



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

SELECT COMMITTEE ON PRIVILEGES 2022

Mr Jeremy Hanson CSC MLA (Chair), Ms Jo Clay MLA (Deputy Chair),
Mr Michael Petterson MLA

Submission Cover Sheet

Inquiry into possible contempt of the Assembly:
Imposition of prohibition notice by WorkSafe ACT

Submission Number: 3.6

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Mr Jeremy Hanson CSC MLA
Chair Select Committee on Privileges
Legislative Assembly for the ACT
London Circuit, Canberra ACT 2601

By email: Max.kiermaier@parliament.act.gov.au

Dear Mr Hanson

Submission to the Select Committee on Privileges 2022

Further to the material previously provided to the Committee, under cover letter dated 1 September 2022, I provide the following submission.

Introduction

1. The purpose of this submission is to assist the Committee by providing:
 - a. A chronology of the events relevant to the Terms of Reference of the Committee;
 - b. An overview of the establishment of the independent Work Health and Safety Commissioner (the **Commissioner**) and the Office of the Work Health and Safety Commissioner (the **Office**) in the Australian Capital Territory (**ACT**);
 - c. The legislative framework provided by the *Work Health and Safety Act 2011* (ACT) (the **Act**) relevant to the functions of the Commissioner and the Office, and the functions and powers of inspectors appointed under the Act;
 - d. The internal guidelines and policies of the Office relevant to the exercise of powers under the Act and decision making in that respect; and
 - e. An outline of the requirements in the Act and the *Work Health and Safety Regulation 2011* to conduct risk assessments and to engage in consultation in the event of change.
2. I am aware of the Opinion of Bret Walker SC and Jackson Wherrett, obtained by the Speaker and provided to the Committee. I have obtained a separate advice from external counsel regarding the validity of the prohibition notices issued and having regard to the issue of privilege being examined by the Committee. A copy of that advice is **enclosed**.



Background

3. On 11 August 2022, I received a telephone call from a person, who advised they had work health and safety concerns surrounding the arrangements for upcoming hearings at the Legislative Assembly.¹ The person subsequently forwarded to me an email, at 4:31pm, confirming the concerns they held and seeking WHS advice in respect of the matter.²
4. In accordance with the established procedure in my Office, upon receipt of information of that kind, I forwarded the email and attached material to a Senior Director for allocation. The matter was subsequently allocated to two inspectors for further investigation.
5. On the afternoon of 12 August 2022, following a workplace visit at the Legislative Assembly, WorkSafe ACT Inspector Meaghan O'Connor (**Inspector O'Connor**) issued Prohibition Notice number N-000005068 (**PN-5068**) to the Legislative Assembly of the ACT. The written notice to the Legislative Assembly was served on the Speaker, Ms Joy Burch (the **Speaker**). PN-5068 prohibited the following:

Undertaking any hearings or committee meetings at Legislative Assembly (sic) of the Australian Capital Territory until a risk assessment has been undertaken, adequate control measures are implemented in line with the Hierarchy of Control, and consultation has been undertaken with all affected workers.

6. PN-5068 included directions concerning the measures to be taken to remedy the risk or contravention, including:

Undertake a risk assessment in relation to face-to-face hearings or committee meetings at the Legislative Assembly of the Australian Capital Territory.

7. At 6:23pm on Friday, 12 August 2022, Inspector O'Connor sent an email to Mr Andrew Braddock MLA, to the effect that the notice did not seek to prohibit remote hearings by the Select Committee on Estimates 2022-2023. Relevantly, Inspector O'Connor wrote:

I have confirmed that undertaking this activity through virtual means would be considered adequate in relation to the elimination of the biological hazard ...

Emails sent by the Speaker and the Clerk of the Legislative Assembly, Mr Tom Duncan, on Saturday, 13 August 2022, which have been provided to the Committee, disclose the understanding of both that PN-5068 did not prohibit virtual meetings or sittings of the Legislative Assembly.

¹ See notebook entry at Annexure A to my Chronology at Submission 3.1 to the Committee.

² See copy of email at Annexure B to my Chronology at Submission 3.1 to the Committee.



