

Viney, Sandra

From: Viney, Sandra
Sent: Thursday, 17 November 2011 11:41 AM
To: [REDACTED]
Cc: Platt, Andrea
Subject: RE: leave matters

Importance: High

[REDACTED]

A reminder that we are still waiting on:

- a leave form and [REDACTED] for the period 15 to 19 April; and
- a [REDACTED] for the periods 14 September 2010 to 20 September 2010 and 14 October 2010 to 20 October 2010.

It would be appreciated if you could provide these documents as soon as possible, otherwise we will have to process our leave without documentary evidence, which will be without pay.

Sandra Viney

Ass Mng HR & Work Env | Corporate Services | Legislative Assembly for the ACT
GPO Box 1020 | CANBERRA ACT 2601
p 02 6205 0150 | f 02 6205 0442 | e sandra.viney@parliament.act.gov.au

From: [REDACTED]
Sent: Thursday, 13 October 2011 1:01 PM
To: Viney, Sandra
Cc: Doyle, Stephen
Subject: RE: leave matters

No problem, Please return the stat dec that does not comply and I will provide a new one, thanks.
Re point 2: I will organise further documentary evidence.

Thanks
[REDACTED]

From: Viney, Sandra
Sent: Tuesday, 4 October 2011 4:36 PM
To: Viney, Sandra, [REDACTED]
Cc: Doyle, Stephen; Platt, Andrea
Subject: RE: leave matters

[REDACTED]

Sorry, I also need to ask you to submit a leave form for the period 15 to 19 April 2011 (3 days). You have already taken 6 of the maximum 7 days personal leave without a certificate this accrual year. Therefore you will need a medical certificate or stat dec to cover this absence on full pay (otherwise it will be one day full pay and two days without pay):

Regards

Sandra Viney

Ass Mng HR & Work Env | Corporate Services | Legislative Assembly for the ACT
GPO Box 1020 | CANBERRA ACT 2601
p 02 6205 0150 | f 02 6205 0442 | e sandra.viney@parliament.act.gov.au

From: Viney, Sandra
Sent: Tuesday, 4 October 2011 4:33 PM
To: [REDACTED]
Cc: Doyle, Stephen; Duckworth, Ian
Subject: FW: leave matters

[REDACTED]

Thanks for your timesheets and leave forms. In relation to the Statutory Declaration you provided to cover your absences from 14 September 2010 to 20 September 2010 and 14 October 2010 to 20 October 2010, the wording currently indicates that; [REDACTED] periods above. As Tom mentioned in his email below, the following documentary evidence is required:

F4.18 The Member will accept the following documentary evidence as proof of personal illness or injury or the need to care for a member of the employee's immediate family or household who is sick:

- (a) a certificate from a registered health professional who is operating within their scope of practice; or
- (b) a statutory declaration made by the employee if it is not reasonably practicable for the employee to give the employer a certificate.

F4.19 If documentary evidence is not produced when an employee applies for leave, the Member may grant personal leave up to three consecutive working days with pay, to a maximum of seven working days in any accrual year. Absences for personal leave without documentary evidence in excess of three consecutive days, or seven days in any accrual year are unauthorised and will be without pay.

Unfortunately your stat dec is not clear that [REDACTED] To enable your [REDACTED] to be processed on full pay it would be appreciated if you could provide a further stat dec to clarify the circumstances.

Regards

Sandra Viney

Ass Mng HR & Work Env | Corporate Services | Legislative Assembly for the ACT
GPO Box 1020 | CANBERRA ACT 2601
p 02 6205 0150 | f 02 6205 0442 | e sandra.viney@parliament.act.gov.au

From: Duncan, Tom
Sent: Thursday, 15 September 2011 11:05 AM
To: Doyle, Stephen
Subject: leave matters

Steve

When we met yesterday to discuss my further written advice to Mr Seselja on attendance and absence compliance failures within his office, I undertook to follow up some details and relay them to you so that all of the issues can be addressed/ resolved.

In relation to [REDACTED] can confirm that the last attendance record received from [REDACTED] was for the fortnight ending Wed 30 Mar 2011.

I can also confirm that the three periods of leave that have not yet been formally granted by Mr Seselja are as follows:

Dates	Leave type
Tue 31 Aug 2010 to Mon 6 Sep 2010	[REDACTED] Leave
Tue 14 Sep 2010 to Mon 20 Sep 2010	[REDACTED] Leave
Thu 14 Oct 2010 to Wed 20 Oct 2010	[REDACTED] Leave

In respect of each of those periods, [REDACTED] should complete a leave application (copy attached).

