

James Cullen

Chief of Staff, Office of the Hon Chris Minns MP, NSW Premier

Supplementary questions

(1) I refer you document PD_000000002 (attached), entitled 'Situation Report: Whole of Government Response to Antisemitism Week ending 24 January 2025', which was provided to the NSW Legislative Council on 2 April 2025 by the NSW Premier's Department.

The document was provided as part of an order for papers (SO52) concerning 'Briefings on antisemitic or hate crimes', and I draw your attention to the following section on page 3:

"NSW Police have advised there's no current evidence to suggest attacks in NSW have links to foreign actors..."

"NSW Police have advised current investigative strategies are looking at the organised nature of offending, including perpetrators being remunerated for their involvement."

(a) Who was the author of this situation report?

(b) Who was it intended for?

(c) Where did the Premier's Department get this information?

(d) Was the Premier informed of this situation report and its contents?

(e) When was he informed?

(f) Considering that NSW Police were investigating the 'organised nature of offending' and 'perpetrators being remunerated for their involvement' as early as 24 January 2025, as per the above section, why did the Premier come out five days later on 29 January 2025 and conclude that there is "no way of calling this out other than as terrorism"?

The document was not attached to the questions provided by the committee, so I cannot comment on it.

(2) Did you attend the briefings held on:

(a) 20 January 2025

- (b) 21 January 2025
- (c) 23 January 2025
- (d) 31 January 2025
- (e) 3 February 2025
- (f) 4 February 2025
- (g) 5 February 2025
- (h) 7 February 2025
- (i) 17 February 2025
- (j) 19 February 2025
- (k) 7 March 2025

To the best of my recollection, I attended them with the exception of 20 January 2025, as I testified.

(3) Did you assist the Premier to prepare for any of the briefings listed above?

These briefings were regular updates by police on a live investigation; preparation was not required.

(4) Did you discuss the outcome of any of the briefings listed above with the Premier?

I regularly have conversations with the Premier on briefings about a range of issues.

(5) On what occasions between January 19 and March 10 did you attend meetings with the Premier to discuss matters arising out of the discovery of the caravan at Dural?

I regularly have conversations with the Premier about a range of issues.

(6) On what occasions between January 19 and March 10 did you attend meetings with staff of the Premier to discuss matters arising out of the discovery of the caravan at Dural?

I regularly have conversations with staff about a range of issues.

(7) When was the suggestion about obtaining legal advice in relation to the summons to appear first made?

(a) Who made this suggestion?

(b) How was this suggestion made?

Premier's Memorandum M2022-10 Guidelines for the Provision of Ex-Gratia Legal Assistance for Ministers, Public Officials and Crown Employees provides that an application for ex gratia legal assistance may be made by a Minister or public official where legal proceedings have commenced against them or are known to be imminent.

It is open to witnesses to obtain legal assistance in relation to summonses.

The confidential communications between a legal advisor and client for the dominant purpose of giving or receiving legal advice are privileged. Communications that contain information for the purpose of enabling the advice to be given are also subject to legal professional privilege.

(8) How many meetings did you have with Ms Plowman of MinterEllison?

(a) Please provide the dates of these meetings.

(b) How many of these meetings were in person and how many via Teams or other electronic means?

(c) What other methods of communication were used between you and Ms Plowman?

(d) What other staff from MinterEllison did you have contact with?

(e) What contact (if any) had you had with Ms Plowman or other professional staff from MinterEllison prior to 15 June 2025?

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(9) How did you become aware of the possibility of receiving an ex gratia payment to cover legal expenses in connection with advice about the summons?

Premier's Memorandum M2022-10 Guidelines for the Provision of Ex-Gratia Legal Assistance for Ministers, Public Officials and Crown Employees provides that an application for ex gratia legal assistance may be made by a Minister or public official where legal proceedings have commenced against them or are known to be imminent.

The Department of Communities and Justice website (<https://dcj.nsw.gov.au/legal-and-justice/laws-and-legislation/legal-assistance-and-applications/legal-assistance/ex-gratia-legal-assistance.html>) provides information relating to ex gratia legal assistance.

