



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

SELECT COMMITTEE ON PRIVILEGES 2018

Members:

MR S RATTENBURY (Chair)
MS T CHEYNE (Deputy Chair)
MR A WALL

PROOF TRANSCRIPT OF EVIDENCE

CANBERRA

WEDNESDAY, 30 MAY 2018

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Secretary to the committee:
Mr M Kiermaier (Ph: 620 50490)

By authority of the Legislative Assembly for the Australian Capital Territory

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WITNESSES

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Amended 20 May 2013

The committee met in camera at 8.31 am.

COE, MR ALISTAIR, Member of the Legislative Assembly

THE CHAIR: I welcome Alistair Coe to the hearing of the Select Committee on Privileges 2018 this morning. Thanks very much for coming to give evidence. You know about the privilege card, of course. The committee today will be receiving evidence in camera. We have opted to do this in light of perhaps the political sensitivity of the matter. The committee does reserve the right to publish the evidence later if required, if there is any controversy or if there is any call for that, but that would not be done without the consent of the people involved, in this case you. I presume you have no questions about the privilege card?

Mr Coe: No, I do not. No problem. That is fine with me.

THE CHAIR: Terrific. In that case, we will jump straight into the questions. Thank you, Mr Coe, for appearing this morning. Ms Cheyne, would you like to start today?

MS CHEYNE: Sure. Thank you for appearing. The submissions from Ms Lee and Miss Burch are published online. Have you read them?

Mr Coe: Yes.

MS CHEYNE: Did you provide any advice to them in their preparation of their submissions?

Mr Coe: No.

MS CHEYNE: Both Ms Lee and Miss Burch talk about approaching you and your office about a letter they were planning on drafting. On what date did they approach you?

Mr Coe: About the letter?

MS CHEYNE: Yes.

Mr Coe: I could not say exactly when. I am guessing it was late February or March, thereabouts.

MS CHEYNE: Is it normal practice for them to approach the leader's office when they plan to do a large distribution of a letter like that?

Mr Coe: I think you probably would say it is usual, not necessarily automatic. But it is fairly free-flowing, the communication, as you would expect. It is usually quite informal, so often people will chat with me or chat with other members about an issue or a campaign or something they want to run with. I will say, "Have you run one before? Do you have any standard words? Do you have any ideas, anything like that?" So it is usually pretty informal.

MS CHEYNE: Why did they approach you in this instance?

Mr Coe: Why?

MS CHEYNE: Yes.

Mr Coe: I am not sure. That is probably something for them.

MR WALL: What was the genesis of the have your say survey on the rates issue?

Mr Coe: The actual genesis, of course, was the government's changes to the methodology that caused a large amount of concern in the community. Then an online petition was established by a third party and that generated quite a few responses. On the back of that—I tabled that in the Assembly—we then decided to try to refer it to a committee, which happened.

The responses to the committee were a little bit sluggish, as expected, because just about all submissions to committees are sluggish. So we decided that we would, in effect, make it easier for people to submit to that inquiry by establishing a submission form on have your say. At about the same time, some members of the Assembly were keen to gauge concern amongst their electorate. Ms Lee and Miss Burch were keen to write a letter to affected households in their electorate, so it made sense that we made the submission process as easy as possible; hence, I suggested including the have your say link in that letter.

MS CHEYNE: So, just to clarify: before they approached you about the letter, you were already planning to set up the survey form? I think in your evidence you said that you had drafted one but had not yet published it.

Mr Coe: That is right, yes. Like so many things, you know, you have a long to-do list, and some of them get actioned. Some get actioned well in advance, some get actioned the night before and some never get actioned. And, for this particular one, it had been in the pipeline. We had sort of conceptualised it, but it had taken a little while for it to actually get online. There were a few reasons for that, including that we chatted with the Clerk to seek greater confidence that what we were doing was okay.

MS CHEYNE: And so you drafted the survey. Had you drafted the survey with the intention that it would be collecting information, like your other surveys do, but also that it would have—for lack of a better word—an auto-forward feature?

Mr Coe: Yes, well, the intention was not to collect data out of it. The intention was to make it easier for people to submit to the inquiry.

MS CHEYNE: But you were also collecting data from it?

Mr Coe: Well, technically, yes, but so were the other members of the committee, because the same information that I got, the other members of the committee got as well.

MS CHEYNE: In theory.

Mr Coe: Well, they do now.

MS CHEYNE: Now they do.

Mr Coe: Yes. So, yes, in theory, and that was certainly the intention.

MR WALL: Can we just jump to that part, Mr Coe: the issue of some of the submissions not arriving with the committee, as they were submitted through the have your say site. What was the cause of that, and what sparked you to have a look at ensuring that everything did come through?

