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LEGISLATIVE
COUNCIL

Leigh Sanderson

27 June 2013

Mr Stephen Frappell
Clerk to the Committee
Privileges Committee
Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000

By hand

Dear Mr Frappell

Thank you for your letter dated 27 June 2013.

As requested, I enclose a copy of the transcript of my evidence with some minor corrections marked in the left margin in red pen.

I confirm that I have no objection to my evidence being made public.

The Hon. J Gardiner MLC asked me a question on notice, as to what advice I would normally have given to a ministerial staffer when they came to me for advice.

In circumstances where I had signed a memorandum on a Standing Order 52 resolution to a ministerial staffer who then came to ask me about the memorandum, it was my usual practice to advise them as follows.

- I would ask them if they were aware of the Standing Order 52 process. If they indicated they were not, I would tell them that Standing Order 52 allowed the Legislative Council to pass resolutions requiring named Ministers and Departments to produce documents that fell within the particular terms of the resolution, which would usually specify a subject matter and might also be limited to particular dates. I would tell them that the Government had to produce the documents within the time allowed by the resolution, and that the Department of Premier and Cabinet ("DPC") coordinated the return for the Government as a whole.

- I would tell them that the memorandum I had signed to them set out the exact terms of the resolution and the guidelines they should follow in preparing the Minister's return.
- If they had the memorandum with them, I would take it from them and read out to them the particular description of the documents they were required to produce and tell them that they must search for and produce any documents that fell within that description. I would also read out the date by which the return had to be given to DPC Legal Branch.
- I would tell them that it was only documents within the possession, custody or control of the Minister that they were required to produce, but that this includes documents within the possession, custody or control of the Minister's office, including any documents from the Department that were physically in the Minister's office and any ministerial staffers' notes and emails and the like. I would also tell them that they were not required to seek relevant documents from the Department, that usually the Department was required to make its own return of documents, and that if this was the case I had written separately to the Director General setting out what was required of the Department.
- I would also tell them that they were welcome to ask me if they had any difficulties in following the process, but if they needed further help, they might want to speak directly to DPC Legal Branch, which might be better able to help them with the detail of preparing the return and dealing with any claims of privilege and the like, if required.
- Finally, I would tell them that they needed to get straight onto the task of identifying any relevant documents, given the tight timeframe in which returns were required.

I trust the above is sufficient answer to the question on notice, but please let me know if anything further is required from me.

Yours sincerely



Leigh Sanderson