The following extracts from the Members' staff enterprise agreement explain why [REDACTED] will either need to supply a [REDACTED] in support of [REDACTED] two [REDACTED] leave absences (or else the final two days in respect of each period will have to be treated as without pay):

F4.18 The Member will accept the following documentary evidence as proof of personal illness or injury or the need to care for a member of the employee's immediate family or household who is sick:

- (a) a certificate from a registered health professional who is operating within their scope of practice; or
- (b) a statutory declaration made by the employee if it is not reasonably practicable for the employee to give the employer a certificate.

F4.19 If documentary evidence is not produced when an employee applies for leave, the Member may grant personal leave up to three consecutive working days with pay, to a maximum of seven working days in any accrual year.

Absences for personal leave without documentary evidence in excess of three consecutive days, or seven days in any accrual year are unauthorised and will be without pay.

I acknowledge your advice that you are making arrangements to have [REDACTED] and [REDACTED] attendance records completed / lodged within the coming days.

I will discuss with Ian and Sandra next week the issue of staffing when Sandra returns next Monday, and get back to you then.

Regards

Tom Duncan
Clerk

Duckworth, Ian

From: Duncan, Tom
Sent: Thursday, 22 September 2011 5:19 PM
To: Duckworth, Ian
Subject: FW: leave matters

Follow Up Flag: Follow up
Due By: Monday, 26 September 2011 4:00 PM
Flag Status: Flagged

As discussed.

Tom Duncan
Clerk of the Legislative Assembly for the Australian Capital Territory
P 02 62050191
F 02 62053109
M 0419982902
tom.duncan@parliament.act.gov.au

From: Doyle, Stephen
Sent: Thursday, 15 September 2011 12:22 PM
To: Duncan, Tom
Subject: RE: leave matters

Thanks Tom.

I have met with [REDACTED] this morning to discuss this matter. I have asked [REDACTED] to check [REDACTED] diary and provide me with exactly the type of leave that was taken and the circumstances under which it was taken. Should it be a situation (and I believe it is) that a form has not been completed when it should have been; this will be corrected immediately.

Thank you again

Steve

From: Duncan, Tom
Sent: Thursday, 15 September 2011 11:05 AM
To: Doyle, Stephen
Subject: leave matters

Steve

When we met yesterday to discuss my further written advice to Mr Seselja on attendance and absence compliance failures within his office, I undertook to follow up some details and relay them to you so that all of the issues can be addressed/resolved.

In relation to [REDACTED] I can confirm that the last attendance record received from [REDACTED] was for the fortnight ending Wed 30 Mar 2011.

I can also confirm that the three periods of leave that have not yet been formally granted by Mr Seselja are as follows:

Dates	Leave type
Tue 31 Aug 2010 to Mon 6 Sep 2010	[REDACTED]
Tue 14 Sep 2010 to Mon 20 Sep 2010	[REDACTED] Leave
Thu 14 Oct 2010 to Wed 20 Oct 2010	[REDACTED] Leave

In respect of each of those periods, [REDACTED] should complete a leave application (copy attached).

The following extracts from the Members' staff enterprise agreement explain why [REDACTED] will either need to supply a [REDACTED] in support of [REDACTED] two [REDACTED] leave absences (or else the final two days in respect of each period will have to be treated as without pay):

F4.18 The Member will accept the following documentary evidence as proof of personal illness or injury or the need to care for a member of the employee's immediate family or household who is sick:

- (a) a certificate from a registered health professional who is operating within their scope of practice; or
- (b) a statutory declaration made by the employee if it is not reasonably practicable for the employee to give the employer a certificate.

F4.19 If documentary evidence is not produced when an employee applies for leave, the Member may grant personal leave up to three consecutive working days with pay, to a maximum of seven working days in any accrual year. Absences for personal leave without documentary evidence in excess of three consecutive days, or seven days in any accrual year are unauthorised and will be without pay.

I acknowledge your advice that you are making arrangements to have [REDACTED] and [REDACTED] attendance records completed / lodged within the coming days.

I will discuss with Ian and Sandra next week the issue of staffing when Sandra returns next Monday, and get back to you then.

