

Carwyn Jones AC/AM
 Y Cwnsler Cyffredinol ac Arweinydd y Tŷ
 Counsel General and Leader of the House



Llywodraeth Cynulliad Cymru
 Welsh Assembly Government

Mr Alun Cairns AM
 National Assembly for Wales
 Cardiff Bay
 CARDIFF
 CF99 1NA

Dear Alun

27th April 09

PLENARY STATEMENT ON THE E COLI PUBLIC INQUIRY 24 MARCH 2009

In response to a question in Plenary from yourself, the First Minister indicated that he would ask me to write to you in relation to the potential to prosecute food hygiene Inspectors.

There is no explicit provision in the food safety legislation currently to provide for prosecution of such Inspectors. An Inspector who failed to carry out their functions would be subject to disciplinary proceedings, but such failures do not give rise to criminal offences under the relevant legislation.

The common law offence of misconduct in public office can be committed by a public officer if, acting in such capacity, he wilfully neglects to perform his duty and/or wilfully misconducts himself, to such a degree as to amount to an abuse of the public's trust in the officeholder, without reasonable excuse or justification. This is a very serious indictable only offence carrying a maximum sentence of life imprisonment and guidance on prosecuting in such cases states that a charge of misconduct in public office should be reserved for cases of serious misconduct or deliberate failure to perform a duty which is likely to injure the public interest.

Under the terms of the relevant legislation the public inquiry could not consider the culpability of any individual, and did not do so. Similarly my comments above concerning the common law offence of misconduct in a public office are provided as a statement of the law, and should not be interpreted as providing any view on their relevance to the matters addressed by the Pennington Inquiry.

Yours sincerely

Carwyn Jones AC/AM
 Y Cwnsler Cyffredinol ac Arweinydd y Tŷ
 Counsel General and Leader of the House