Mr Coe: As I said in my submission, there were three actions that were designed to take place. One was that, as soon as somebody submitted, the confirmation went back to the submitter that they had made a submission. The second option, or the second action, I should say, was that an email was to be sent to the committee office. And the third action was that a copy of it was to go to info@haveyoursay.net.au.

So, given that they did start to flow in, and they started to go to the committee office, it seemed to be working exactly as we expected. However, on the evening of the debate in the Assembly, a couple of members in that debate had said, “How can we be sure that every one has actually gone et cetera?” That applies, of course, for this mechanism. It also applies for UnionsACT or every other one. Indeed, it also applies to just general emails and letters, albeit to a lesser extent, of course, that the action of sending is linked to the receiving but not necessarily the same action.

So, on the back of that, and the fact that a couple of members seemed to be somewhat strident in their pursuit of that particular angle in the debate, it did make me think that either they knew something that I did not or there was just reasonable suspicion. So we then did a reconciliation and discovered that the ones that had been published on the inquiry’s website did not match up to the ones that we had by info@haveyoursay.net.au. Whilst that in itself is not necessarily problematic, because there are delays in things getting approved or being presented to the committee or whatever, the fact that there were some that were received relatively early on that had not been published by the committee suggested there could be some problems.

We then looked into it in some detail, and it just did not look like there was any issue. However, we then did an investigation by contacting the host of the website, the technical host of the website, and they said that they could look into their back end to check the mail log, the outbound and inbound emails. What appeared at the back end, which we then could see, after we knew where to look, was that there were several emails—the number as disclosed—that were in effect rejected for being sent because of the issue with the “from” address. I looked this up; I think it is called a “sender domain policy”.

In effect, the action that we had going to the committee office was that it would come from the person’s email address that they typed into the form, with a disclaimer at the top, which was very similar to the one that UnionsACT used. I deliberately used that same disclaimer that UnionsACT used. However, it seemed—and we really are at a loss as to why it applied to some and not to all; it is one of the quirks of an IT system—that the host thought that these ones were spam in being sent; in effect,

that we were pretending to be someone else and therefore they rejected them.

The simplest way to address that is to not have the “from” address as being the submissions email address and simply to have the “from” address as being info@haveyoursay.net.au. That is why we received them all in our mailbox but why the committee office did not—because our mailbox received them from our own email address as opposed to their email address.

MS CHEYNE: Would you have done a reconciliation if the privileges committee had not been established?

Mr Coe: I cannot answer that.

MS CHEYNE: Have you done a reconciliation before?

Mr Coe: Well, this is the first time, I think, that we have used that “from” email address, and we have not submitted to another committee, or another entity, before.

MS CHEYNE: But you do auto-forward on some occasions to send up to other members of your party.

Mr Coe: Yes, that is right.

MS CHEYNE: For example, when they do a community survey?

Mr Coe: That is right.

MS CHEYNE: So have you ever done a reconciliation with your other members to make sure that what you are receiving from and to the info is what they are receiving?

Mr Coe: No, because it is actually the same action. It is just two email addresses, in effect, because it is the same email. It is going to two email addresses, as opposed to this instance, which was two separate emails, one going to us, and another with the disclaimer going to the committee office. In that instance, where you have got two separate emails, if one received it, the other would receive it. If there had been a problem with the sending, neither would have got it. So reconciliation would not have actually generated much at all. They would have reconciled regardless.

MS CHEYNE: In your evidence you say that undertaking the exercise shows the value of being able to do a reconciliation between the committee office and the facilitator of the web form.

Mr Coe: Yes.

MS CHEYNE: If you were to continue using the method that you used, would you build in doing a reconciliation exercise in future?

Mr Coe: Yes. Obviously there are various aspects to this inquiry, but I think one would be some recommendations or at least a suggestion to another body, perhaps admin and procedure, to generate some protocols: either just not to accept them and

therefore they will just cut it off at the pass or, if we are going to allow third-party facilitated submissions, what the rules should be. One of those rules could well be a reconciliation of some sort.

MS CHEYNE: The closing date for submissions was 23 March, and this was clear also in the letter distributed by Ms Lee and Miss Burch, yet the website remained open, accepting submissions, until 13 April, which, as I understand it, was after the privileges inquiry was established. Why was that?

Mr Coe: Well, it is up to the committee as to whether they accept them or not. I note that the committee still advertises that submissions can be sent to this email address, even when inquiries are closed, so that in effect marries with what the Assembly's website says, as to how to make a submission to an inquiry.

MS CHEYNE: Why did you close it after the privileges committee was established? Why not just keep it open?

Mr Coe: Well, because of the concerns. Obviously, there were questions about the process, and it did not stand that we should leave it open.