8. At 7:22am on Monday 15 August 2022, I received an email from the Speaker attaching a letter from the Speaker and a copy of PN-5068. That letter complained that the notice purported to "restrain all the Assembly's select and standing committees from performing their core scrutiny and accountability functions on behalf of the Assembly" and asked that I withdraw the notice. The email requested a reply to the letter by 10:15am that day.
9. I was subsequently briefed by my staff on the matter and reviewed the terms of PN-5068. I determined that the terms of the notice were capable of preventing all hearings of the Legislative Assembly, including hearings conducted remotely. I formed a view that such prohibition was not appropriate. Accordingly, and consistent with the request of the Speaker, I cancelled PN-5068, pursuant to s207 of the Act.
10. At approximately 10:15am on 15 August 2022, during a workplace visit to the Legislative Assembly, Inspector O'Connor advised that PN-5068 had been cancelled and gave a verbal direction prohibiting the activity of face-to-face hearings. Later that day, at approximately 1:39pm, written Prohibition Notice number N-000005078 (**PN-5078**) was served on the Speaker. PN-5078 prohibited the following activity:

Conducting committee hearings at the Legislative Assembly of the Australian Capital Territory, at which participants attend in person, until a risk assessment has been undertaken, adequate control measures are implemented in line with the Hierarchy of Control, and consultation has been undertaken with all affected workers and others.

11. At 7:30pm on Thursday, 18 August 2022, solicitors acting for my Office forwarded correspondence to the Speaker by email. That correspondence formally responded to the matters raised in the Speaker's letter of 15 August 2022. It confirmed the chronology of events, the power and basis for the issuing of notices pursuant to s195 of the Act, that I did not issue or direct the issue of PN-5068, and that following receipt of the Speaker's letter, I cancelled PN-5068 (pursuant to s207 of the Act).
12. On Friday, 19 August 2022, following the provision of information and documentation by the Legislative Assembly, together with a workplace visit by WorkSafe ACT inspectors, PN-5078 was lifted.
13. Save for the cancellation of PN-5068, I gave no directions in relation to the matter. Further, I was not directed in any manner, by the responsible Minister or any other person, either generally or specifically, in relation to this matter or at any other time during the period of my appointment.
14. The Act provides for internal and external review of certain decisions, including the decision to issue a prohibition notice. No such review has been sought in this matter.



Establishment, independence and functions of the Commissioner and the Office

15. On 28 April 2020, I commenced as the inaugural independent Work Health and Safety Commissioner. The independent Office of the Work Health and Safety Commissioner also commenced on that day.³
16. The desirability of the Commissioner's independence, and the safeguards to ensure it, were made clear in the presentation speech of Minister Rachel Stephen-Smith (then Minister for Employment and Workplace Safety) for the *Work Health and Safety Amendment Bill 2019* (see Hansard for the Ninth Assembly; 15 August 2019 at pp 2965 - 2967):

This bill focuses on a number of key design principles in implementing the governance model—namely, independence, transparency, accountability and scrutiny. The bill achieves this by establishing WorkSafe ACT with the formal title of Office of the Work Health and Safety Commissioner. This office establishes the separate and independent entity of the regulator for the ... Act.

...

The role of the WHS commissioner is ... a position that will play a critical role in managing the office and exercising the functions of the regulator. The regulator ... not only enforces compliance with the obligations and duties applied to the private sector but also imposes obligations on the ACT government as an employer. For this reason it is important that the regulator be independent in exercising its regulatory functions.

In support of the independence of the office and the WHS commissioner, the WHS commissioner and staff of the office will be independent officers in carrying out the regulatory functions under the (Act). The WHS commissioner will be appointed by the executive as a non-public servant. The WHS commissioner will need to regularly disclose any conflicts of interest they may have. The WHS commissioner will be able to appoint staff for the office.

...

In establishing an independent entity as the regulator ... it is also critical to ensure that there are appropriate mechanisms in place for the effective transparency, accountability and scrutiny of the activities of the regulator.

These mechanisms have been designed ... to support the transparency and accountability of the office through increased reporting requirements ... including the preparation of an annual report; clarity as to advisory functions of the new Work Health and Safety Council that is responsible for advising the government on matters relating to the

³ Both were established under the Act by amendments introduced in the *Work Health and Safety Amendment Act 2019*.



work health and safety legislation, including the activities of the regulator and stakeholder confidence in the regulator; a requirement for the government's expectations as to the priority activities and expectations for the regulator to be communicated to the WHS commissioner annually by the minister; a requirement to make a statement of operational intent that responds to the minister's statement of expectations and supports the strategic plan for the office; increased focus on the strategic activities of the office by requiring a four-year strategic plan for the office; and a requirement to make a compliance and enforcement policy to increase transparency about the way in which the office carries out its compliance and enforcement activities, including its aims, approach, tools and guidance material.

