



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

SELECT COMMITTEE ON ESTIMATES 2024-2025

Ms Nicole Lawder MLA (Chair), Ms Suzanne Orr MLA (Deputy Chair),
Miss Laura Nuttall MLA

**ANSWER TO QUESTION TAKEN ON NOTICE
DURING PUBLIC HEARINGS**

Asked by: Ms Elizabeth Lee MLA

Addressed to: Minister for Skills and Training

Redirected to: NA

Reference: Uncorrected Hansard Transcript pages 40 and 41

In relation to: CIT Board engagement with Integrity Commissioner and Public interest statement

Hearing Date: 26 July 2024

QTON lodgement date: 29 July 2024

Answer Due Date: 1 August 2024

MS LEE: 2021. Okay. No worries. I just wanted to know whether you can actually answer some of the questions that I have, that is all. In the session just previous, the Integrity Commission, in talking about the special report on Operation Luna, answered in response to a question that Mr Braddock asked that CIT was not prevented from taking any action in relation to Ms Cover, based on the Integrity Commission investigation that was currently on foot. Why did CIT not take any action about Ms Cover and leave her on two years of paid leave?

Ms Howson: Throughout this whole process our priority has been to uphold the principles of procedural fairness and natural justice, and most importantly we have tested our ability to take action, I would say, monthly, since the issue became apparent to the board and on odd occasion maybe every two months. The board has been convened to test the information available to us, most importantly, to assess advice, legal advice, to see what steps we could take. At that point we determined whether or not to extend the directed leave for Ms Cover.

We were awaiting the outcomes of the Integrity Commission report. I do not think anybody understood that it would take two years at the outset of the Integrity Commission's investigation. I would have to say that we respected the role of the Integrity Commissioner and the need that he had to undertake his investigation and reach some findings.

MS LEE: But in previous evidence that Ms Lundy herself has given for these hearings, and you also have now just reiterated, that the board was waiting for the findings of the Integrity Commission investigation. The Integrity Commissioner himself just this morning, less than an hour ago, confirmed that nothing should have prevented you from taking any action against Ms Cover insofar

as waiting for his investigation to finish. So how is it possible that the board can still say that the reason that no action was taken was because you were waiting for the investigation to be completed?

Ms Howson: I believe that it is on the public record that the board initiated from the outset an internal audit and then there was an interaction between the Integrity Commission and the CIT Board—this was before I joined the board—requesting that we cease that internal audit and allow the investigation to proceed. That is my understanding.

Mr Steel: I can confirm that the board chair wrote to me in June 2022 and said that the ACT Integrity Commission had requested the CIT Board to pause the independent internal audit which had been planned to be completed by 31 July until the commission's investigation was completed.

MS LEE: Was there any further interaction with the Integrity Commissioner after that time; noting that you have also said no one expected it to take two years?

Ms Howson: Yes, of course. I think there was, what I would consider to be, in a regular engagement with the Integrity Commission in terms of any new developments seeking any insights and that the board chair was in contact with the Integrity Commission, the board did write to the Integrity Commission at various stages throughout that process.

MS LEE: Are you disputing the Integrity Commissioner's evidence that he says that he made it clear that the pending investigation that he was understanding did not have any impact on the board's ability to take whatever action that it deemed appropriate against Ms Cover?

Ms Howson: Well, it is true that we have the role of taking action in relation to the employment arrangement of Ms Cover; there is no doubt about that, but on that basis we need to extend Ms Cover's directed leave.

MS LEE: What is the evidence that you were testing?

Ms Howson: We were testing the advice by requesting additional updates from our legal advisors to see if there were any further steps that we could take and was it appropriate for us to continue to extend leave.

MS LEE: In terms of when you first started answering the question, Ms Howson, you mentioned that you were very conscious and cognizant of procedural fairness. Do you think that it is procedural fairness for taxpayers to be footing the annual salary, which is quite significant of a stood down CEO whilst there is a serious investigation—the board obviously saw there was reason enough to stand her down in the first place, and was that not a factor that was taken into consideration by the board when you are looking at procedural fairness in this whole process?

Ms Howson: I think there are a number of factors that go into considering procedural fairness, but most importantly, if there is an investigation underway, that the individual that is the focus of that investigation has the opportunity to see some findings concluded before action is taken. I think our steps to stand down Ms Cover are consistent with the standard that the community would expect. And to direct Ms Cover to participate in that investigation, that was appropriate, and that is what we did, and I do believe that was in the public interest.

MS LEE: That being the case, then what was the point of these monthly testing of evidence if you were never going to take action until the findings were made by the Integrity Commissioner?

Ms Howson: Well, no one had any understanding of the timeframe, so it was important that we continually engage with the Integrity Commissioner in making a decision about extending leave to see where his process was up to.

MS LEE: You are saying that as part of testing this evidence, you were engaging with the Integrity Commissioner monthly?

Ms Howson: I would have to take that on notice. I know that the chair was in touch with the Integrity Commissioner at appropriate times, but I am not sure if it was monthly. What we did engage with monthly was, of course, our advice from legal advisors.

MS LEE: I understand. Will you also take on advice whether you will forego privilege to table the advice that you get in the public interest statement?


Ms Howson: I can take that on notice, yes.

CHRIS STEEL MLA: The answer to the Member's question is as follows:

The CIT is an independent Territory Authority with a governing board. The CIT Board wrote to or met with the Integrity Commissioner when required. This includes 9 letters since mid-2022. The Board also met with or corresponded with GSO on a regular basis and relied on this legal advice.

Legal advice provided to CIT is 'Territory legal work' in accordance with the *Law Officers Act 2011* and the *Law Officers Legal Services Directions 2023*. Legal professional privilege in relation to any advice provided to CIT may not be waived, except with the express approval of the Attorney-General or the Solicitor-General (exercising the functions of the Chief Solicitor) on behalf of the Attorney-General.

Approved for circulation to the Select Committee on Estimates 2024-2025

Signature: 

Date: 1/8/24

By the Minister for Skills and Training, Chris Steel MLA