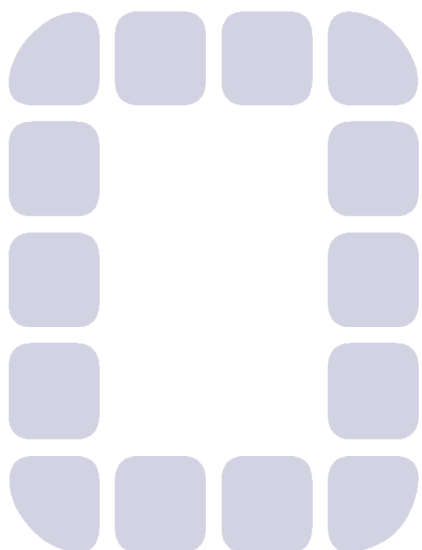
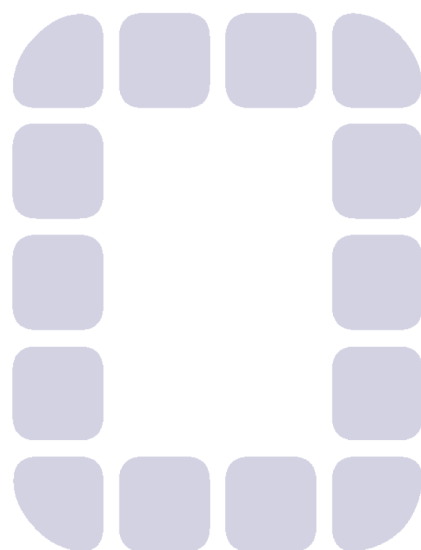
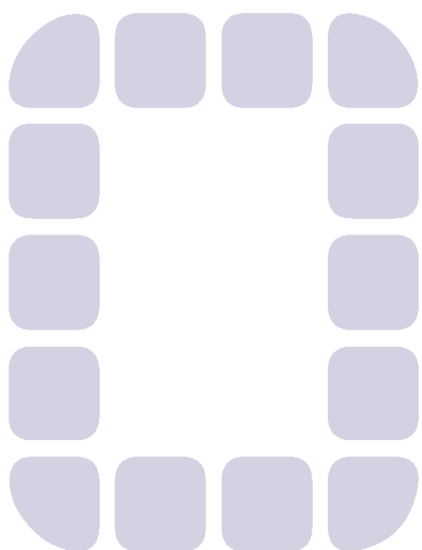
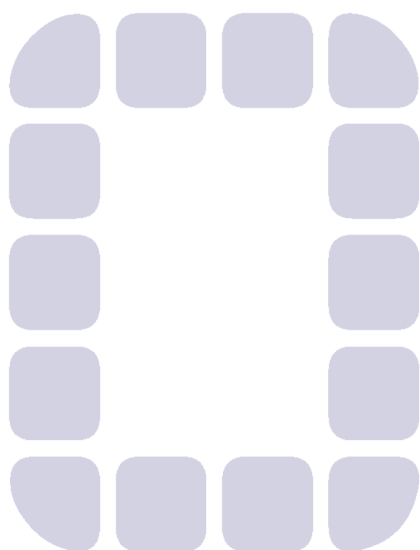


WA Food Regulation: Publication of Names of Offenders Policy

This document describes the procedures for the publication of names of offenders prosecuted for offences under the *Food Act 2008* and its subsidiary legislation in Western Australia.

October 2010 Version 2



Publication of Names of Offenders Policy

1. BACKGROUND

The Department of Health Western Australia (DOH) maintains a web based publication that lists food businesses and individuals that have been convicted of an offence under the *Food Act 2008* (the Act) and its subsidiary legislation relating to the handling or sale of food. The purpose of maintaining the list is to provide consumers with information to enable them to make informed decisions about where they buy food in Western Australia. Similar web based publications are available in other states and territories within Australia.

2. PURPOSE

The purpose of this policy is to define the responsibilities of the DOH and enforcement agencies in relation to sections 121(2) and 143 of the Act.

3. SCOPE

The scope of this policy covers section 121 (2) and section 143 of the Act and its subsidiary legislation. This policy covers all convictions under the Act and its subsidiary legislation. It does not extend to include improvement notices, prohibition orders or infringement notices.

4. PUBLICATION

The Chief Executive Officer (CEO) of the DOH will publish all convictions for offences committed under the Act and subsidiary legislation via a web based publication. Once published, a conviction will remain on the web based publication for 24 months from the date of conviction.