...

To further facilitate the accountability and scrutiny of the office, a number of the documents ... will be required to be notifiable instruments and tabled in the Legislative Assembly ... includ(ing) the compliance and enforcement policy, the strategic plan and the government's statement of expectations.

17. The Commissioner is appointed as the regulator under the Act and is responsible for the management, administration, and financial management of the Office. Additionally, the Commissioner has several statutory functions, set out in s152 of the Act. Those functions are:
- a. to advise and make recommendations to the Minister and report on the operation and effectiveness of this Act;
 - b. to monitor and enforce compliance with this Act;
 - c. to provide advice and information on work health and safety to duty-holders under this Act and to the community;
 - d. to collect, analyse and publish statistics relating to work health and safety;
 - e. to foster a cooperative, consultative relationship between duty-holders and the persons to whom they owe duties and their representatives in relation to work health and safety matters;
 - f. to promote and support education and training on matters relating to work health and safety;
 - g. to engage in, promote and coordinate the sharing of information to achieve the object of this Act, including the sharing of information with a corresponding regulator;
 - h. to conduct and defend proceedings under this Act before a court or tribunal;



- i. any other function given to the regulator by this Act or another territory law.
18. In addition to the above, s2.22 of Schedule 2 to the Act sets out further functions of the Commissioner as follows:
 - a. exercising the functions of the office of the work health and safety commissioner; and
 - b. managing the administration of the office; and
 - c. the efficient and effective financial management of the office's resources; and
 - d. making the following for the office:
 - i. a compliance and enforcement policy;
 - ii. a strategic plan;
 - iii. a draft statement of operational intent; and
 - e. ensuring, as far as practicable, that the functions of the office are exercised—
 - i. in an orderly and prompt way; and
 - ii. in a way that takes into account, and complies with, the compliance and enforcement policy, the strategic plan and the statement of operational intent; and
 - f. any other function given to the WHS commissioner under this Act or another territory law under which the WHS commissioner performs a function.
19. The independence of the Commissioner in the exercise of the powers and functions prescribed by the Act is made clear in Schedule 2 to the Act, which provides that the Commissioner is "not subject to the direction of anyone else, and must act independently, in relation to the exercise of a function under this Act". The Act provides that the Minister may give written directions to the Commissioner. However, such directions may only be general in nature and must not direct the Commissioner "in relation to a particular investigation or particular regulatory action". Further, a copy of any such direction must be presented to the Legislative Assembly within five sitting days after it was given (Schedule 2, s2.23).
20. The Commissioner also has a duty of good conduct, prescribed in s2.24 of Schedule 2 to the Act, requiring the Commissioner to exercise the degree of honesty, care and diligence required of a director in relation to a corporation. The



Commissioner also holds a duty to the Office, *inter alia*, to act in good faith and not to cause detriment to the Office or undermine its reputation.

21. In addition to my appointment as the Work Health and Safety Commissioner, I am also currently the Labour Hire Licence Commissioner under the *Labour Hire Licensing Act 2020*. The *Labour Hire Licensing Act 2020* provides that the Labour Hire Licence Commissioner is not subject to the direction of anyone and must act independently (s11) and sets out the functions of the role as follows (s10):
 - a. to promote an understanding and acceptance of, and compliance with, this Act;
 - b. to promote the integrity of the labour hire industry;
 - c. to undertake research and develop educational and other programs for the purpose of enabling licensees to comply with the Act;
 - d. to advise the Minister on any matter relevant to the operation of this Act; and
 - e. any other function given to the commissioner under this Act or another territory law.
22. The Commissioner also has functions under other territory laws, including the *Dangerous Substances Act 2004*, the *Dangerous Substances (Explosives) Regulation 2004*, the *Dangerous Substances (General) Regulation 2004* and the *Machinery Act 1949*.
23. The Office is an independent entity, established under the Act to assist the regulator to administer the ACT's work health and safety legislation. The Office has several statutory functions set out in s2.20 in Schedule 2 to the Act, including:
 - a. to promote an understanding and acceptance of, and compliance with, this Act or another territory law relating to work health and safety; and
 - b. to undertake research, and develop educational and other programs for the purpose of promoting work health and safety; and
 - c. to advise the Minister on any matter relevant to the operation of a territory law under which the commissioner performs a function; and
 - d. any other function given to the office under this Act or another territory law under which the office performs a function.
24. The Commissioner is to advise and make recommendations to the Minister and report on the operation and effectiveness of the Act (s152). The Minister may approve codes of practice and forms, and determine fees, for the purposes of the Act. Although the Minister has oversight of the performance and function of the Commissioner and the Office, and can give general written directions to the Commissioner in relation to the exercise of those functions, the Minister does not



direct the Commissioner or the staff of the Office in the day to day performance of their duties.

