

Date/time – (2022)	Description	Annexure
11 August – 5.36pm	Email from Jacqui Agius to me – requesting follow up on an email.	1 & 2
12 August – 10.51am	Phone call to complainant advising a response would be forthcoming.	Phone record on iPhone if required -
12 August – exact time not recorded – about 11.20am	Meeting for case allocation – outline of complaint and requirement to create a SF case – (MOConnor, NBowden, BAlford, BGrey)	Recollection
12 August – 11.32am	Phone call to complainant requesting further information	Phone record on iPhone if required. - 62070752
12 August – 11.38am	Email to MOConnor, NBowden, BGrey RE: Email as received by the WHS Commissioner.	Annexure 6
12 August – 11.40am	Phone call to David Monk OLA – no answer message left to call back	Phone record on iPhone if required
12 August – 11.53am	Phone call to – David Monk – advised that a concern had been raised and requested information on the best contact person at the OLA to speak to about the issues and who the inspectors could meet with later in the day. Advised Tom Duncan was the best contact person.	Phone record on iPhone if required
12 August – 11.56am	Phone call received from Tom Duncan – Explained the nature of the concern raised. Tom alluded to standing order 271. Advised that I was not	Phone record on iPhone if required Recollection of conversation

	<p>after that information only what control measures were in place and could he provide a risk assessment for the activity in question. Further advised that 2 inspectors would be attending the LA to discuss the matter and requested the person for them to contact. Tom acknowledged that WS inspectors would be attending.</p>	
12 August – 11.56am	<p>Phone call received from Tom Duncan – Raised s117 of the WHS Act and that inspector needed to provide 24-hour notice to be authorised to enter the workplace (LA). Advised to disregard that section and read s163 and subsequent sections thereafter in relation to inspector powers of entry and seizure of documents and exhibits.</p>	<p>Phone record on iPhone if required Recollection of conversation</p>
12 August – 1.19pm	<p>Email sent to complainant</p>	<p>Annexure 3</p>
12 August – 1.56pm	<p>Email received – from complainant</p>	<p>ANNEXURE 4</p>
12 August – 2.38pm	<p>Phone call received from MOConnor – update on inspection at LA. Advised that they (inspectors) were still waiting to speak with a member of the committee.</p>	<p>Phone record on iPhone if required.</p>
12 August – 3.29pm	<p>Email received – from complainant</p>	<p>Annexure 5</p>
12 August – 3.41pm	<p>Text message sent to MOConnor – "how are things going?"</p>	<p>Phone record on iPhone if required.</p>
12 August – 3.43pm	<p>Call to MOConnor – no</p>	<p>Phone record on iPhone if</p>

	answer.	required.
12 August - 3.47pm	Received call from MOConnor - update provided and advised verbal prohibition notice to committee member Andrew Bradrick	Phone record on iPhone if required.
12 August - about 4.10pm	Debrief with MOConnor, NCalvert.	Recollection only
12 August - 6.11pm	Approved Prohibition Notice number 0000005068 as issued by Inspector MOConnor	Annexure 7
12 August - 6.34pm	Email received - classified Sensitive (Legal Privilege)	Annexure 8

ANNEXURE 1

Hi Bob

I have received the below email complaint from the legislative assembly. Could you manage this complaint in the usual way please?

Stay safe

Jacqueline Agius |Work Health and Safety Commissioner
|Labour Hire Licence Commissioner
Office of the Work Health and Safety Commissioner
GPO Box 158 Canberra ACT 2601

WORKSAFEACT



I acknowledge the traditional custodians of the ACT the Ngunnawal people, and their continuing connection to land and community. I pay my respect to them, and to the Elders both past and present.

From: Agius, Jacqueline
Sent: Thursday, 11 August 2022 5:28 PM
To: [REDACTED]
Cc: Grey, Amanda <Amanda.Grey@worksafe.act.gov.au>; [REDACTED]
Subject: RE: Correspondence from Minister Gentleman

OFFICIAL

Dear [REDACTED]

Thank you for your email. I will forward your email to our compliance and enforcement team for assessment. This team manage complaints to our office. They will contact you about this matter shortly.

Kind regards

Jacqueline Agius |Work Health and Safety Commissioner
|Labour Hire Licence Commissioner
Office of the Work Health and Safety Commissioner
GPO Box 158 Canberra ACT 2601

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I acknowledge the traditional custodians of the ACT the Ngunnawal people, and their continuing connection to land and community. I pay my respect to them, and to the Elders both past and present.