Regards

Tom Duncan
Clerk



COPY

Received by Hand
12:50pm
14/9/11

Mr Zed Seselja MLA
Leader of the Opposition
Legislative Assembly for the ACT
London Circuit
CANBERRA ACT 2601

✓ CC: MNGR CORPORA

Dear Mr Seselja

As you know, I have written to you on several occasions concerning failures within your office to comply with the requirements for attendance recording and for the approval of staff absences. The approaches and procedures the Secretariat adopts to identify and respond to such failures are consistent with the recommendations in Auditor-General's Report Number 5 of 2009. They involve escalating the management of the issue depending on the extent of the non-compliance. The reasons that I am now writing to you again are that:

- some of the issues I have raised previously remain unresolved;
- since I wrote to you on 7 April this year, there has been further non-compliance in relation to the lodgement of attendance records by several of your staff; and
- attempts by the Secretariat's Corporate Services staff to address and resolve these matters have been unsuccessful.

Although some of the compliance failures I reported to you in April have been addressed, some remain unresolved and a number of new compliance failures have now been identified. The attendance records and absences from duty of [REDACTED] were the main focus of my previous advice (and I discuss these further below) but a recent periodic review identified that attendance records for two other staff of your office have not been completed/lodged as required. Relevant details are as follows:

[REDACTED]	no attendance records have been lodged for the period 2 February to 13 April 2011 and 25 May 2011 to present;
[REDACTED]	no attendance records have been lodged for the period 13 April 2011 to present;

In the period immediately following my last advice to you, I am advised that [REDACTED] completed and lodged attendance records spanning the 15 month period to the end of March 2011. This addressed a significant compliance failure but, having remedied that compliance gap, it is disappointing to again have to report that no attendance records have been lodged by [REDACTED] since 30 March 2011.

More importantly, however, the issues I raised in my advice concerning a lack of approval for several of [REDACTED] absences around September 2010 remain unresolved. The records lodged by [REDACTED] confirm that, in addition to a period of [REDACTED] leave, there were two separate absences of one weeks' duration that [REDACTED] attendance records show as [REDACTED] leave". Advice provided by the Secretariat to [REDACTED] and to your Chief of Staff immediately after those records were lodged confirmed that staff may only be granted [REDACTED] leave for continuous periods in excess of three days if the absence is supported by [REDACTED]. To date, no response has been received and, as a consequence, no formal approval for [REDACTED] absences exist.

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On this particular issue, my advice to you of 7 April this year included the following:

".... The Secretariat continued to pay [redacted] normal salary in good faith based on an expectation that it would receive leave applications and approvals for [redacted] various absences. These applications and approvals have not eventuated [redacted] has no entitlement to salary for absences that are not approved and within [redacted] entitlement. On a prima facie basis, the Secretariat would be obliged to recover from [redacted] the salary paid for such periods,....."

Because this issue has remained unresolved for such a lengthy period, I feel I now have no further option but to notify [redacted] that [redacted] was paid salary for those periods where an entitlement to that salary has not been established and, unless the issue is satisfactorily resolved, the Secretariat must pursue recovery action of the amount(s) paid in excess of [redacted] entitlement

I can continue to confirm that, since the introduction of revised arrangements following the report of the Auditor-General, I have not had to write specifically to any other member concerning non-compliance in this area. That is not to say that non-compliance issues do not arise with other MLAs – but, when they have arisen, they have been addressed through less formal means. My formal approaches to you on these issues only occur because other attempts to address and resolve these issues with the staff members concerned and with your Chief of Staff have failed. Accordingly, I would again urge you to address these compliance failures and to put systems and processes in place to prevent them from recurring.

Due to the significant resources that the Secretariat has been obliged to devote to this issue, I have taken the step of reporting on this matter in the Secretariat's 2010-11 annual report that I will shortly relay to the Speaker.

I would be happy to discuss this matter with you should you require any further details.

Yours sincerely


Tom Duncan
Clerk of the Legislative Assembly

14 September 2011



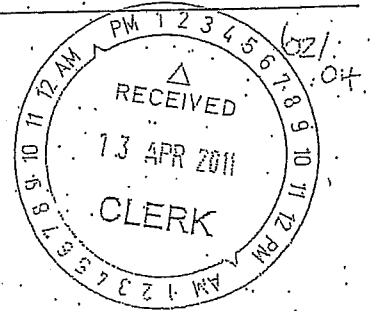
Leader of the Opposition

Member for Molonglo

Shadow Minister for Planning
Shadow Minister for Housing Affordability
Shadow Minister for Transport Planning
Shadow Minister for Ageing
Shadow Minister for Environment and Climate Change
Shadow Minister for Human Rights

Zed Seselja MLA

Australian Capital Territory



13 April 2011

Mr Tom Duncan
Clerk
ACT Legislative Assembly
GPO Box 1020
CANBERRA ACT 2601

Dear Mr Duncan

Thank you for your letter of the 7th of April 2011.