(10) Did you choose Ms Plowman or was it suggested to you that she provide the advice you sought?

The Cabinet Office provided options that included MinterEllison. We engaged MinterEllison to provide legal advice.

(11) Did you personally consider obtaining separate advice?

No.

Premier's Memorandum M2022-10 Guidelines for the Provision of Ex-Gratia Legal Assistance for Ministers, Public Officials and Crown Employees provides that an application for ex gratia legal assistance may be made by a Minister or public official where legal proceedings have commenced against them or are known to be imminent.

(12) Were you advised that funding was contingent upon using Ms Plowman for advice?

No.

Premier's Memorandum M2022-10 Guidelines for the Provision of Ex-Gratia Legal Assistance for Ministers, Public Officials and Crown Employees provides that an application for ex gratia legal assistance may be made by a Minister or public official where legal proceedings have commenced against them or are known to be imminent.

(13) When you were served with the summons was it your understanding that, if you did not attend:

- (a) This was unlawful?
- (b) You faced arrest?
- (c) You would be engaged in legal proceedings?

I attended the hearing on 27 June.

(14) Who initiated the request for an ex gratia payment for legal services?

- (a) To whom was the request made?
- (b) What date was the request made?
- (c) Please provide a copy of the request.
- (d) When was a decision received?
- (e) Please provide a copy of the decision

I sought assistance on behalf of myself and the others under the ex gratia legal assistance scheme, and legal assistance was engaged to provide legal advice in connection with the summons.

Premier's Memorandum M2022-10 Guidelines for the Provision of Ex-Gratia Legal Assistance for Ministers, Public Officials and Crown Employees provides that an application for ex gratia legal assistance may be made by a Minister or

public official where legal proceedings have commenced against them or are known to be imminent.

It is open to witnesses to obtain legal assistance in relation to summonses.

The confidential communications between a legal advisor and client for the dominant purpose of giving or receiving legal advice are privileged.

Communications that contain information for the purpose of enabling the advice to be given are also subject to legal professional privilege.

I am advised that on 20 June, DCJ confirmed that the application for ex gratia assistance was approved.

(15) Do you have more than one telephone? If yes,

(a) Are both used to communicate with the Premier?

(b) Are both used to communicate with other Ministerial staff?

(c) Are both used to communicate with departmental staff?

(d) What communication apps are installed on any phone you use to communicate with any of the nominated groups or persons listed above?

(e) Do you have disappearing messages enabled?

Like the former Coalition Government, the NSW Government uses a range of digital systems and communications that have been approved for use and may be utilised where there is a valid business requirement. This has been established practice under successive governments.

The Government complies with its obligations for orders for the production of documents under Standing Order 52 and also Government Information Public Access (GIPA) requests.

State records are a vital public asset, and access to Government information is essential to maintaining public trust in government. I comply with my obligations under the State Records Act 1998.

The Ministers' Staff Acceptable Use of Network Services Policy (available online in the Ministers' Office Handbook) confirms that computers, Ministers' Network, mobile devices, internet, remote access, email and any other type

of service used for official communications must be used in a lawful, appropriate and ethical way.

Ministers' staff may use mobile telephones for business and (reasonable use) private purposes. I comply with the Ministers' Staff Acceptable Use of Network Services Policy.

(16) When was the decision made to appear on 27 June?

(a) Was this a collective or an individual decision?

(b) What meetings were held to discuss this decision – please provide dates, means of meeting, and persons present.

To the best of my recollection, this decision was the outcome of a conversation that took place on 24 June.

(17) Who was the principal author of the letter dated 19th June?

(a) How was this letter circulated among all the signatories?

(b) Please provide a copy of drafts showing markups or changes you made.

Each of us signed the letter. I sought assistance on behalf of myself and the others under the ex gratia legal assistance scheme, and legal assistance was engaged to provide legal advice in connection with the summons.