The CEO of the DOH will only remove a conviction earlier than 24 months from the web based publication following receipt of a recommendation submitted by the appropriate enforcement agency that provides adequate justification for the removal

in accordance with section 7 of this policy.

5. DETAILS TO BE PUBLISHED

The web based publication will contain the following details in relation to any conviction published:

- Date of conviction
- Date of offence
- Name of food business
- Name of individual/s / body corporate/s convicted
- Address of food business premises where offence was committed
- Name of the appropriate enforcement agency
- Description of the nature of the offence
- The penalty imposed and any forfeiture incurred

6. ROLES AND RESPONSIBILITIES

6.1 The CEO of the DOH

In accordance with section 143 of the Act, the CEO of the DOH will publish notifications of convictions on the DOH website via a web based publication. The address for this web based publication is:

http://www.public.health.wa.gov.au/2/825/2/publication_of_names_of_offenders.pmw
www.publichealth.wa.gov.au/foodsafety.

The Act mandates that a notice must be published within 21 days after the conviction, or if an appeal has been made, 21 days after the final order.

Once published, a conviction will remain on the web site for a maximum of 24 months from the date of conviction. A conviction will be removed automatically from the site following this time period.

6.2 Enforcement Agency

Section 121(2) of the Act places an obligation on enforcement agencies to forward

the details of any proceedings for an offence under the Act taken by an Authorised Officer of the agency within one month after the proceedings have been finally dealt with.

In the event that any proceedings lead to a conviction, the appropriate enforcement agency must notify the CEO of the DOH within **14 days** from the date of the final order of the conviction. The 'Notification of Conviction' form (Appendix B) is to be used for this purpose. This form is designed to be completed electronically and must be emailed to the Food Unit of the DOH at foodunit@health.wa.gov.au within the 14 day time period. It is the responsibility of the enforcement agency to provide accurate, timely and verified information to the CEO of the DOH.

7. REMOVAL OF THE DETAILS OF A CONVICTION FROM PUBLICATION

In circumstances where a request is made to remove details of a conviction from the web based publication prior to the 24 month timeframe, a conviction will only be removed when the CEO has received a recommendation from the appropriate enforcement agency that includes adequate justification to support the removal of the conviction.

The reasons for a request to remove a conviction from the web based publication may include:

- the food business has demonstrated to the satisfaction of the enforcement agency a significant improvement in the management of food safety risks
- the food business has been sold
- an appeal has been made against the conviction, or
- a conviction has been quashed or annulled

The 'Request for Removal of Conviction from Publication' form (Appendix C) is to be used for this purpose. This form is designed to be completed electronically and must be emailed to the Food Unit of the DOH at foodunit@health.wa.gov.au .

8. TIME FRAME

The policy will be reviewed in twelve months from the date of approval.

9. FURTHER INFORMATION

Contact the Food Unit via:

Email foodunit@health.wa.gov.au

Phone +61 8 9388 4903

Fax +61 8 9382 8119

Any feedback or concerns please utilise the Feedback on "Food Unit Query" form which can be downloaded from our website:

http://www.public.health.wa.gov.au/2/786/3/food_informatio.pm

A handwritten signature in black ink, appearing to read "Jim Dodds". The signature is fluid and cursive, with a large loop at the beginning and a long horizontal stroke extending to the right.