MS CHEYNE: Were you not concerned that it is up to the committee to decide whether to accept submissions, including late submissions? And were you not concerned that you were further complicating factors by leaving your submission form open for more than two weeks after the closing date?

Mr Coe: I do not think so. Had somebody gone to that form and made a submission, that would have given them an opportunity to submit that they otherwise would not have had, so I do not think the committee lost anything by giving people additional avenues to make a contribution, regardless of the additional mechanism or the additional time.

MS CHEYNE: Okay. Did you have a conversation with the chair of the public accounts committee about accepting late submissions?

Mr Coe: No.

THE CHAIR: I want to ask just about the website itself. Are you the owner of the website? How does that work?

Mr Coe: Yes, I do own the website. It was set up early last year as just a way for us to consult. I am very much of the view that emails and blank sheets of paper are often quite daunting for people, and that is why, of course, a lot of organisations are moving in this direction of really prompting to people, to gauge what they think about different issues. It is a tried and true method of getting better engagement.

I firmly think it is something that the committees should do, that the committees would be well placed to construct questionnaires or surveys that they could then put online, either on the Assembly's website or using SurveyMonkey or another mechanism. I think you would get far better engagement out of that. We have used it for many different issues, and, yes, we have found it pretty constructive.

THE CHAIR: Is the website hosted in Australia or somewhere else?

Mr Coe: I imagine it is probably in the United States, but just about all websites will have elements that are hosted abroad. Many can be mostly based in a country, but then whenever you have got plug-ins or payment gateways, email servers, domain servers, it is always a bit of a mishmash, so, yes, I am pretty sure it is California based.

MS CHEYNE: Just to clarify: the domain registration is paid for by you?

Mr Coe: Yes, I pay the domain registration. Yes, it is the party's name, but I pay for it.

MS CHEYNE: Okay.

Mr Coe: We put it on the party's account, but, yes, I pay for it.

MS CHEYNE: The Canberra Liberals' branding is quite strong, with your use of the yellows and the blues.

Mr Coe: Thank you.

MS CHEYNE: You are very welcome. I think all of your party members have their picture and the branding in all of their signature blocks, and the same thing with the website. Would you agree that your branding is very strong?

Mr Coe: Spot on, Ms Cheyne.

MS CHEYNE: So who chose the design for your have your say website?

Mr Coe: I did.

MS CHEYNE: Why is the design so absent of the usual Canberra Liberals branding?

Mr Coe: Well, for the same reason that every organisation, every person, uses different colours and different things to reflect different moods, different appearances, different emotions. Obviously we want it to be as impartial as possible so that we can get genuine feedback, and you can tell by the questions that we asked on this particular consultation, or on all the other consultations, that we actually are after feedback. So we are not trying to lead people here. We are trying to get feedback.

If we were to say, "This is bright blue and only Liberals are welcome here," I do not think that would be particularly constructive, in the same way that the Assembly members' branding is different to our party branding; in the same way that sometimes, Ms Cheyne, you put out something in red and at other times you put it out in Assembly branding, for exactly the same purpose. In one instance you are trying to convey Labor policy, a Labor position, and in another you are trying to make the most of the respect and impartiality of the Assembly.

MS CHEYNE: Okay. Who chose the name for the website?

Mr Coe: I think I did.

MS CHEYNE: Did you choose the name and the branding to cause confusion with the your say government website?

Mr Coe: No, it was actually very similar branding to what I had used two or three years earlier with “have your say on light rail”, which was before the government’s your say website, so I think it is quite consistent with what I had done years earlier.

MS CHEYNE: Do you perhaps have a copy or a screenshot of what that looked like?

Mr Coe: The website is down now, but possibly, yes.

MS CHEYNE: Could you take it on notice and have a look, and if is no, it is no.

Mr Coe: I can try and find it.

MS CHEYNE: There is always the Wayback Machine, which probably has it.

Mr Coe: Yes. That is right.

MS CHEYNE: Has your party room discussed how similar the website is to the your say website?

Mr Coe: I would not have thought so, not that I can recall.

MS CHEYNE: Even after Mr Rattenbury’s quite funny adjournment speech last year?

Mr Coe: Not that I can recall. As much as I do listen intently to Mr Rattenbury’s adjournment speeches, that one might have—

MR WALL: That one did not rate too highly.

Mr Coe: gone through to the keeper.

MS CHEYNE: We will send it to you.

Mr Coe: Fortunately, we have Assembly on Demand, so I can watch it on repeat later on today.

MS CHEYNE: It was very funny, Mr Coe. I think you will enjoy it. I have got more questions.

THE CHAIR: Yes, keep going; you are on a roll.

MS CHEYNE: Okay. Mr Coe, who sought the advice from the Clerk?

