



18 February 2014

Mr Paul Evans  
State Solicitor  
GPO Box B83  
PERTH WA 6838

**PRIVILEGED & CONFIDENTIAL**

Dear Mr Evans,

**REQUEST FOR ADVICE**

The Education and Health Standing Committee is conducting an inquiry into the organisational response within the Department of Health (**the Department**) to the challenges associated with the commissioning of the Fiona Stanley Hospital (**FSH**).

The Committee has corresponded with the Department and obtained information regarding the authorities and delegations that exist to govern the control of FSH by the Minister for Health, the Director General of the Department and the Department itself. The Committee has sought this information in relation to the Director General's decision in December 2012/January 2013 to alter the Information and Communications Technology (**ICT**) aspect of the project by endorsing a "de-scoped" ICT vision.

The Committee is seeking clarification of the Director General's authority to make this decision and to give administrative directions that impacted on the State's contractual obligations under the facilities management contract with Serco.

I request that you provide the Committee with a written opinion in relation to the following questions:

1. Absent an express delegation of authority from the Minister:
  - a. does authority for FSH fall under the Department of Health and/or the Director General by way of the *Public Sector Management Act 1994* (WA) and/or the *Financial Management Act 2006* (WA); and
  - b. do Cabinet endorsement and/or the inclusion of this project in the Department of Health budget provide the Director General with the authority to make decisions in relation to FSH ?
2. If the answer to Question 1 is "no" is there an implied delegation of the Minister's authority (based on the fact that FSH will form part of the Metropolitan Health Services Board in the future); and

3. If an implied delegation exists, is the Director General obliged to keep the Minister informed of decisions such as the one outlined?

Please find enclosed copies of the documents relevant to these questions, including:

- a) Committee's letter to Professor Bryant Stokes dated 4 December 2013;
- b) Professor Stokes' response to the Committee, with attachments, dated 20 December 2013;
- c) Email from Mr Mathew Bates, Principal Research Officer, to Ms Patsy Turner, dated 23 December 2013;
- d) Response from Ms Fiona Hope via email dated 7 January 2014;
- e) Email from Mr Mathew Bates, Principal Research Officer, to Ms Fiona Hope, dated 9 January 2014; and
- f) Response from Ms Fiona Hope via email dated 31 January 2014.

It would be appreciated if you could provide a response to these questions prior to **Tuesday 4 March**. Should you have any questions about this request, please contact me or the Committee's Principal Research Officer, Mr Mathew Bates, on 9222 7394.

Yours sincerely



PETER J McHUGH  
CLERK OF THE LEGISLATIVE ASSEMBLY