Upon receiving your letter I spoke to my Chief of Staff and asked for the following action to be taken -

1. That the remaining matters of time sheets be resolved and submitted prior to the close of business Friday 15th April.
2. That he meet with [REDACTED] to discuss and review records and diaries to ensure there has been no instance of inappropriate time away from work.

The Chief of Staff has advised me that both of these instructions have been followed. I can assure you that effective immediately new controls are now in place to stop any further issues arising of this nature.

Yours sincerely

Zed Seselja MLA



Mr Zed Seselja MLA
Leader of the Opposition
Legislative Assembly for the ACT
London Circuit
CANBERRA ACT 2600

Dear Mr Seselja

I am writing to summarise the action taken to date, and to outline my concerns, in relation to the failure of certain staff in your office to lodge attendance records. Primarily, these concerns relate to those records for [REDACTED]. As you will see from my advice below, these failures have potentially serious consequences if they are not addressed and, as such, I am seeking your urgent cooperation in having the matters addressed.

There have been numerous occasions during the 7th Assembly when you and/or your Chief of Staff have been provided with written advice about:

1. the requirements for staff to complete and lodge attendance records; and
2. the details of those instances where those requirements have not been met for some of your staff.

In addition to advice provided to all members from time to time, and particularly after the Auditor-General reported specifically about non-compliance in this area in 2009, I am aware of at least two occasions where you have been written to about these matters and at least one further occasion where I have written to your Chief of Staff.

As a result of the more recent communication, the Secretariat has received some of the previously missing records. Nevertheless, there are still significant numbers of attendance records for two of your staff that have not been completed/lodged. This includes records for [REDACTED] for the last 15 months [REDACTED] has only recently completed and lodged records for the first year of [REDACTED] employment by you) and, for the reason(s) outlined below, this is of particular concern to me.

It is important to note at this point that, by and large, the attendance records for staff of other non-Executive members have been lodged within a reasonable timeframe.

In her August 2009 report into the administration of members' entitlements, the Auditor-General specifically recognised that the Secretariat could not "ensure" compliance in this area and confirmed that this was the responsibility of the employing member – but the report recognised the steps that the Secretariat took to assist members with their obligations.

It is quite evident that, in the case of [REDACTED] the Secretariat has gone to great lengths to pursue these records but, for the reasons outlined below, you will appreciate that it is not a case of the Secretariat just pursuing the records. Rather, there are legitimate concerns that [REDACTED] has received payments for which [REDACTED] entitlement has not been established and the only way this can be addressed is for attendance and absence records and approvals to be obtained.

[REDACTED] was known to have been absent from normal duty for several periods around September last year. I am aware that one of these absences spanned several weeks and related to [REDACTED] but, in addition, I am advised that [REDACTED] was known to have been engaged in electioneering activities associated with the federal election and; for the periods that [REDACTED] was engaged in those activities, [REDACTED] would need to be on some form of approved leave.

[REDACTED] would, of course, have access to the maximum entitlement to [REDACTED] leave which is [REDACTED] but, beyond that, [REDACTED] absences from duty, where [REDACTED] continued to receive full salary, must be covered by some other form of approved leave. Put simply [REDACTED] has been paid as if [REDACTED] was on duty and [REDACTED] was not.

It may be that [REDACTED] intended to utilise "time off in lieu" (TOIL) entitlements for these absences but, unless suitable records of attendance are maintained (and they have not been), [REDACTED] has no such entitlement. [REDACTED] lack of access to TOIL is explicitly set out in the enterprise agreement that applies to members' staff, as follows:

A Member will not approve TOIL where the employee has failed to keep suitable records of attendance for duty and absence from duty.