Independence and direction of Inspectors

25. Inspectors are appointed under s156 of the Act. The Act provides that a member of the staff of the Office, in relation to the exercise of a function under the Act, is not subject to the direction of anyone except the Commissioner, or another member of staff who is authorised by the Commissioner to give directions.
26. Inspectors have a range of functions and powers. Inspectors are independent in the exercise of their functions and powers, save that they are subject to the regulator's directions in the exercise of their compliance powers. The regulator's directions to inspectors may be of a general nature or may relate to a specified matter or specified class of matter (s162).
27. Inspectors may require compliance with the Act through the issuing of notices (s160((d)). Notices include improvement notices (s191) and prohibition notices (s195).
28. A prohibition notice may be issued to a person where an inspector reasonably believes, *inter alia*, that an activity may occur at a workplace that, if it occurs, will involve a serious risk to the health or safety of a person emanating from an immediate or imminent exposure to a hazard (s195(1)). Whilst the belief must be formed by the issuing inspector (not others, not the organisation, and not the regulator), whether that belief is 'reasonable' is an objective test.⁴
29. The test of reasonable belief requires the existence of facts "which are sufficient to induce that state of mind in a reasonable person".⁵ In *Growthbuilt v SafeWork NSW*, Chief Commissioner Kite SC noted that while an Inspector is not required to undertake a full investigation prior to issuing a notice, there is a requirement to make reasonable inquiries to establish or clarify the facts.⁶ He continued that, "a reasonable and balanced approach does not allow an inspector to make assumptions and act on them without, at least, attempting to test, in a timely and practical manner, the validity of those assumptions".⁷
30. Where an inspector forms a reasonable belief as to a serious risk, the inspector may give a person who has control over an activity a direction prohibiting the carrying on of the activity, or the carrying on of the activity in a specified way, until an inspector is satisfied that the matters that give or will give rise to the risk have been remedied. The direction may be given orally but must be confirmed by written notice as soon as practicable (s195(1)).
31. Whilst the Act allows for inspectors to make "minor changes" to a notice (issued by an inspector), only the Commissioner has the power to vary or cancel a notice (ss206 and 207).

⁴ *Growthbuilt v SafeWork NSW* [2018] NSWIRComm1002; 274 IR 317 at [55].

⁵ *George v Rockett* (1990) 170 CLR 104.

⁶ [2018] NSWIRComm1002; 274 IR 317 at [95].

⁷ *Ibid* at [96].



Policies and procedures

32. The Office has internal guidelines to assist inspectors in the effective and efficient performance of their functions under the Act, including:
 - a. Standard Operating Procedures (**SOP**) for:
 - i. Entry to Workplaces and Related Powers and Obligations;
 - ii. Issuing Prohibition Notices;
 - iii. Issue of Notices and Other General Requirements Relating to all Notice Types; and
 - b. Incident Response Manual.
33. These internal guidelines highlight the importance of inspectors forming their own reasonable belief, including the necessity to make reasonable and sensible enquiries, and to accurately record information throughout the process. They reiterate the need to demonstrate consistency and professionalism, at all times.
34. In relation to workplace inspections, the 'Entry to Workplaces and Related Powers and Obligations' SOP provides guidance on what makes for a good workplace inspection, including provision of a checklist to inspectors, reminding them, *inter alia*, to:
 - a. Make sufficient observations and inquiries to draw your conclusions (e.g. sufficient to support a reasonable belief that a contravention exists if considering the need to issue an improvement notice); and
 - b. Verify and validate what you observe or what you are told.
35. The SOPs relevant to the issuing of notices, and particularly prohibition notices, confirm it is WorkSafe ACT's policy that "inspectors will issue a prohibition notice in all cases where they reasonably believe that an activity is occurring or may occur involving a serious risk to the health and safety of a person emanating from an immediate or imminent exposure to a hazard". (emphasis added)
36. In addition to setting out the legislative and practical requirements, the 'Issuing Prohibition Notices' SOP sets out the procedural steps to be followed when issuing such a notice. The first of those steps is the forming of the required reasonable belief. In that regard, the SOP provides as follows (extract):

Forming a reasonable belief that a serious risk emanating from an immediate or imminent exposure to a hazard is occurring or may occur:

- 1.1 What you see, read and are told and by whom you are told are important things to support your reasonable belief that an activity giving rise to a serious risk is occurring or is likely to occur. Make appropriate notebook entries to record your observations and enquiries.



