



Office of the Inspector of the
Independent Commission Against Corruption

31 October 2019

Our Reference: G3 2020 01

Mr David Hale
Committee Manager
Committees
Legislative Assembly

Via email: ICACCommittee@parliament.nsw.gov.au

Dear Mr Hale

Thank you for your email to Ms Zekanovic forwarding a supplementary question from Mrs Davies MP to me. Would you pass this on to her?

At the time I included the reference in my 2017-2018 report to a possible counsel assisting audit, I had not yet commenced work on it. When I did so earlier this year, I realised that it was inappropriate for inclusion in my Annual Report and should be the subject of a stand-alone report to Parliament. I regret that I did not recall the reference in the 2017-2018 Report when I was preparing the 2018-2019 Report. Had I done so, I would have mentioned the decision to proceed by way of special report in the Annual Report.

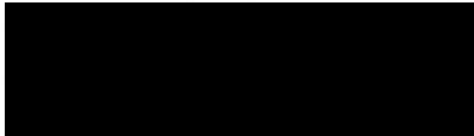
The major reason for the delay is that more work was involved in carrying out the necessary audit investigation than I had anticipated. To date, Ms Zekanovic and I have interviewed officers of the ICAC, attended a number of public hearings to observe directly the conduct of counsel assisting and I have interviewed a number of barristers on both sides of the fence, that is, who have been counsel assisting and who have appeared for witnesses in Commission enquires and hearings.

It will be recalled also that my appointment is part-time and there are competing priorities, including dealing with complaints against the Commission and routine auditing of the Commission, that take place alongside longitudinal audits such as the counsel assisting audit.

Further the scope of the audit has broadened in recent months and may involve other concerns that have been raised with me about counsel assisting. They include difficult issues about the conduct of counsel assisting in ICAC operations undertaken before the appointment of the current Chief Commissioner and the other Commissioners and whether and how I should deal with such conduct in my special report. Some of these matters arose in the course of my recent evidence before the Committee of which Mrs Davies is Chair. Both the ICAC Act and the

general law impose obligations on me to accord procedural fairness to any person about whom I might express an adverse conclusion. To enable me to deal with these matters (if I do), I have taken the steps necessary to comply with my procedural fairness obligations. Because that involves responses from persons upon whom I have no power to impose deadlines, it is difficult to predict with certainty when I will present my report to the Presiding Officers. In addition, I have adopted the practice of giving the final draft of any report I prepare both to the Commission and to anyone upon whose conduct I comment as a further procedural fairness precaution. Bearing these constraints in mind, I I hope to present my report in December.

Yours sincerely,



Bruce McClintock SC
Inspector, Independent Commission against Corruption.

From: [ICACCommittee](#)
To: ["OIICAC_Executive"](#)
Cc: [REDACTED]
Subject: Supplementary question to Inspector
Date: Thursday, 31 October 2019 9:00:19 AM

Angela

Mrs Tanya Davies MP, Chair of the Committee on the ICAC, has asked me to send the following supplementary question to the Inspector.

"In the 17/18 Annual Report page 15, section 5.2 you advised you would hand down a report into Counsel Assisting in the Inspector's Annual Report 2018/19. On reviewing the latest annual report, the report into Counsel Assisting is not provided. Can you explain why this report has been delayed and when the Committee can expect the report to be completed and would you consider tabling as a special report to Parliament?"

Would you please pass this question on to the Inspector and let me know by when he would be able to respond?

Many thanks

David

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