The Secretariat finds itself in an awkward situation and I believe that you, too, have been placed in an awkward position. The Secretariat continued to pay [REDACTED] normal salary in good faith based on an expectation that it would receive leave applications and approvals for [REDACTED] various absences. These applications and approvals have not eventuated and, as I have said above, [REDACTED] has no access to TOIL without suitable attendance records to support the existence of that entitlement. [REDACTED] has no entitlement to salary for absences that are not approved and within [REDACTED] entitlement. On a *prima facie* basis, the Secretariat would be obliged to recover from [REDACTED] the salary paid for such periods, but it has no means of accurately determining such an amount as it has no details of [REDACTED] attendance and absence. I hope that you will appreciate that this is a most unsatisfactory situation for you as an employer and for the Secretariat.

However, putting to one side my own concerns, I feel obliged to relay to you my view that, as arrangements currently stand, the failures could result in you being held to have breached the code of conduct for Assembly members. Section 8 of that code explicitly requires members to, amongst other things:

- "observe the obligations placed on them as employers with respect to the terms and conditions of those who work for them"; and
- "ensure that their staff are aware of and abide by the relevant codes of conduct applicable to Members' staff".

I trust you will appreciate that my suggestion that you may have breached the Members code of conduct is not a claim I would make lightly. But I am genuinely concerned to ensure that you are aware of the potential seriousness of this matter.

I would also observe that, if these arrangements were subject to further scrutiny by the Auditor-General, it is almost certain that significant criticism would be directed at you as the employing member; and the repeated efforts that have been made by the Secretariat to address the situation, which have been to no avail, would not reflect well on the management of the issue within your office.

To conclude, I am writing to highlight the repeated attempts that have been made to address this matter and that, as things currently stand, [REDACTED] has received salary for a period or periods where [REDACTED] entitlement has not been properly established. The absence of relevant details effectively prevents a determination of the amounts involved. I seek your urgent cooperation to ensure that [REDACTED] attendance and absence records, including appropriate leave forms, are submitted at the earliest opportunity. Given that these matters have been the subject of correspondence from this office to you since 13 August 2010, if these arrangements cannot be satisfactorily by the week ending Friday 15 April 2011, I feel I will have no option but to draw to the Speaker's attention the possible breach of the members' code of conduct.

I would be happy to discuss this matter with you should you require any further details.

Yours sincerely


Tom Duncan
Clerk of the Legislative Assembly

7 April 2011

Duncan, Tom

From: Duncan, Tom
Sent: Thursday, 17 March 2011 3:21 PM
To: Doyle, Stephen
Subject: RE: Outstanding time sheets

Stephen,

Just to clarify, until 10 days ago, we held no timesheets at all from [REDACTED] for any [REDACTED] employment with Mr Seselja dating back to December 2008.

Following my note to you, timesheets were compiled and submitted for the period from [REDACTED] commencement up to January 2010 – but there is nothing after that. So, as you can see, it is the period from January 2010 to now that is still outstanding.

Hope that clarifies the matter.

Tom.

From: Doyle, Stephen
Sent: Thursday, 17 March 2011 2:06 PM
To: Duncan, Tom
Subject: RE: Outstanding time sheets

Hi Tom

I may have misunderstood the advice I received from Corp. I am certain they said they wanted from then forward. If I have gotten that wrong, I will immediately rectify. I cannot remember whether that was by email or verbally.

Please leave it with me.

Regards

Steve

From: Duncan, Tom
Sent: Thursday, 17 March 2011 12:30 PM
To: Doyle, Stephen
Cc: Duckworth, Ian
Subject: Outstanding time sheets

Stephen

Corporate has received some time sheets from [REDACTED] but there are still time sheets missing from 6 January 2010, a period of over 14 months.

I was wondering whether you could indicate when I will be receiving the remaining timesheets. I must say that when we met some several weeks ago you indicated that this matter would be resolved quickly, and it clearly hasn't.

Whilst I was initially happy to follow up to you on the Acting Clerk's letter to Mr Seselja from the middle of last year when the issue first remained unresolved, I guess I find myself in the situation that if I don't receive the outstanding timesheets by say, next Wednesday, I will be writing to Mr Seselja again on the matter.

Regards

Tom Duncan
Clerk of the Legislative Assembly
for the Australian Capital Territory
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M 0419 982 902
F 61+2+6205 3109
E tom.duncan@parliament.act.gov.au

From: Doyle, Stephen
Sent: Friday, 18 February 2011 5:20 PM
To: Duncan, Tom
Subject:

Tom

[REDACTED] has advised me that he has time sheets for me to sign, but I have run out of time and am away until the 3rd of March. I will drop them down to corporate once I have signed off.

