

Food safety reports of Food and Environmental Hygiene Department Investigation Report

In December 2023, the complainant complained to this Office against the Centre for Food Safety (“CFS”) of the Food and Environmental Hygiene Department (“FEHD”).

The Complaint

2. Allegedly, in September 2023, CFS announced that salicylic acid was found in samples of two products of the complainant (“the Two Products”). The complainant immediately arranged to have samples of the Two Products tested in laboratories in Hong Kong and another country and concluded that no salicylic acid was detected. In October, the legal representative of the complainant (“the legal representative”) wrote to CFS, attaching the reports of the tests commissioned by the complainant and requesting certain actions to be taken. CFS neither took any action nor replied to the legal representative since then.

3. In the course of our investigation, the complainant added a new complaint point against CFS. In January 2024, the legal representative was notified in writing that CFS had collected and tested follow-up samples of the Two Products and concluded in October 2023 that no salicylic acid was detected. CFS added that the follow-up test results had been uploaded to the CFS website. The complainant also received a similar letter from CFS subsequently in January 2024. The complainant was dissatisfied that CFS was tardy in announcing the follow-up test results.

Our Investigation

4. Having examined the complainant’s information, The Ombudsman decided to conduct a full investigation. In June 2024, The Ombudsman completed the investigation and had the following findings.

Our Findings

Prevailing Surveillance Measures for Food Safety

5. CFS is responsible for ensuring food safety in Hong Kong. All food for sale must comply with the legal requirements and must be fit for human consumption. CFS takes surveillance samples at import, wholesale and retail levels for microbiological, chemical and radiation testing.

6. If unsatisfactory results are obtained from the surveillance samples, various risk management measures would be conducted to safeguard public health. Such measures may include public announcement to alert members of the public, temporary suspension of sales and product recalls, etc. In parallel, follow-up prosecution samples are collected for further testing and if the prosecution samples are found to be unsatisfactory, prosecution action would be initiated.

CFS' Procedures for Complaint Handling

7. Upon receipt of a complaint, CFS would immediately assess whether a substantive reply could be provided to the complainant within 10 calendar days. If this is not possible, an interim reply should be issued within 10 calendar days, with a view to providing a substantive reply within 30 calendar days upon receipt of the complaint. For complicated cases involving disputes of testing results which require longer processing time, CFS would keep the complainants posted of the progress. CFS would critically review each dispute case on a case-by-case basis and consult the relevant department(s) as appropriate. A substantive reply will be issued upon completion of investigation.

FEHD's Response

8. Upon receipt of the letter from the legal representative, CFS promptly conducted an internal review of the complainant's case. FEHD explained that due to the technical complexity of this case and the fact that this was the first dispute on the testing results which CFS had ever handled, a longer time was required for processing and assessment. In the meantime, CFS issued interim replies to the legal representative at appropriate intervals in accordance with the prevailing procedures for complaint handling.

9. As part of the above-mentioned internal review, CFS introduced new measures with regard to the satisfactory results obtained from follow-up testing of products, which include:

- (a) adding a new corner on CFS' website for announcement of satisfactory results of follow-up tests;
- (b) updating the press release previously issued for announcing the unsatisfactory test results by adding a remark that satisfactory results have been obtained from the test of follow-up samples; and
- (c) revising the relevant internal guidelines and briefing its staff to ensure proper implementation of the new measures in **paragraphs 9(a) and 9(b) above**.

The above new protocols for the publication of satisfactory results obtained from follow-up testing of products, including the creation of a dedicated section on the CFS website as mentioned at **paragraph 9(a) above** was implemented in the present case.

Our Comments

10. The crux of the complaint is CFS' response time upon receipt of test results of the follow-up samples.

11. Upon receiving the follow-up test results, CFS conducted an internal review which took about two months. However, as it was the first time that CFS had encountered a dispute on test result, it is understandable that CFS took a longer time than expected for the internal review. With experience gained from this case, CFS should be able to expedite its internal review process in future.

12. Upon completing its internal review, CFS consulted the Government Laboratory and Department of Justice. We note that CFS promptly announced the satisfactory follow-up test results once they received the reply from the Department of Justice.

13. On the whole, we acknowledge the complainant's expectation for more expeditious action by CFS but having considered the particular circumstances of this case, we do not find the follow-up action of CFS inappropriate and the time taken by

CFS to finally announce the satisfactory test results of the Two Products unreasonable.

Our Conclusion

14. In sum, The Ombudsman considers the complaint against FEHD unsubstantiated.

Office of The Ombudsman
June 2024

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