- 1.2** If it is safe to do so and appropriate, take photographs, make sketches or take measurements. Take details of the names and contact details of those observed undertaking the activity and any witnesses.
- 1.3** If the relevant activity is not occurring at the time, you will need to make further enquiries and observations to determine if you can form a reasonable belief that the serious risk activity **may occur** again.
- 1.4** Consider the following questions:
- How is the job to be finished?
 - Have workers been told to cease the activity giving rise to the serious risk?
 - Have the workers been told why the activity has ceased?
 - Has the person made other arrangements to complete the work?
 - What is the person's compliance history?
- 1.5** Ensure you have identified details of the correct person to whom you will issue the prohibition notice – the person who has control over the activity giving rise to the serious risk emanating from an immediate or imminent exposure to a hazard. Commonly this will be the person conducting the business or undertaking (PCBU) Ensure that the activity is stopped – either by immediately issuing a prohibition notice or by first giving an oral direction which must be confirmed in writing in the form of a prohibition notice as soon as practicable.
- 1.6** Before issuing any Prohibition Notice the Inspector should discuss the circumstances with their Manager if time and safety permits.
- 1.7** If the Prohibition Notice is being issued on a Public Sector agency then the manager must notify the Senior Director.
- 1.8** The Inspector must not issue a Prohibition Notice based on a suspicion that something may be wrong. If an Inspector is unsure if there is sufficient evidence then they are to consult with their Manager and investigate further before issuing any Prohibition Notice.
- 1.9** When several issues are identified, **separate** Prohibition Notices should be issued for each identified serious risk activity. (Bold in original)

Process for Review under the WHS Act

37. Part 12 of the Act provides for the review of certain decisions made under the Act and the process to be followed for such a review.
38. The decision, pursuant to s195, to issue a prohibition notice is a reviewable decision. The following persons are eligible to apply for review:⁸
- a. The person to whom the notice was issued;

⁸ Section 223.



- b. The person with management or control of the workplace, plant or substance;
 - c. A person conducting a business or undertaking whose interests are affected by the decision;
 - d. A worker whose interests are affected by the decision;
 - e. A health and safety representative who represents a worker whose interests are affected by the decision; and
 - f. A health and safety representative who gave a direction under s 85 to cease work, that is relevant to the prohibition notice.
39. An eligible person can apply for internal review of a decision to issue a prohibition notice within 14 days of becoming aware of the decision, or such longer period that the regulator allows (s224).
40. The Act permits the regulator to appoint others to conduct internal reviews (s225). When an application for internal review is lodged, the internal reviewer must review the decision and make their decision as soon as reasonably practicable and within 14 days after it is received (s226).
41. Internal reviewers can decide to confirm or vary the notice, or to set aside the notice and substitute another decision that they consider appropriate (s226(2)). As soon as practicable after making a decision, they must give the applicant, in writing, the decision and their reasons (s227).
42. Where a person applies for internal review of a prohibition notice, the reviewer has the discretion to stay the operation of the notice (s228(2)). The reviewer may make the decision to stay the operation of a notice on their own initiative or on the application of the applicant. An internal reviewer must make a decision on an application for a stay within one working day after the reviewer receives the application. If no decision is made in this regard, the reviewer is taken to have made a decision to grant a stay.
43. If a person is dissatisfied with the internal reviewer's decision, s229 permits an eligible person to apply to the Australian Capital Territory Civil and Administrative Tribunal for an external review of that decision.
44. The above process for review sets out a path for any challenge to the legality of certain notices, including notices such as those issued in this matter. Information regarding this process, including how to lodge an application for internal review with WorkSafe ACT, was included in the final two pages of the notices issued under the heading "Prohibition Notice issued under section 191 (sic) of the Work Health and Safety Act 2011 – further information".

Risk Assessments and Consultation under the Act

45. PN-5068 included a direction that the Legislative Assembly undertake a risk assessment in relation to face-to-face hearings or committee meetings to be held at the Legislative Assembly of the Australian Capital Territory.