Regards

Stephen Doyle
CHIEF OF STAFF

Office of Zed Seselja
LEADER OF THE OPPOSITION
Member for Molonglo

stephen.doyle@parliament.act.gov.au

p 6205 0222
f 6205 3001

Viney, Sandra

From: Duckworth, Ian
Sent: Sunday, 13 February 2011 12:41 PM
To: Platt, Andrea; Lemke, Rachel
Cc: Duncan, Tom; Viney, Sandra
Subject: FW: advice from Clerk to LDR Oppn Chief of Staff re attendance recording.doc
Attachments: advice from Clerk to LDR Oppn Chief fo Staff re attendance recording.doc

Andrea/Rachel

I'm not sure whether you saw it but, just before I went on leave, we assisted Tom in drafting an e-mail that he sent to Stephen Doyle that set out in quite unequivocal terms the various failures to comply with attendance recording for some staff in the Leader's Office (mainly [REDACTED]). The e-mail forehadowed what steps would need to be taken if compliance wasn't addressed.

Tom tells me that the note led to Stephen meeting with him shortly afterward, at which time assurances were given that all outstanding timesheets would be lodged by cob last Friday (11th Feb). When I spoke with him on Friday afternoon, Tom was eager for us to confirm with him whether, in fact, those attendance records were lodged as promised.

Could you please confirm with me/Tom what we have (or have not) received.

Please undertake no follow up with the Leader's office on this matter - we are simply eager to establish at this point whether the undertakings have been met and, if not, what has/hasn't been lodged.

Thanks

Ian

From: Duckworth, Ian
Sent: Tuesday, 25 January 2011 15:41
To: Duncan, Tom
Subject: advice from Clerk to LDR Oppn Chief of Staff re attendance recording.doc

Tom

I wasn't sure whether you wanted it as a word document or as an e-mail, so I've attached the text.



COPY

Despatched 25/1/11
J

Mr Stephen Doyle
Chief of Staff
Office of the Leader of the Opposition
ACT Legislative Assembly
GPO Box 1020
CANBERRA ACT 2601

Dear Stephen

I wanted to touch base, and foreshadow a meeting between us, concerning the ongoing lack of compliance with legal requirements for the maintenance and lodgement of attendance records for some staff in the Leader of the Opposition's Office.

There are numerous instances where these requirements have not been met. It is also clear that, despite this, a number of staff have been absent from duty purporting to utilise Time Off In Lieu (TOIL) when, in fact, such an entitlement can only exist where attendance records are maintained. In the most extreme example, I am advised there are no records of attendance held for [REDACTED] for the entire 7th Assembly nor are there any approved leave applications yet, in spite of this, [REDACTED] was apparently absent from duty for significant periods during 2010. There are similar instances of non compliance in relation to [REDACTED] attendance and absence.

I must stress that these failures would amount to breaches of the federal industrial relations legislation, as well as the collective agreement and the employment agreements between staff and members. As it currently stands, it seems sufficiently clear that staff have been paid for certain periods when they have no entitlement to be paid. From the employing Members' perspective, it is likely that such breaches would be regarded as a breach of the Members' code of conduct. In short, these are serious matters.

I note that the acting Clerk formally raised these issues with the Leader of the Opposition in a letter dated 13 August last year and, despite written undertakings and assurances given at the time by Mr Hagan as the acting Chief of Staff and, subsequently, by yourself, most of the non-compliance has not been addressed and, in fact, has continued since.

In my view, the various breaches amount to quite serious failures and, while it is not my only concern, it is quite apparent that the Leader of the Opposition could

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be subject to significant criticism, and potential embarrassment, if the matters remain unresolved.

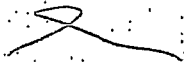
You will recall that the failure by MLAs and their staff to maintain and/or lodge these records (together with associated matters) were matters that the Auditor-General reported on in 2009. In its review of that report, the Assembly's Standing Committee on Public Accounts reported:

The Committee is alert to the sensitivity of the matters raised by the Audit and emphasises that it is incumbent on all MLAs, as employers of staff, to ensure compliance with the applicable employment framework, policies, procedures, and guidelines for the engagement of MLAs' staff.

While I feel these are matters that I should be raising with Mr Seselja, I wanted to approach you in the first instance in an attempt to have the various matters addressed less formally. In that regard, I would like to meet with you to elaborate on my concerns; to discuss what is necessary to address the non-compliance; and what the potential consequences are of those matters not being satisfactorily addressed.

