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Mr Gordon Cooper
Director - Enforcement Group
WorkSafe Victoria

By email only:

c/o Michelle Repacholi michelle_repacholi@worksafe.vic.gov.au
cc Patrick D'Arcy Patrick_darcy@worksafe.vic.gov.au

18 December 2020

Dear Mr Cooper,

I refer to my letter of 29 September 2020 requesting certain employers and individuals be prosecuted under the Occupational Health and Safety Act 2004 (Vic) (the Act) for their respective failures in relation to the Victoria Government Hotel Quarantine Program. I also refer to your letter received yesterday but dated today (18 December 2020) advising that you have not at this stage initiated any prosecution rather that you are continuing investigating into those matters. Further that you will provide an additional progress report within 3 months of 18 December 2020.

To continue my support for your investigation, I have attached several documents to this letter to assist your efforts to bring prosecutions against those who have contravened the Act.

First, it should be clearly understood that the use of hotels to quarantine people during a pandemic has been accepted practice internationally for many years. For example, The Hong Kong Department of Health, Centre for Health Protection has had Hotel Quarantine Guidelines and procedures since at least 2007 when it published revised [Guidelines on Infection Control and Infection in Hotel Industry \(Revised\) November 2007](#) (Attached relevant documents x four. See references below). It was therefore undoubtedly reasonably practicable for those involved in the planning, operation and monitoring of the Victoria Government Hotel Quarantine Program to have had safe systems of work ready and available.

The attached are several of many of the documents which clearly show that the relevant employers and persons contravened sections 21(1) and 23 respectively, in that they did not provide and maintain safe systems of work in relation to the Victoria Government Hotel Quarantine Program, which meant that they did not provide and maintain working environments for employees that were safe and without risks to health and that persons other than employees were not exposed to risks to their health or safety as a result of those failures.

For example, in his sworn evidence to the Coate Inquiry Luke Ashford (Authorised Officer) stated that the expected practice of OH&S alerts following incidents was not followed. He said,

“Following the Stamford Plaza outbreak, there was no alert, no new instructions or guidance and no lessons learned. Each outbreak was treated like a secret and nothing seemed to change in terms of the Program’s operation, practice and procedure.”

Dr Julian Rait in his sworn statement provided evidence of an email from Dr Nathan Pinski stating that Covid-19 test results were not being provided to doctors over the phone and that,

“This is complete contrast to normal clinical communications practices for both urgent and routine results.”

He warned

“This is placing individuals at risk”

I look forward to your next report now due on 18 March 2020 with your advice concerning the status of the WorkSafe investigation.

Yours sincerely

Ken Phillips
Executive Director
Self Employed Australia-

Attached

- [Guidelines on Infection Control & Prevention In Hotel Industry](#)
- [Health Advice for Hotel Industry on serving guests with history of travel to or resided in the Ebola Virus Disease \(EVD\) affected areas](#)
- [Preventing Severe Acute Respiratory Syndrome \(SARS\) Guidelines for Hotels](#)
- [The role of the hotel industry in the response to emerging epidemics: a case study of SARS in 2003 and H1N1 swine flu in 2009 in Hong Kong](#)

ADDENDUM

Coate Inquiry Exhibits

Email from Dr Nathan Pinskiier to Brett Sutton
13 April 2020 Exhibit 93 - Annexures to Witness Statement of Dr Julian Rait.

Some COVID-19 tests are being sent to VDRL and some to Melbourne Pathology. The VDRL results are taking up to 5 days to arrive and are communicated to the doctors only if they ring up VDRL and are then sent to the hotel by fax. VDRL has refused to provide the results to the doctors over the phone. This is complete contrast to normal clinical communications practices for both urgent and routine results. This is placing individuals at risk. Test results should be provided in a timely manner and preferably be sent by a seamless electronic solution not fax with a direct call to the doctors and nurses for all COVID-19 positive results...

To date doctors have been recording clinical notes on paper as too have the nurses. The quarantine protocols and 14 day rule needs clarification. The doctors have advised that persons are being sent home from quarantine after 14 days irrespective of their COVID-19 status.

Witness Statement – Luke Ashford
Ranger Team Leader – Parks Victoria
Deployed as Authorised Officer in Hotel Quarantine Program
Exhibit 23

Pn 11. On 25 May 2020, I had my first shift with the Program at the Pan Pacific Hotel. It was a Monday evening shift from 3pm to 11pm. I recall it was very busy with a large number of detained guests. At this time, I still did not know what my AO role would involve. I had no clue what I would be doing.

Pn 12. Notwithstanding that I had not been issued with my AO identification, and should not have been allowed into the hotel, I walked straight into the Pan Pacific hotel. No one stopped or challenged me. I wandered around for about 15 minutes. I did not know where I was supposed to be. There was no-one in an official capacity to instruct me on where to go or how the Program works.

Pn 13. I received a 10-minute shift 'hand over' from a female AO who was originally from New Zealand. I was provided with a Department AO quarantine procedure document that was a draft. This document had been printed and left at the AO desk. I still didn't know what I was meant to be doing.

Pn 26. When I asked the woman about the circumstances of the request, I believe she lied to me. I had doubts about her leave request, so I asked the Department AO Team Leader to ask Victoria Police to do a spot check to ensure she was at the designated location and was following the conditions of the Temporary Leave Permit. My concerns were just dismissed. I was told by the Department Team Leader that Victoria Police would not want to deal with it.

Pn.38. There was no formal procedure for complaints or issues to be raised

Pn 50. In the ordinary course, if a serious OH&S incident occurs within my usual work-place, there would be an alert put out straight away. This did not occur during the Program. Following the Stamford Plaza outbreak, there was no alert, no new instructions or guidance and no lessons learned. Each outbreak was treated like a secret and nothing seemed to change in terms of the Program's operation, practice and procedure. I only knew about the Stamford Plaza outbreak because of what occurred with my colleague. In my opinion, the risks were not taken seriously enough by those running the Program.