relating to food business and primary food production

Under section 19 or 19AA of the Food Act, if PrimeSafe is satisfied from the report of one of its inspectors that:

- (a) premises at, on or from which food is sold or handled with the intention that it be sold is unclean, unsanitary or in a state of disrepair;
- (b) food being prepared, sold or handled at the premises is unsafe or unsuitable;
- (c) food is being prepared, sold or handled at the premises in manner that is likely to make it unsafe or unsuitable, we may make an order directing that the premises:
 - (i) be put into a clean and sanitary condition;
 - (ii) altered or improved to the satisfaction of the authorized officer; or
 - (iii) that specific steps be taken to ensure that food prepared, sold or handled is safe and suitable.

An order may be made with respect to "food premises" (section 19) or "premises on which primary food production and related activities are carried out" (section 19AA).

Like the notices given under section 74 of the Meat Act or section 53 of the Seafood Act, these orders are directed at protecting public health.

An order may also direct that, until such time as compliance is achieved, food must not be sold, or prepared or handled for sale, or that the premises or specific equipment must not be used for a specified purpose. If it does so, PrimeSafe may direct that a copy of the order be affixed to a conspicuous part of the premises so that it can be read by a member of the public from outside the premises, at the point of sale and/or on the business's website, and PrimeSafe may also publish that it has made an order.

It is a criminal offence for a person to fail or refuse to comply with a section 19 or 19AA order, or to remove an order from display.

Like section 19A of the Food Act, the Meat Act and the Seafood Act provide that inspectors and authorised officers may make orders or give directions for the cessation and/or rectification of matters that may adversely affect public health. These powers are found at regulation 35 of the Meat Regulations, section 72(2)(d), (m) and (n) of the Meat Act, and section 31(2) of the Seafood Act. Those orders or directions can be given immediately but are not liable to publication. It is also an offence to fail or refuse to comply with an order or direction given by an inspector or authorised officer.

Orders relating to employee or food handlers

Under section 19B of the Food Act, a PrimeSafe inspector may order, in relation to an employee or other person engaged by a food business to handle unpackaged food, that steps be taken to:

- (a) to ensure that the person or their clothing is put in a clean and sanitary condition; or
- (b) to alter or improve the method of handling of unpackaged food by that person; or
- (c) to ensure that the person ceases to handle unpackaged food until diagnosed by a medical practitioner as not suffering from a condition that is liable to render unpackaged food unsafe or unsuitable.

An order may only be given if the inspector is satisfied that there has been a contravention of the Act by an employee or other person engaged by a food business to handle unpackaged food.

It is a criminal offence for a person to contravene an order under section 19B.

Variation of a licence to impose conditions or restrictions

PrimeSafe may vary a licence during its term to impose conditions or restrictions on the conduct of a meat processing facility or seafood business, or the use of a meat transport vehicle. Doing so can be an effective means of addressing issues that PrimeSafe considers to be systemic and that require correction, but without suspending or cancelling a licence. For example, a licence may be varied to require certain plant or equipment be introduced to facilitate more effective compliance monitoring, or to require that additional expertise be brought into a business to ensure its future compliance.

Licence variation can be by consent or can be undertaken unilaterally, subject to procedural fairness requirements.

Because it is an offence to fail to comply with a licence conditions, a licence variation is an escalated response to non-compliance: in effect, it gives a licensee direction as to steps that are needed to ensure future compliance and it leaves open the prospect of prosecution, or licence suspension or cancellation if those steps are not taken.

Whenever PrimeSafe proposes a licence variation, we will invite and give careful consideration to any submissions that the affected licensee may wish to make.

Increased inspection frequency

Most meat processing facilities and meat transport vehicles are required to undergo periodic audits and inspections. Under regulations 25 and 34 of the *Meat Industry Regulations 2025*, PrimeSafe may determine the timing and frequency of inspections having regard to the potential danger to public health and any contraventions of the Act or regulations. Seafood businesses are similarly required, by licence condition, to engage with approved inspection services and submit to regular auditing.