It is open to witnesses to obtain legal assistance in relation to summonses.

The confidential communications between a legal advisor and client for the dominant purpose of giving or receiving legal advice are privileged.

Communications that contain information for the purpose of enabling the advice to be given are also subject to legal professional privilege.

(18) Did you or anyone in your office assist Mr Nanva with the preparation of his questions for the hearing on 27th June?

I assume that Mr Nanva asked questions that he felt would assist the committee under the terms of reference.

(19) Did Mr Nanva provide you with a copy of his questions prior to the hearing on 27th June?

No.

Questions on Notice

The Hon. SUSAN CARTER: When did you first approach the Department of Communities and Justice

seeking that ex gratia coverage?

JAMES CULLEN: Let me take it on notice for the actual date. It would have been—I think Ms Tilly was

saying that we were summonsed on the Tuesday 17 June. It would have been in close proximity to that.

The Hon. SUSAN CARTER: And what is the hourly rate you were paying for that advice?

JAMES CULLEN: Let me take that on notice—and certainly happy to come back to the Committee on

the question of legal costs as well, when we've got them, but at the moment I don't have the final costs.

The Hon. SUSAN CARTER: Can you confirm that you followed the Attorney General's rates for legal

representation and achieved agreement with the person providing legal advice about rates before those instructions

were given?

JAMES CULLEN: I believe so, but let me just take that on notice just to triple-check.

Premier's Memorandum M2022-10 Guidelines for the Provision of Ex-Gratia Legal Assistance for Ministers, Public Officials and Crown Employees provides that an application for ex gratia legal assistance may be made by a Minister or

public official where legal proceedings have commenced against them or are known to be imminent.

The law firm engaged to assist adopted rates that were in accordance with the NSW Government Legal Services Panel rates as approved by DCJ.

The Hon. SUSAN CARTER: On how many occasions did you meet with the lawyers at MinterEllison,

Mr Neilson?

ROSS NEILSON: A number. I couldn't tell you off the top of my head, but several.

The Hon. SUSAN CARTER: Could you take that on notice and provide those details?

ROSS NEILSON: Yes. I'm sure they know.

The Hon. SUSAN CARTER: Mr Cullen, same questions for you.

JAMES CULLEN: I concur with that. It was a number of times over the last few weeks, and I'm happy

to take that on notice and come back to you with an accurate number.

The confidential communications between a legal advisor and client for the dominant purpose of giving or receiving legal advice are privileged. Communications that contain information for the purpose of enabling the advice to be given are also subject to legal professional privilege.

Ms SUE HIGGINSON: Thank you very much, everyone, for attending. Mr Cullen, can I just ask you—

you received the summons on 17 June. Is that correct?

JAMES CULLEN: Look, I take Ms South's advice that that's the right date. The secretariat's probably

better to advise about when. Here and now, I obviously don't have access to my emails, but I take the word that

that's when the summons was received, yes.

The CHAIR: Just to assist you, Mr Cullen, I think earlier you may have said, "I'll take that on notice,"

and you're still entitled to do so.

JAMES CULLEN: Happy to, yes.

To the best of my recollection, 18 June.

Ms SUE HIGGINSON: Over the telephone. Are you saying there were no messaging apps used for the

purpose of discussing, between you and the Premier, the Dural caravan incident over the few weeks it was a live

issue, publicly and privately?

JAMES CULLEN: That's my recollection. Yes.

Ms SUE HIGGINSON: None whatsoever?

JAMES CULLEN: No, sorry. What I'm saying is—I reiterate my answer that the communication, for

that particular incident, was absolutely in-person conversations and over the phone. Not messaging, no.

Ms SUE HIGGINSON: No messages at all?

JAMES CULLEN: Given that subject matter, no.

Ms SUE HIGGINSON: None at all?

JAMES CULLEN: I'm happy to take it on notice to check just for the fullness of checking. But yes, my

strong recollection is that that was—I was doing it over the phone or in person.

