



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

QToN No. PAC-1

STANDING COMMITTEE ON PUBLIC ACCOUNTS

Mrs Elizabeth Kikkert MLA (Chair), Mr Michael Pettersson MLA (Deputy Chair),
Mr Andrew Braddock MLA

Inquiry into Annual and Financial Reports 2022–23
ANSWER TO QUESTION TAKEN ON NOTICE
13 November 2023

Asked by Mr Peter Cain MLA on Monday, 13 November 2023: Ms Joy Burch MLA, Speaker, took on notice the following question:

[Ref: Hansard Uncorrected Proof Transcript 13 November 2023 pp 4–5]

In relation to: Correspondence with Workplace Health and Safety Commissioner

Ms Burch: And I think given the most recent, but also going back to Mrs Kikkert's comment about their obligations as being a PCBU, a number of members will come in with very limited experience of corporate practice or corporate management or being responsible for staff. So I think that will be very strongly putting given our mandatory training in some ways in that.

If I can, without being presumptuous, go back to noting not only the disappointment in not progressing an MOU but I do note that the Commissioner's annual report is completely absent and silent on being found by two committees to have interfered with the functioning of this place, and even though they have recognised that we are key stakeholders, there is no mention whatsoever of what occurred in those estimates processes in their annual report. So I am not quite sure what else I can say on that.

MR CAIN: Supplementary on that?

THE CHAIR: Yes, of course, Mr Cain.

MR CAIN: So given your stated concern, are you following up that with correspondence?

Ms Burch: I have written and sought an explanation of why an annual report which should be a frank and fearless account of an organisations and entities activities over a 12 month period, why it was deemed not worthy of mention.

MR CAIN: And are you able to share your correspondence and any reply with this committee?

Ms Burch: I will take some advice and if I can I am happy to share.

OFFICIAL

Speaker: The answer to the Member's question is as follows:--

Please see attached correspondence as requested:

Letter to Mick Gentleman MLA, Minister for Workplace Health and Safety, 7 November 2023

Letter from Mick Gentleman MLA, Minister for Workplace Health and Safety, 14 November 2023

Approved for circulation to the Standing Committee on Public Accounts

Signature:



Date: 22 November 2023

By the Speaker, Joy Burch MLA



Speaker

Mr Mick Gentleman MLA
Minister for Workplace Health and Safety
ACT Legislative Assembly
Canberra City 2601

GENTLEMAN@act.gov.au

Dear Minister,

Re WorkSafe ACT Annual Reports 2022-23

Recent tabling of directorate and agency Annual Reports, and impending hearings, has prompted me to write to you to share some thoughts I have with regards to WorkSafe ACT's 2022-23 Annual Report (the report).

The report appears to omit information about the prohibition notice/s placed on the Assembly by WorkSafe in August 2022. Events that followed and recommendations unanimously adopted by the Assembly following the establishment of the privileges committee, including amendments to the *Work Health and Safety Act 2011*, have also been omitted from the report.

Page 62 of the report identifies that Ministers, and the ACT Legislative Assembly are viewed as key stakeholders, and it is articulated that it is a strategic objective of WorkSafe to engage with stakeholders to better understand and respond to current and emerging issues. It is therefore, regrettable that despite the Assembly being recognised as a key stakeholder, the prohibition notice/s and subsequent outcomes, including the development of a Memorandum of Understanding between WorkSafe and the Assembly, have not been included in the report.

I would be interested in understanding what the reasons for this omission may be, and, if you as Minister responsible for Workplace health and safety, have concerns around the report not appearing to represent a fulsome account of WorkSafe's annual activities.

Section 7 (2) of the *Annual Reports (Government Agencies) Act 2004* is clear in its direction that the report must be prepared about the operation of the body during the reporting year. The WorkSafe Commissioner in her transmittal letter to you advises that the report is an honest and accurate account and all material information on the operations of the Office of the Work Health and Safety Commissioner has been included for the appropriate reporting period.

Whilst it may be desirable for directorates, agencies and officers to focus on achievements and highlight positive outcomes of their annual undertakings, it is important that reports contain transparent information about all activities and undertakings, particularly from an oversight and probity perspective.

I appreciate the incident with WorkSafe regarding the prohibition notice/s was a difficult time and there were at the time, and potentially still, differing views held by related parties, however, I also believe there were important lessons learned and tangible actions that were adopted by the Assembly which I believe warrant reference in the report.

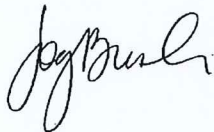
The Office of the Legislative Assembly have included the issuing of prohibition notices in their 2022-23 Annual Report and included information about the MoU which is being advanced by both WorkSafe and the OLA. They have also included relevant information and updates relating to recommendations made by both the Privileges Committee and the Public Accounts Committee.

Given this matter was of significant interest to both the Assembly and the public, it would seem that the omission of this information by WorkSafe is perhaps an unintentional oversight leading to an incomplete account of their annual undertakings and operational activities for the 2022-23 financial year.

I trust this matter and the possibility it raises questions about the veracity of WorkSafe's 2022-23 Annual Report, will be given appropriate consideration by you and the Commissioner and I look forward to receiving assurances that you have considered this matter and understand my concerns.

I look forward to your reply and views.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Joy Burch', written in a cursive style.

Joy Burch, MLA
Speaker

07 November 2023

Cc: Ms Jacqueline Agius
Worksafe Commissioner



Mick Gentleman MLA

Manager of Government Business
Minister for Planning and Land Management
Minister for Police and Emergency Services
Minister for Corrections
Minister for Industrial Relations and Workplace Safety

Member for Brindabella

Madam Speaker
Joy Burch, MLA
Legislative Assembly for the Australian Capital Territory
Civic Square, London Circuit
CANBERRA ACT 2601
Via email: burch@parliament.act.gov.au

Our ref: CMTEDD2023/5242

Dear Madam Speaker

I write in response to your letter dated 7 November 2023 regarding the Office of the Work Health and Safety Commissioner Annual Report 2022-23 (Annual Report).

I appreciate your interest in the Annual Report and the reporting of WorkSafe ACT's regulatory functions. I am confident in the advice I have received on the concerns which you have raised.

Specifically, that the Annual Report meets all requirements of the *Annual Reports (Government Agencies) Directions 2023* (the Directions). The Directions set out that reporting entities must report on improvement, prohibition, or non-disturbance notices received under the *Work Health and Safety Act 2011* (the WHS Act).

The report of notices issued is a requirement due to WorkSafe ACT's operations, as you have noted. WorkSafe ACT issued 675 prohibition notices in the 2022-23 financial year. The Annual Report does not describe the details of these notices in a manner which might identify an entity, nor the circumstances for which these notices were issued.

WorkSafe ACT does not report on or identify any of the persons conducting a business or undertaking (PCBUs) that were issued notices as the WHS Act specifically precludes WorkSafe ACT from releasing information which could identify a PCBU.

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I hope this addresses your concerns regarding the content of the Annual Report. Should you wish to discuss this matter please contact my Workplace Safety Adviser, Lucas Bird using the address lucas.bird@act.gov.au.

I would request that in future correspondence raising concern with the content of an Annual Report please be directed to me or my Office, and not copied to the Agency Head.

Yours sincerely



Mick Gentleman MLA

Minister for Industrial Relations and Workplace Safety

14/11/2023