In response to non-compliance, PrimeSafe may determine that a meat processing facility, meat transport vehicle or seafood business is required to submit to inspections more frequently for a fixed period of time or, in some instances, permanently. More frequent inspections may be required where serious non-compliance has been identified and it is necessary to monitor the implementation of process changes over a period of time and/or where there has been repeated or regular non-compliance. Engagement with an inspection service also serves an important educative function because it enables the licensee to receive additional feedback and advice about its practices.

Because inspection services are fee-based, increasing inspection frequency has cost consequences for the licensee. PrimeSafe will generally only require additional inspections where:

- it forms the view that the licensee's processes or procedures are seriously defective;
- the licensee has agreed to correct those processes or procedures; and
- PrimeSafe considers it to be in the public interest that implementation of the corrections be monitored; and
- there will be an educative benefit to the licensee.

Civil enforcement

The Meat Act and the Seafood Act, at sections 74A and 54 respectively, provide that the Chief Executive Officer of PrimeSafe may apply to the Supreme Court for an **enforcement order** requiring compliance with any notice made under section 74 or section 53. The Chief Executive Officer will generally only make an application for an order if they form the view that:

- a person is subject to a current and valid notice made under section 74 of the Meat Act or section 53 of the Seafood Act; and
- the person was served with the notice; and
- the person has failed or refused, whether in whole or in part, to comply with the notice; and

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- the failure or refusal was more than minor or inconsequential, and/or was contumacious (that is, wilful).

If a person continues their non-compliance with a section 74 or section 53 notice even after an enforcement order is made, the Chief Executive Officer may apply to the Court for the person to be dealt with for contempt.

Unless there are exceptional circumstances, the Chief Executive Officer will in all cases seek an order that the respondent pay PrimeSafe's costs in any enforcement order application or for the subsequent enforcement of an enforcement order, and PrimeSafe will enforce any such order in accordance with its policies and procedures.

Infringements

Under section 56A of the Food Act, a PrimeSafe inspector may serve an infringement notice on a person if they have reason to believe that the person has committed an offence. An infringement notice is an on-the-spot fine, and can exceed \$2,000 for each offence.

Licence suspension or cancellation

The following general principles apply to both suspension and cancellation:

PrimeSafe will suspend or cancel a licence only where:

- one or more of the grounds for suspension exists under section 22(2) of the Meat Act or section 14(2) or 15(2) of the Seafood Act (as the case may be); and
- we consider that suspension or cancellation protects or is in the interests of public health; or
- we consider that suspension or cancellation protects or maintains the credibility of the relevant licensing scheme; or
- suspension or cancellation is otherwise consistent with the objects of the Meat Act or the Seafood Act; or
- upon the written request of the licensee.

With the exception of a licensee-initiated suspension or cancellation, PrimeSafe will usually only suspend a person's licence if we decide that non-compliance with the relevant Act or regulations is only likely to be corrected if the licence is suspended. We may form this view, for example, where the licensee has failed to pay overdue fees despite reminders, or if essential plant or equipment is defective and the facility, business or vehicle cannot operate in a compliant manner without the plant or equipment being repaired, replaced or in some other way maintained.

Except where a licensee has requested the suspension or cancellation, a person whose licence may be suspended or cancelled will in all cases be afforded a reasonable opportunity to consider and respond in writing to the grounds upon which PrimeSafe proposes to suspend the licence and PrimeSafe will take into account any such submission before making a decision.

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Suspension

The suspension of a licence is a temporary or time-limited cessation of the activities of a business or facility, or the use of a vehicle, and is usually imposed:

- to facilitate cleaning, maintenance, repairs or other improvements that are necessary to ensure compliant operation of the facility, business or vehicle; or
- pending payment of outstanding fees or other costs to PrimeSafe or to approved inspection service; or
- during the absence of an operator; and
- where it is neither appropriate to cancel the licence nor to permit the facility, business or vehicle to operate unless or until some circumstance or issue is changed.