46. The biological hazard to which PN5068 related was COVID-19. An assessment of risks arising from that hazard would include a consideration of the type, length and frequency of interactions within a workplace, and whether a worker or other person is likely to be at higher risk of severe illness from COVID-19. It must consider the hierarchy of controls, including whether the work activity can be conducted in a manner which eliminates the risk.
47. Like any other workplace hazard, the requirement to assess risks from COVID-19 is ongoing. In particular, a duty holder must, by virtue of regulation 38 of the *Work Health and Safety Regulation 2011*, review and revise control measures, "before a change at the workplace that is likely to give rise to a new or different risk to health or safety that the measure may not effectively control" (regulation 38(2)(b)). A change at the workplace includes:
- a. change to the workplace itself or any aspect of the work environment; or
 - b. a change to a system of work, a process or a procedure.
48. Further, pursuant to s47 of the Act, a person conducting a business or undertaking must, so far as is reasonably practicable, consult with workers who carry out work for them or who are, or are likely to be, directly affected by a matter relating to work health and safety. Consultation with workers is required under the Act, in relation to health and safety matters, in the following circumstances (see s49):
- a. when identifying hazards and assessing risks to health and safety arising from the work carried out or to be carried out by the business or undertaking;
 - b. when making decisions about ways to eliminate or minimise those risks;
 - c. when making decisions about the adequacy of facilities for the welfare of workers;
 - d. when proposing changes that may affect the health or safety of workers;
 - e. when making decisions about the procedures for—
 - i. consulting with workers; or
 - ii. resolving work health or safety issues at the workplace; or
 - iii. monitoring the health of workers; or
 - iv. monitoring the conditions at any workplace under the management or control of the person conducting the business or undertaking; or
 - v. providing information and training for workers;



- f. when carrying out any other activity prescribed by regulation for the purposes of this section.
49. Safe Work Australia has published information and resources relating to COVID safety and provides specific guidance in relation to risk assessments. The guidance provides that a risk assessment can help determine the likelihood and severity of a risk, whether existing controls are effective, and what action should be taken to control the risk. The exposure of workers and others to COVID-19 in the work environment is a foreseeable risk that must be assessed and managed in the context of the operating environment. Risk assessment and management is an ongoing process that requires regular review, particularly when there is a change in risk (including changes in COVID-19 cases or public health orders) or work activities.
50. A COVID Safety Plan details risk mitigation controls at a workplace. The plan is a high-level document which details a range of control measures available to minimise the risk from COVID-19. A risk assessment under the Act might reveal the necessity for the implementation of some, or all, of the controls detailed in a COVID Safety Plan. ACT Government guidance material⁹ provides that a COVID Safety Plan should include measures to: exclude people who are unwell, encourage physical distancing, provide hand sanitiser and encourage good hand hygiene, encourage use of face masks and other PPE, undertake regular cleaning, display COVID Smart signage and conduct regular check-ins and training with staff regarding COVID Smart behaviours.
51. A COVID Safety Plan may require additions or amendments following an updated risk assessment. That is, an inherent feature of a COVID Safety Plan is the need to conduct risk assessments as the hazard and the work environment (or the activity conducted within that environment) change over time. It follows that a COVID Safety Plan requires, rather than replaces, the need for the continued conduct of risk assessments.
52. Upon their initial attendance at the Legislative Assembly on 12 August 2022, WorkSafe ACT inspectors were provided with a copy of the "COVID Safe Plan – 10th Assembly" (the **Plan**). Further to the statutory requirements noted above, by the terms of the Plan, Members of the Legislative Assembly and managers were urged to "continuously consult with their staff about how they propose to manage the various business continuity, staff, WHS matters that arise throughout any transitions to and from the normal workplace (and through the pandemic more generally)" (see paragraph 7.26). The Plan provided was in draft and dated March 2022.
53. Further, the Plan required the "Speaker, Clerk and members (to) continue to assess the particular WHS risks that arise in their individual workplaces and ensure that appropriate control measures are in place to effectively manage those risks" (see paragraph 7.35). Appendix A to the Plan is the Risk Register, which specifically referred to "Exposure risks – committee hearings/meetings" noting that whilst it is ultimately a matter for each committee to decide how to conduct their proceedings, the "standing orders permit hearings to be conducted remotely and

⁹ [03a.-Factsheet-Keeping-your-business-COVID-Smart.pdf](#)



this has proved to be an effective way of ensuring that committee proceedings have been able to continue during lockdown".

Yours sincerely

A handwritten signature in black ink, appearing to read 'Agius', written over a faint circular stamp or watermark.

Jacqueline Agius
Work Health and Safety Commissioner

21 October 2022