In meeting with you, I would like to involve Ian Duckworth and/or Sandra Viney as they both have a deeper appreciation of the technical requirements than I do. However, due to their own leave arrangements, neither of them will be available until the second week of February. In spite of that, I thought it would be appropriate for me to provide this advice to you now so that you have some notice of my desire to meet with you and of the issues I wish to discuss.

Yours sincerely



Tom Durican
Clerk
ACT Legislative Assembly

25 January 2011

ACT LEGISLATIVE ASSEMBLY MEMBERS' STAFF
UNION COLLECTIVE AGREEMENT 2007-2010

PART 2 Working in the A.C.T. Legislative Assembly

Section D: Hours of Work

Time Off In Lieu (TOIL)

.....
19.8 A Member will not approve TOIL where the employee has failed to keep suitable records of attendance for duty and absence from duty. (AW23.3)

Record Keeping

21.1
The employer will keep records relating to the employees' work, including records about attendance and pay, in accordance with the requirements of the WR Act and the Workplace Relations Regulations. (TA27.1)

21.2
The employee will record the time of commencing and ceasing duty for each day. These records will require certification by the employing Member, or other nominated supervisor, and lodgement with the relevant corporate area in a timely fashion. (TA27.2 / PA68.5)

Mr Max Kiermaier
Acting Clerk of the Assembly
Legislative Assembly of the Australian Capital Territory
London Circuit Canberra

Dear Mr Kiermaier,

I am writing in relation to a letter sent to Mr Seselja regarding the staff compliance with timesheets. As Stephen Doyle is on leave, I am Acting Chief of Staff, so I am responding regarding the matters raised in your letters.

First, thank you for the update.

Second, please be assured that Mr Seselja has issued instructions for all staff to comply with all requirements, and we are in the process of rectifying the general issues raised in your letter.

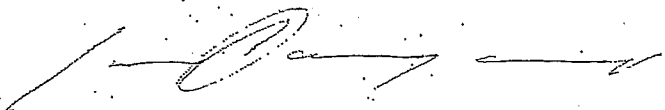
I can assure you that any apparent failings are related to the lodging the timesheets rather than any lack of attendance. I believe anyone in this building would be aware that all senior staff work extremely long hours, often in very intense and difficult circumstances, and often outside normal business hours. Sometimes this can lead to administrative matters falling down the list of priorities.

I am currently in the process of reviewing each staff member's status and instilling in all of the requirements, including instigating a regular staff meeting to deal with administrative matters such as these as well as the normal hectic schedule of Assembly business. It is also worth noting that, due to these extended and unusual working conditions, the day to day management of staff is, as you note, properly a matter for the employing member and the staff concerned.

In the case of those who are currently on leave, I understand this was raised directly with corporate services and confirmed in writing with the employing members before leave was taken. I will follow up to ensure the paperwork is properly lodged as soon as possible.

Thank you again for the update and be assured we are addressing your concerns as quickly as possible.

Yours sincerely



Ian Hagan
Acting Chief of Staff
19 August 2010



Mr Zed Seselja MLA
Leader of the Opposition

Dear Mr Seselja

I am writing in relation to:

- the requirements for recording of attendance by Members' staff;
- the procedures for lodgement of those records with the Secretariat; and
- the relationship of those records to the administration of leave entitlements (including time off in lieu) and the control weakness that exists where those records are either not maintained or not held by the Secretariat.

My reason for writing stems from my assessment that there is a low level of compliance with these requirements and procedures within your office and, consequently, I am satisfying my obligations as the administrative head of the Secretariat to ensure that the utmost is done to maintain an appropriate control environment.

You will recall that the above matters were examined by the Auditor-General during her audit of the administration of Members' entitlements¹ and were the subject of some findings and recommendations.

During the course of that audit, the Auditor-General's Office recognised that the role of the Secretariat in the administration of attendance records and leave entitlements was subject to some constraints with respect to Members' staff, when compared to the Secretariat's own staff. The Auditor-General recognised that the Secretariat could not ensure that all members' staff completed and lodged attendance records; nor could it ensure that all staff absences were properly authorised and covered by leave entitlements. The Auditor-General confirmed that the responsibility for these matters rests with the employing MLA.

