



11 April 2018

Your Ref: A678163

Our Ref: WS0616/2017

Enquiries: Ian Munns

Hon Adele Farina MLC
Chair
Standing Committee on Public Administration
Parliament House
4 Harvest Place
WEST PERTH WA 6005

By email: lcpac@parliament.wa.gov.au

Dear Ms Farina

Inquiry into WorkSafe

I refer to your letter dated 28 March 2018 in relation to questions 28 and 29 and the letter from the State Solicitors Office dated 19 March 2018.

I wish to apologise for any confusion that has arisen and any omission on my part to respond directly to the Standing Committee on Public Administration in relation to questions 28 and 29. The answers to questions 28 and 29 are provided below.

Question 28

Were inspector's reports made available to the coroner in the past and if so, when did this practice stop and the reasons why that practice stopped. If legal advice was relied on in making that decision, please provide a copy of the legal advice to the committee.

The current position is that when a third party, including the State Coroner, requests any document, the document is individually assessed to determine whether it can be disclosed, because the application of the relevant legal principles is necessary dependent upon the factual context. This practice is informed by legal advice.

The document written by WorkSafe inspectors at the conclusion of an investigation has changed over the history of WorkSafe. I understand that at some time various forms of the document were, entirely or in part, provided to the State Coroner. At times this was done without the benefit of legal advice. The document has evolved until it reached its current format. The format includes details of investigations that are unlikely to have been included in all previous versions.

In almost all instances the document is subject to legal professional privilege because of the reason it was created and its particular content, in which case WorkSafe cannot release it to the State Coroner.

I understand that part of the answer you are requesting from me to question 28 involves legal advice. However, that legal advice is subject to legal professional privilege, which is held by the Honourable Attorney General. I am therefore not able to provide the advice to the Committee.

Question 29

Has WorkSafe received legal advice in relation to the conflict between section 33 of the Coroner's Act and WorkSafe policy not to release information to any external parties and, if so, can you provide this legal advice.

WorkSafe has received such advice. I understand that part of the answer you are requesting from me to question 29 involves legal advice. However, that legal advice is subject to legal professional privilege, which is held by the Honourable Attorney General. I am therefore not able to provide the advice to the Committee.

Regrettably, I am unable to provide you with the legal advice that you have requested in questions 28 and 29. It was in this context that, with a view to assisting the Committee, WorkSafe referred the matter to the Minister for Mines and Petroleum; Commerce and Industrial Relations; and Asian Engagement who consulted with the Honourable Attorney General. Subsequently, the Honourable Attorney General authorised the provision of a letter that was ultimately provided by the State Solicitor dated 19 March 2018.

The appropriate public officer for any further enquiries in this regard is the Honourable Attorney General.

Should you have any queries, please contact me on _____ or by email:

Yours sincerely

Ian Munns
A/Deputy Director General Safety
WorkSafe Western Australia Commissioner