From: [REDACTED]
Sent: Thursday, 11 August 2022 4:31 PM
To: Agius, Jacqueline <Jacqueline.Agius@worksafe.act.gov.au>
Cc: Grey, Amanda <Amanda.Grey@worksafe.act.gov.au>; [REDACTED]
Subject: FW: Correspondence from Minister Gentleman
Importance: High

Good afternoon Commissioner

The Minister is currently engaging with the Assembly Select Committee on Estimates regarding hearing arrangements. The committee, as outlined in their letter attached, is insisting on all witnesses appearing in person. We have significant concerns, as outlined in the Minister's response, about how the committee will meet WHS obligations in the current COVID situation. I've also attached the photo from a recent hearing that Minister refers to in his letter.

Would appreciate any further WHS advice you have on this matter.

Many thanks

[REDACTED]

From: GENTLEMAN
Sent: Thursday, 11 August 2022 2:40 PM
To: LA Committee - Estimates <LACommitteeEstimates@parliament.act.gov.au>
Cc: BURCH <BURCH@parliament.act.gov.au>
Subject: RE: Correspondence from Minister Gentleman
Importance: High

Good afternoon

Please find attached further correspondence from Minister Gentleman regarding estimates hearing arrangements.

Regards

[REDACTED]



From: LA Committee - Estimates
<LACommitteeEstimates@parliament.act.gov.au>

Sent: Thursday, 11 August 2022 12:34 PM

To: GENTLEMAN <GENTLEMAN@act.gov.au>
[REDACTED]

Subject: RE: Correspondence from Minister Gentleman

OFFICIAL

Good afternoon [REDACTED]

Please find attached the Chair's response to Minister Gentleman's letter.

Regards,

Dr David Monk
Senior Director, Committee Support
Office of the Legislative Assembly
02 620 50129
david.monk@parliament.act.gov.au
www.parliament.act.gov.au

From: GENTLEMAN <GENTLEMAN@act.gov.au>
Sent: Thursday, 11 August 2022 12:20 PM
To: LA Committee - Estimates <LACommitteeEstimates@parliament.act.gov.au>
Subject: FW: Correspondence from Minister Gentleman
Importance: High

Good afternoon

I am following up on behalf of the Minister as we have not received a response to his letter sent on Monday. Given the urgency of this matter (hearings commence on Monday), when can we expect a response from the Chair confirming the hearing arrangements?

Regards
[REDACTED]

[REDACTED]

From: GENTLEMAN
Sent: Monday, 8 August 2022 3:16 PM
To: LA Committee - Estimates <LACommitteeEstimates@parliament.act.gov.au>
Cc: BURCH <BURCH@parliament.act.gov.au>
Subject: Correspondence from Minister Gentleman

Dear Committee

Please find attached correspondence from Minister Gentleman.

Kind regards

Office of Mick Gentleman MLA
Minister for Planning and Land Management
Minister for Police and Emergency Services
Minister for Corrections
Minister for Industrial Relations and Workplace Safety
Manager of Government Business
Member for Brindabella

P: +61 6 620 50218 | Legislative Assembly Building, London Circuit, Canberra, ACT 2601 | GPO Box 1020, Canberra, ACT 2601



ANNEXURE 2

Hi Bob

I am not sure why the attachments did not come through. They should come through now.

Cheers

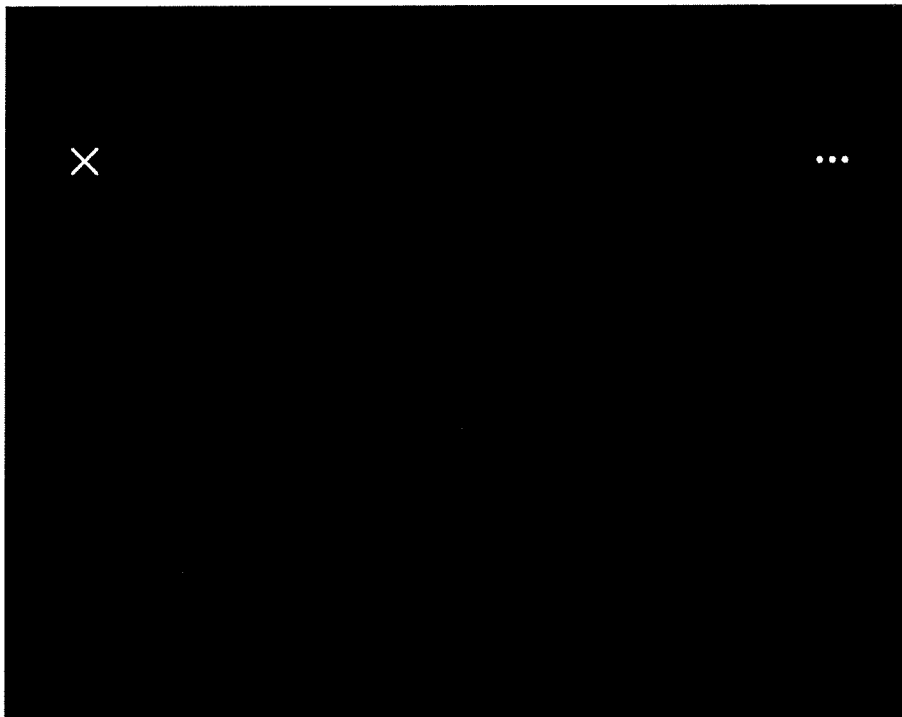
Jacqueline Agius | Work Health and Safety Commissioner
| Labour Hire Licence Commissioner
Office of the Work Health and Safety Commissioner
GPO Box 158 Canberra ACT 2601