However, to assist in achieving full compliance, the Secretariat undertook to provide members with a regular (quarterly) summary of the attendance records that had been lodged, and those not lodged, for their respective staff.

In your case, those quarterly reports have consistently shown that:

- a significant number of your staff do not appear to be completing attendance records as required under their employment arrangements²; and
- if, in fact, those records are being maintained – they are not being lodged with the Secretariat in accordance with the procedures adopted to address audit expectations and requirements.

¹ Administration of Employment Issues for Staff of Members of the Legislative Assembly. Auditor-General's Report Number 5 of 2009, August 2009

² Clause 12 of the LAMS employment agreement (RECORDS OF ATTENDANCE) provides:
12.1 You are required to maintain a record of your attendance for duty and absence from duty in accordance with the Collective Agreement.

With the exception of two staff [REDACTED] whose attendance records are consistently completed and provided, there have been virtually no attendance records lodged by any of your remaining staff since late 2009. In the case of [REDACTED] non-completion/submission dates back to October 2009 and, in the case of [REDACTED] the Secretariat has no record of any attendance record being lodged since [REDACTED] was employed by you at the beginning of the 7th Assembly.

If these records have not been maintained, the failures each constitute a breach of the requirements of the LAMS Collective Agreement. If the records have been maintained but not supplied to the Secretariat, the failures constitute a breach of the control environment that the Auditor-General expects the Secretariat to maintain.

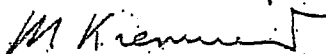
Whatever the level of non-compliance in maintenance or lodgement of those records, the control weaknesses are exacerbated by the apparent absence of a number of your staff on leave, including staff who purport to be taking time off in lieu. The entitlement to take time off in lieu can only exist where there is a record of attendance that clearly establishes that the entitlement has been accrued. If staff do not maintain an attendance record, there is no basis on which they can avail themselves of time off in lieu.

If staff are absent on other forms of approved leave at any time, a leave application must be completed and forwarded to the Secretariat for processing and that absence should also be recorded as part of the attendance record. If such leave is taken but no leave application is submitted, the staff member concerned is, in effect, being paid while absent from duty. Such an arrangement amounts to a failure in internal controls and would raise serious audit concerns, which could also lead to criticism and embarrassment for you.

In light of the issues I have outlined, could I suggest that you immediately take steps to address the extensive non-compliance with either the requirements for attendance records to be completed, or for them to be lodged with the Secretariat, and for leave forms to be completed and lodged for all absences.

In the context of the current federal election campaign, it is apparent that some of your staff are involved in campaign activities and it is particularly important that those staff are absent on some appropriate form of leave while they are engaged in those activities.

Yours sincerely



Max Klermaier
Acting Clerk of the Assembly

13 August 2010



Non-Executive Members

Compliance with Attendance Recording Requirements

I am writing to provide the first of what will be regular quarterly reports to non-Executive Members outlining the submission, or otherwise, of attendance records by your respective staff.

Members will recall that, in her recent report into the administration of employment matters for staff of MLAs, the Auditor-General found that, despite legal requirements, there had been a significant rate of non-submission of attendance records across members offices. The audit identified that, since 2007-08, the rate of non-submission of timesheets by non-Executive Members' staff ranged between 20 and 25%.

The Auditor-General recognised the procedures adopted by the Secretariat to identify and follow up records that had not been completed/lodged. However, the recommendations of the Auditor-General included a reporting arrangements whereby the Secretariat would provide members with regular reports on key areas of compliance; including the lodgement of timesheets, and that such reports should seek specific attention to any areas of non-compliance.

The first such report is attached and covers the period from the commencement of the 7th Assembly to 30 June 2009.

The Corporate Services Office intends to provide subsequent reports to members one month after the end of each quarter. This will allow a full month to elapse at the end of each quarter to enable records to be finalised, signed and lodged.

I would strongly encourage Members to take appropriate steps to address any instances of non-compliance shown in the attached report. Based on the audit work already undertaken, and the measures being implemented to address the non-compliance, any unresolved instances could be a source of potential criticism and embarrassment for the Member concerned.

In addition to ongoing compliance, the timely lodgement of final timesheets for staff whose employment ceases is also important so as to assist the Secretariat in correctly calculating any final entitlements.

Any inquiries regarding the reports and attendance and leave records should be directed, in the first instance to Rachel Lemke.

Ian Duckworth
Corporate Manager

28/9/09

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Legislative Assembly for the Australian Capital Territory

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