To the best of my recollection, any conversation I had with the Premier about this matter occurred by telephone or in person.

The Hon. JOHN RUDDICK: I have one last question at this stage, Chair. I think it's fanciful to think

that those laws are responsible for that. When legislation is being drafted—legislation in general—I'm guessing

that there's discussion in the Department of Premier and Cabinet, in the Premier's office and in the relevant

Minister's office, and I'm guessing it's standard practice that there would be third parties from outside the

Government that would lobby you to seek to influence the legislation, either for or against. Was that the case when

this legislation was being drafted and, if that is the case, who were those third parties that were lobbying it?

JAMES CULLEN: To give you a fulsome answer, let me take that on notice because often, Mr Ruddick,

as you would understand, there are different parts of the process in terms of the policy-making and development,

first, the Cabinet process—and obviously we need to be careful about commenting on that—but then the

legislative and the drafting process, draft legislation and often engagement with stakeholders is part of that. So

I genuinely wouldn't be aware of all of that when it comes to engagement with stakeholders. But in relation to all

three pieces of legislation, I've got no doubt that we had stakeholder engagement and views and feedback and

varying levels of agreement and disagreement across all three—probably less so the swastika reforms legislation,

perhaps unsurprisingly. But in relation to the criminalisation under 93Z and the anti-protest laws changes, yes,

there were sets of stakeholders who had different views that I'm certainly aware of, that's right.

The Hon. JOHN RUDDICK: You'll take that on notice and get back to us?

JAMES CULLEN: Yes, I will.

The Hon. JOHN RUDDICK: Terrific, thank you.

Stakeholder groups are often consulted in relation to legislation that requires consultation with third parties.

The Hon. WES FANG: Mr Cullen, in relation to the page you've just received, what functions, if any,

has the Premier delegated to you under part 2, sections 11 and 12 of the MOPS Act?

JAMES CULLEN: Part 2, section 11?

The Hon. WES FANG: Yes, highlighted. It says "delegation by Premier" and then "delegation by political office holder".

JAMES CULLEN: I will take on notice for the sake of thoroughness. Partly to help you out, Mr Fang, in

terms of the actual technical title, it's basically a delegation in terms of—it's like a ministerial staff employment

delegation. That's the only one that I'm aware of.

The Hon. WES FANG: Okay. Now, I'll table the next document.

The Hon. WES FANG: That's a good point. My colleague has suggested that whilst it's being circulated—

do you have a written delegation from the Premier in relation to what's been delegated to you as part of your role?

JAMES CULLEN: This goes back to your last question about what the delegation is. Sorry, do I have a

written—

Ms SUE HIGGINSON: Instrument. Is there a written instrument of delegation?

JAMES CULLEN: Yes, there is.

Ms SUE HIGGINSON: Is that something that you can make available to the Committee?

JAMES CULLEN: I will absolutely take it on notice and come back to the Committee on that.

Ms SUE HIGGINSON: Thank you.

The Premier has delegated his functions under sections 11 and 12 of the Members of Parliament Staff Act 2013 to the Chief of Staff.

The Hon. WES FANG: Thank you. Has the Premier delegated the effective chief executive functions of

his office to you? Are you or the Premier considered the effective chief executive of the office in relation to

ensuring compliance with that Act?

JAMES CULLEN: Look, I don't pretend to the Committee to be a star witness with respect to the State

Records Act, so I think I should take that on notice and come back to you.

The Premier has delegated his functions under sections 11 and 12 of the Members of Parliament Staff Act 2013 to the Chief of Staff.

The CHAIR: Let's go back to January. I'll direct this to you, Mr Cullen, to start with. In evidence given

by the Commissioner of Police and the members of her executive team, a table of scheduled briefings with times,

dates, locations and invited attendees were provided to this Committee as a result of questions taken on notice, so

they're on the public website. They're out everywhere, so no tricks here.

Evidence states that on 20 January 2025

staff from the Premier's office were invited to attend a phone briefing with senior members of New South Wales

police. Were you present in that one?