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I acknowledge the traditional custodians of the ACT the Ngunnawal people, and their continuing connection to land and community. I pay my respect to them, and to the Elders both past and present.





Peter Cain MLA @cain_mla · 1d



I joined the public hearings this afternoon of the Educational and Community Inclusion Committee's inquiry into racial vilification with witnesses John Kalokerin...





Signed letter to Mr
Gentleman on COVID



Correspondence
from Minister Gentlen

ANNEXURE 3

From: Alford, Robert <Robert.Alford@worksafe.act.gov.au>

Sent: Friday, 12 August 2022 1:19 PM

To: [REDACTED]

Subject: FW: Correspondence from Minister Gentleman

Importance: High

OFFICIAL: Sensitive

[REDACTED]

Please be advised that I have received your email in relation to concerns raised on the safe conduct of committee panels at the ACT Legislative Assembly during a public health emergency as extended through to 30 September 2022 by the ACT Chief Health Officer relating to COVID 19.

I note that a hybrid model has been in operation at the Assembly for all meetings, including the estimate committee hearings, that has previously had a combination of face to face and online virtual attendance.

WorkSafe ACT requires all persons conducting a business or undertaking to ensure the health and safety of all workers, visitors and others. This includes ensuring that all persons at the workplace are protected by the duty holders and the workplace is a safe and healthy environment at all times.

The *Work Health and Safety Act 2011* (the Act) and *Work Health and Safety Regulation 2011* (the Regulation) requires a person conducting a business undertaking and/or duty holder to complete the following for any task or activity undertaken at the workplace:

- A risk assessment for the planned activity must be undertaken outlining the foreseeable hazards identified – what gives rise to the risk emanating from the hazard to the health and safety.
- A duty holder in managing risks to health and safety must eliminate the risk so far as reasonably practicable. Where it is not reasonably practicable to eliminate the risk to health and safety the risk must be managed as reasonably practicable.

The Regulation requires the following process to be completed when implementing a control measure:

- Elimination of the risk must be considered as the first control measure and where the risk can be eliminated this approach must be implemented.

For example, in the situation outlined where a staff member of the ACT public service is able to attend any meeting by virtual means, it must be implemented first as an effective measure to eliminate exposure to the hazard as per the obligations pursuant to section 36 of the Regulation.

The next level of control, being substitution for controlling this identified hazard, is to have staff members also attending meetings virtually.

Furthermore, the risk assessment must be consulted with by all persons affected by the activity and their views and feedback considered and reviewed pursuant to section 47 and 48 of the Act.

At this stage WorkSafe ACT Inspectors will be seeking to obtain the risk assessment for the conduct of committee hearings at the Assembly. Should no risk assessment be available, WorkSafe ACT Inspectors will consider regulatory options to ensure compliance with the WHS Act and Regulation.

WorkSafe ACT have a number of regulatory options to ensure compliance with the Act and Regulation. This includes:

- an improvement notice can be issued to ensure all aspects of a risk assessment including consultation with workers is completed and control measures have been implemented according to the hierarchy of controls
- prohibiting the activity by way of a prohibition notice until WorkSafe ACT is satisfied that a risk assessment with appropriate control measures is implemented that suitably follows the hierarchy of controls.

