

1 Malop Street Geelong VIC 3220
PO Box 279, Geelong 3220
Telephone 03 4243 7000
Fax 03 4243 9321
worksafe.vic.gov.au



Mr Ken Phillips

29 June 2021

By email only: kennethnormanphillips@gmail.com

Dear Mr Phillips

Request for the Victorian WorkCover Authority to bring a prosecution

I refer to your request, received on 29 September 2020, for the Victorian WorkCover Authority (trading as WorkSafe Victoria) to bring prosecutions against various individuals and entities associated with the initial iteration of the Hotel Quarantine Program.

WorkSafe commenced its investigation into this matter in mid-2020, prior to your request, and WorkSafe has continued to provide you with progress reports on your request every three months in accordance with section 131(2A) of the *Occupational Health and Safety Act 2004* (the Act).

Please be advised that nine months following acceptance of your request, WorkSafe's investigation remains ongoing and at this time WorkSafe has not brought a prosecution.

Under section 131(3) of the Act, a person who requests that a prosecution be brought can also request for the matter to be referred to the Director of Public Prosecutions, if WorkSafe has not commenced proceedings within nine months.

Now that you have been formally advised that WorkSafe has not commenced proceedings within nine months, consistent with your preferences as outlined in your letter to Mr Gordon Cooper of 2 June 2021, we ask you to confirm in writing your wish for WorkSafe to refer the matter to the Director of Public Prosecutions.

Assuming a request to refer the matter to the Director of Public Prosecutions is forthcoming, WorkSafe will continue with its investigation into the initial iteration of the Hotel Quarantine Program while the Director considers the matter as it currently stands, and will make any additional material gathered available to the Director upon request.

In accordance with section 131(5) of the Act, WorkSafe will provide you with a copy of the Director of Public Prosecutions' advice when it is received. In the event WorkSafe declines to follow the Director's advice, we will also provide you with written reasons for this decision.

At this point, I would like to reassure you that our investigation is progressing in a timely and efficient manner, noting it is not unusual for complex investigations to take up to two years to complete. It is for this reason that indictable offences under the Act have a two-year limitation period. That is, criminal prosecutions for indictable matters must be commenced within two years of the alleged offence or offences first coming to the notice of WorkSafe.

It is a matter of public record that this matter is complex, involving multiple duty holders across multiple workplaces, including hotel operators, security companies and government entities involved in the Hotel Quarantine Program. Like most of WorkSafe's ongoing COVID-19-related investigations, this investigation has involved interviewing many witnesses and assessing thousands of pages of physical and electronic documents, including a consideration of the evidence presented to the COVID-19 Hotel Quarantine Inquiry, chaired by the Hon Jennifer Coate AO.

WorkSafe's COVID-19 related investigations are being overseen by an experienced and dedicated team of investigators. They will complete these investigations promptly, without compromising the necessary standards the community expects WorkSafe to uphold.

Any decision by WorkSafe to bring a prosecution will be made in accordance with WorkSafe's General Prosecution Guidelines, which includes consideration as to whether there is sufficient evidence to support the action and whether there is a reasonable prospect of conviction.

I thank you for your ongoing interest in this matter. You will continue to be updated as required under the Act.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Julie Nielsen', is written over a light blue rectangular background.

Julie Nielsen
Executive Director, Health & Safety