JAMES CULLEN: I don't believe so, no.

The CHAIR: Were you, Mr Ovadia?

EDWARD OVADIA: No.

The CHAIR: Were you, Ms Michael?

SARAH MICHAEL: No.

The CHAIR: So when the police say there were members from the Premier's office present, who would they be referring to, then?

JAMES CULLEN: Mr Chair, I'd have to go back and check. With respect, there may be the odd

inaccuracy in terms of comparing records with some of this in terms of that.

The CHAIR: Can I just stop you there, Mr Cullen. To your point, so I can clear this up, are you suggesting

the police are wrong here, bearing in mind they've given their evidence on oath, as has everybody here today?

JAMES CULLEN: I think you can make a mistake. I don't know if that means you're wrong. We're all open to making mistakes.

The CHAIR: You're either right or you're wrong.

JAMES CULLEN: Can I just make a general comment to assist you, Chair, to understand clearly about who was attending these briefings?

The CHAIR: Sure.

JAMES CULLEN: I think I was recovering from a bout of sickness and I wasn't at work on 20 January.

You can direct your questions elsewhere, but my understanding is that the main conversation in the morning

certainly was between the Premier and Mr Thurtell. I don't recall being in that follow-up one because I was not at

work. I got a phone call from the Premier basically saying, obviously, "There's a significant investigation

underway that you should be aware of." I then returned to work the next day. The first briefing that I attended was

on 21 January, in the morning, at 9.30. And then, basically from that point on, for the purpose of this chronology,

wherever it says, "staff from the Premier's office", it would be a pretty sure bet that that's myself and no-one else

from the office.

The CHAIR: Yourself, and no-one else?

JAMES CULLEN: Yes, from the Premier's office.

The CHAIR: Again, this is not a trick question. I've received information that Teams briefing invites

were sent out from the Premier's office.

JAMES CULLEN: Yes, that might've—

The CHAIR: Among the invitees were Mr Ovadia and Ms Michael. I want to put that on the record as to

why they are here today. There have been suggestions that this inquiry is an exercise in roping in people for no

apparent reason. We have reasonable cause, because of those Teams briefings, to suspect that they were there. We

have been provided information by the police that staff were present. Correct me if I'm wrong, because I don't

want to put words in your mouth. You can't tell me who was there. Is that correct?

JAMES CULLEN: That's right. But I will, again, for fullness and trying to assist the Committee—let me

take that on notice and come back to you.

The CHAIR: Please do.

To the best of my recollection, from 21 January inclusive, I was the only Premier's Office staffer who would have attended any of these meetings.

The Hon. WES FANG: Mr Cullen, you've said the police provided advice to you quite clearly about the

matter. Before the 29 January press conference, when was the last piece of advice that the Premier received from

police?

JAMES CULLEN: I think I probably should take that on notice, to be fair.

To the best of my recollection, Mr Hudson briefly met with the Premier just prior to the press conference on 29 January. See Ms Michael's evidence at page 28 of the uncorrected transcript.

Ms SUE HIGGINSON: I have one last question. To all of you, who came up with the reference to "Star

Chamber"? Ms Michael, you are the media adviser, could you tell me where that came from? Was it from the

Premier himself? Was it from you guys?

SARAH MICHAEL: I can't tell you where it came from, no.

Ms SUE HIGGINSON: You can't tell me or you don't know?

SARAH MICHAEL: No, I don't know.

JAMES CULLEN: The Premier is a very, very creative person, as you've all worked out, and can be

colourful with his language. He's more than capable of coming up with his own turns of phrase. And I think, to

be fair to the Premier, it would not be the first time that particular terminology has been used in relation to

committee inquiries.

Ms SUE HIGGINSON: So is it your evidence that the Premier himself came up with that characterisation

of the New South Wales Legislative Council?

JAMES CULLEN: It might have been in relation to the Committee rather than the Legislative Council.

I have to take that bit on notice. But my understanding is, yes, he came up with that.

I have nothing further to add to my evidence.