Kind Regards

Bob Alford | Senior Director - Industry Compliance & Enforcement
P: 02 6205 4261 | Mobile: 0434 851139 | E: robert.alford@worksafe.act.gov.au
Office of the Work Health and Safety Commissioner
GPO Box 158 Canberra ACT 2601

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ANNEXURE 4

Good afternoon Bob

For your awareness, the Committee has responded to Minister Gentleman with the attached. The Committee is meeting again within the next hour to discuss next steps, noting that they are also conducting community hearings into the budget throughout today.

Many thanks

█

█
█
█



Signed update -
Covid - Gentleman.pdf

ANNEXURE 5

Good afternoon Bob

Thank you for providing the below information about the safety considerations for committee hearings.

Kind regards

█
█
█

ANNEXURE 6 –

Meaghan and Narelle

As discussed can you please investigate aspects of this complaint as received by the complainant in the below email to the WHS Commissioner.

Kind Regards

Bob Alford | Senior Director - Industry Compliance & Enforcement
P: 02 6205 4261 | Mobile: 0434 851139 | E: robert.alford@worksafe.act.gov.au
Office of the Work Health and Safety Commissioner
GPO Box 158 Canberra ACT 2601

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Peter Cain MLA @cain_mla · 1d

...

I joined the public hearings this afternoon of the Educational and Community Inclusion Committee's inquiry into racial vilification with witnesses John Kalokerin...



Correspondence
from Minister Gentlen





Signed letter to Mr
Gentleman on COVID



ANNEXURE 7



Prohibition_Notice_N-0000005068.pdf
12/08/2022 • 51KB • pdf

[View All](#)

History

 **Notice History (3)** 

Date:	12/08/2022 6:11 PM
Field:	Record unlocked.
User:	Bob Alford
Original Value:	
New Value:	
Date:	12/08/2022 6:06 PM
Field:	Record locked.
User:	Meaghan O'Connor
Original Value:	
New Value:	
Date:	12/08/2022 6:06 PM
Field:	Created.
User:	Meaghan O'Connor
Original Value:	
New Value:	

Alford, Robert

From: Campbell, Alan
Sent: Friday, 12 August 2022 6:34 PM
To: Alford, Robert
Cc: Grey, Brooke
Subject: PN on the Assembly

OFFICIAL: Sensitive - Legal Privilege

Bob,

As discussed:

1. The *Australian Capital Territory (Self-Government) Act 1988 (Cth)* establishes the Australian Capital Territory at section 7, at section 8 establishes the Legislative Assembly, and at section 11 requires the members present to elect a presiding Officer. In turn, Presiding Officer is defined as the officer elected under section 11, by whatever title determined by the Assembly. That is, the Speaker.
2. The *Legislative Assembly Precincts Act 2001 (ACT)* at section 7 (1) provides the Speaker is responsible for the control and management of the Assembly precincts and may take any action the Speaker considers necessary for those purposes. At section 7(2), the Assembly may give the Speaker directions about the exercise of the Speakers functions under (1), and at section 7(3), the Speaker must comply with the direction.
3. Section 5 of the Precincts Act defines the Assembly precincts as the land and all buildings, structures etc and prescribes block 3, section 19, division of City, Canberra Central District.

As such, the PCBU is the Australian Capital Territory, and I suppose we reference the Legislative Assembly of the Australian Capital Territory [or the Australian Capital Territory Legislative Assembly] to identify that part of the Territory / PCBU the notice is concerned.

The Officer for section 27 WHS Act purposes will be the Officer, although given the effect of section 7(2) of the precincts Act, it is likely the Speaker will bring the issue before the Assembly and may receive direction from the Assembly. Were that the case, all members of the Assembly may also be considered as officers for s 27 purposes, not just the Speaker.

Finally, as discussed, the Clerk of the Assembly is a statutory office holder appointed under section 9 of the *Legislative Assembly (Office of the Legislative Assembly) Act 2012*.

At section 5, the Office of the Legislative Assembly is established and consists of the Clerk and the staff of the office. Its functions are listed in section 6, and is primarily to provide advice and support to the Assembly and its committees. Section 8 provides that the Clerk and the staff of the office are not subject to direction from the Executive Government or any Minister. Section 19A allows the Speaker to seek administrative support or advice from an entity that is able to provide impartial administrative support or advice ie. the Office of the Legislative Assembly or ACT Government Solicitor.

Trust that assists.

Al

Alan Campbell | In-house Counsel
P: 02 6205 3751 | Mobile: 0414 708 078 | E: alan.campbell@worksafe.act.gov.au
Office of the Work Health and Safety Commissioner

WORKSAFEACT

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