Jim Dodds

DIRECTOR

ENVIRONMENTAL HEALTH DIRECTORATE

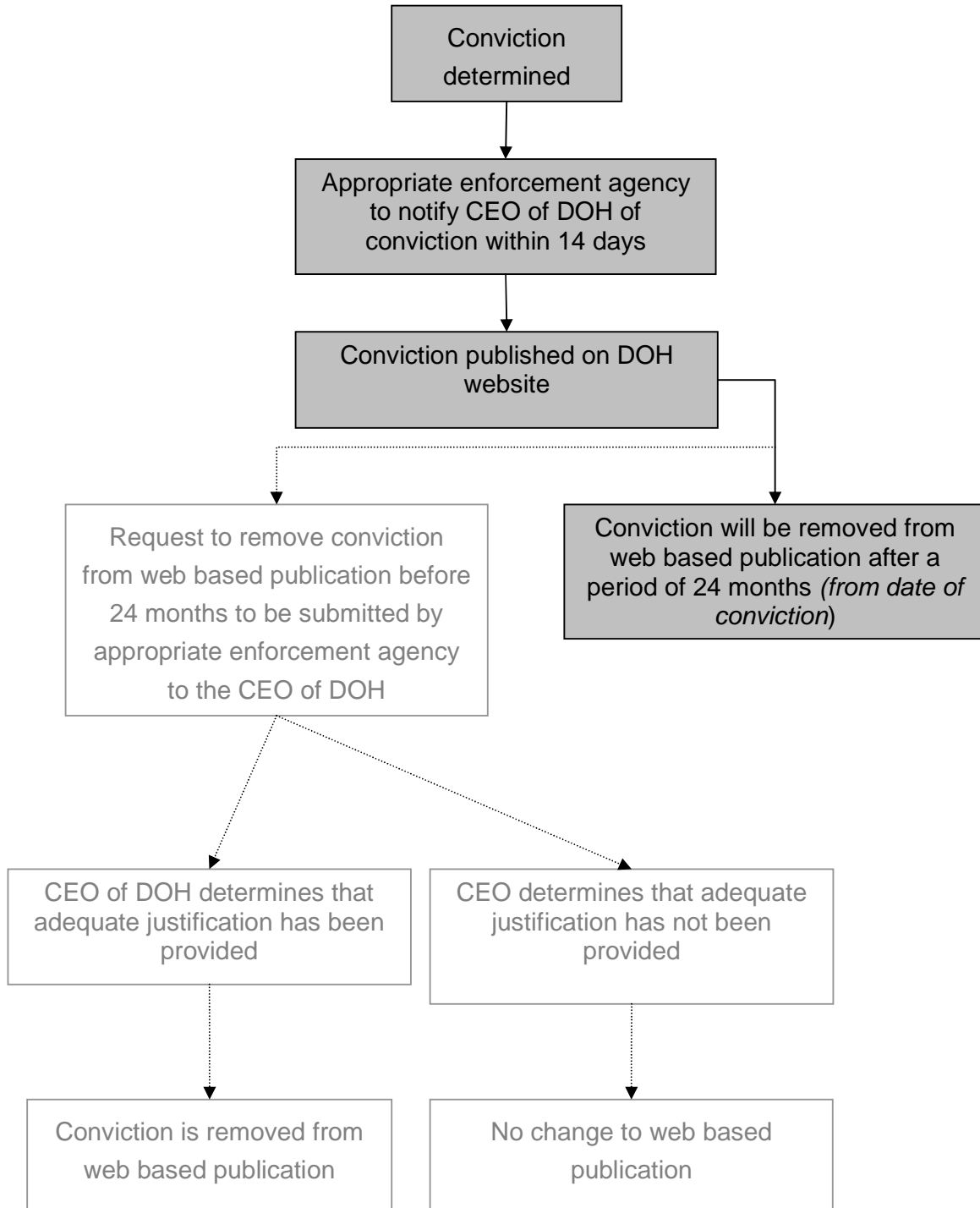
PUBLIC HEALTH DIVISION

Delegate of the CEO

7 October 2010

APPENDIX A

PROCESS FOR THE PUBLICATION OF NAMES OF OFFENDERS



APPENDIX B

NOTIFICATION OF CONVICTION FORM

Note: form available at www.public.health.wa.gov.au and to be emailed to foodunit@health.wa.gov.au once complete and within 14 days of conviction.

Enforcement agency name:	
Date of conviction:	
Name of food business:	
Name of person/s convicted:	
Address of food business where offence was committed:	
Date of offence:	

Section of Act/subsidiary legislation	Details of Offence	Penalty imposed
<i>e.g. section 22 (Compliance with Food Standards Code)</i>	<i>Non-compliance with Standard 3.2.2:</i> <ul style="list-style-type: none">▪ <i>clause 19 (cleanliness of premises)</i> <i>Non-compliance with Standard 3.2.3:</i> <ul style="list-style-type: none">▪ <i>clause 3 (suitability and maintenance of floor surfaces)</i>	<i>\$25,000</i>

APPENDIX C

REQUEST FOR REMOVAL OF CONVICTION FROM PUBLICATION FORM

Enforcement agency name:		
Date of conviction:		
Name of food business:		
Name of person/s convicted:		
Address of food business where offence was committed:		
Date of offence:		
Reason for request:		
Section of Act/subsidiary legislation	Details of Offence	Penalty imposed
Name of Council Chief Executive Officer:		
Signature:		
Date:		

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