The decision to suspend a licence can have serious consequences for the licensee, its business and those affected by its business.

Cancellation

The cancellation or revocation of a licence terminates the licensee's permission to operate a meat processing facility, use or own a meat transport vehicle, or conduct a seafood business (as the case may be). It has the immediate result of rendering unlawful any further facility operation, vehicle use or ownership, or business conduct, and can have significant financial and other consequences for the affected licensee and its employees, family members, investors, creditors and/or other stakeholders.

Rescission of certification

Under regulation 37 of the *Meat Industry Regulations 2025*, a person who operates a game processing facility must only accept for processing the carcass or meat of deer taken from a wild state by a person approved in writing by PrimeSafe. Thus, it is a function of PrimeSafe to give approval to persons who may supply game processing facilities with deer carcasses or deer meat. These approvals are referred to as "field harvester certifications".

PrimeSafe may rescind a certification where we decide that the certified person is no longer a fit and proper person to be held as a person who can be entrusted to supply game processing facilities with deer carcasses or deer meat. In considering whether a person is fit and proper for the purposes of a field harvester certification, PrimeSafe has regard to the person's honesty, knowledge and ability. This includes having regard to the factors listed in section 16 of the Meat Act.

A person who is unable to fulfill the inherent functions of a field harvester (for whatever reason) is not entitled to be approved by PrimeSafe as a person who may supply game processing facilities with deer carcasses or deer meat.

Criminal prosecution

Depending on the particular offence and the nature and circumstances of its commission, the consequences for a person found guilty of committing a crime can be significant. Those consequences include not only adverse court orders (such as the recording of a conviction, the imposition of fines and/or a term of imprisonment) but also possible statutory restrictions on the person's future entitlement to operate certain types of facilities or businesses. Prosecutions can also require substantial resource commitment and so divert PrimeSafe's limited resources from other activities. For these reasons, criminal prosecution sits at or near the apex of PrimeSafe's enforcement pyramid and is considered when:

- the alleged conduct caused or could have caused harm or loss to a person and the actual or potential harm was more than minor or trifling; or
- the alleged conduct diminished or could diminish public confidence in the safety or suitability of food produced or sold in Victoria, or the regulation of food; or

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- the alleged conduct is repeated and there is a need to deter the person from further offending; or
- the person has operated a facility, business or vehicle outside of the licensing scheme and so has not been subject to proper monitoring; and
- no other response is sufficient for general or specific deterrence.

Prosecutions are usually instituted by PrimeSafe inspectors and are subject to the supervision and direction of the Chief Executive Officer. PrimeSafe requires that its inspectors only bring and maintain a prosecution if doing so is consistent with the [Policy of the Director of Public Prosecutions for Victoria](#), noting in particular that there must be a reasonable prospect of conviction and that the prosecution is in the public interest.

If we bring a prosecution, where appropriate, PrimeSafe may ask the court to make corrective advertising orders, forfeiture orders or other ancillary orders.

Unless there are exceptional circumstances, PrimeSafe will in all cases seek an order that an offender pay PrimeSafe's costs in bringing a prosecution and we will enforce any such order in accordance with our policies and procedures.

OBLIGATIONS

In performing its compliance and enforcement functions, PrimeSafe abides by:

- all relevant confidentiality and privacy laws, including in particular the *Privacy and Data Protection Act 2014*, the *Health Records Act 2001*, and section 57 of the *Meat Act*;
- the *Charter of Human Rights and Responsibilities Act 2006*; and
- the [Victorian Model Litigant Guidelines](#).

PrimeSafe also expects that any prosecutor acting on our behalf will be familiar with and abide by the prosecutor's duties set out at clause 29 of the *Legal Profession Uniform Law Australian Solicitors' Conduct Rules* or rule 83 of the *Legal Profession Uniform Conduct (Barristers) Rules*, as the case may be.