Mr Coe: My chief of staff.

MS CHEYNE: We have an excerpt that Ms Lee provided in her submission, which you have now seen, of the Clerk's advice, which states that, relating to the use of third-party websites, it is up to each committee as to whether they accept submissions.

Mr Coe: Yes.

MS CHEYNE: You said in your evidence earlier that you were waiting on the Clerk's advice to give you, for lack of a better word, a bit more confidence in using your website. What in the Clerk's advice gave you confidence?

MR COE: Yes. The background is that my chief of staff spoke with the Clerk on 13 March and they had a conversation about that. On the back of that, we thought it was good to go. Then on 27 March—this is a couple of weeks later—my chief of staff wrote to the Clerk with what he thought was a summary of that discussion that had happened two weeks earlier.

MS CHEYNE: Okay, so it was a verbal conversation on 13 March?

Mr Coe: 13 March was verbal.

MS CHEYNE: Okay.

Mr Coe: Then on 27 March the chief of staff wrote to the Clerk and said, "This is my recollection of the discussion we had. Is this correct? And the Clerk wrote—do you want me to read out the whole thing? Is it going to be useful or not?"

THE CHAIR: Do you want to just table it? Would that be easier?

Mr Coe: I am happy to table it, but I would not want the chief of staff's name to be published.

THE CHAIR: Yes, sure. That is fine.

Mr Coe: Yes, sure.

MS CHEYNE: Are we setting a precedent?

THE CHAIR: Of doing what?

MS CHEYNE: Of—

Mr Coe: It is just an exhibit at this stage. It is up to you as to whether you publish it or not. You know, in a normal committee inquiry, something gets tabled and never gets published. It is only if you then accepted it as an exhibit at a subsequent meeting that it would actually be published. I cannot think of any time where a tabled document at committee has been published. If you want to do it, I do not have a problem. All I am saying is just please remove—

THE CHAIR: Yes, I understand.

Mr Coe: Please remove his name.

MR WALL: That would be in line with the LA practices as well.

THE CHAIR: I am happy to receive it as an exhibit.

Mr Coe: Yes.

THE CHAIR: I think rather than have you read it out.

Mr Coe: Yes, sure.

THE CHAIR: Then we will have it.

MR COE: Yes.

THE CHAIR: I mean, if you want to keep referring to it, that is fine.

Mr Coe: Yes. I will pass it to the secretary at the end of the hearing.

MS CHEYNE: Yes, good.

THE CHAIR: Thank you.

Mr Coe: But, look, in effect, the Clerk said:

Thanks for your email. I generally agree with your record of our meeting, although I do not recall you specifying which website it was going on. Rather, I thought you indicated that it would be on “a website”.

So the second line would read that the Clerk thought that MLAs promoting a diverse range of community submissions on the internet was reasonable, comparing it to—et cetera. That was the only alteration in the record of events that the Clerk had a different view on.

MS CHEYNE: What prompted your chief of staff to seek that in writing two weeks after the original advice, well after the letter had been distributed, and indeed after the submission dates had closed?

Mr Coe: I asked the chief of staff just to confirm that in writing.

MS CHEYNE: For what purpose?

Mr Coe: Well, there had already been some concerns raised by people. They were concerned about the use of the website.

MS CHEYNE: Concerns raised by whom?

Mr Coe: I do not think I can say that.

MS CHEYNE: Okay. So when those concerns were raised, and on receiving that advice, you did not think about closing your submission form?

Mr Coe: No. As far as I am concerned, the Clerk's advice is pretty solid. Obviously, someone else may have a different interpretation, but had I got advice in writing from the Clerk on 27 March saying, "You've got problems," I do not think I would have been as strident later on.

I am pretty confident with this advice. Again, it certainly was not my intention to withhold any information or to gain unreasonable access to data. The intention was simply to get people to submit to this inquiry, because it stands to reason that this issue affects many thousands of people. At least several thousand filled out a petition. They are happy to fill out a petition that is a yes, no, or just a handful of questions. Why is it you have got thousands of people that are willing to do that but not willing to participate in a formal Assembly process? And that goes to, I think, the difficulty of participating in Assembly processes.

MS CHEYNE: Who did you or your chief of staff forward the Clerk's written advice to?

Mr Coe: I am not sure. It would have gone to Miss Burch and Ms Lee. Whether it went to anybody else, I am not sure.

MS CHEYNE: I am not asking you to name who raised the concerns with you, but could it have gone to the people who raised the concerns with you?

Mr Coe: No.

THE CHAIR: What was the nature of those concerns that were raised with you?

Mr Coe: Just that some people were uncomfortable about the authenticity, I think, of either the submissions or the integrity of the process. I think—and I am second guessing here—it was probably that somehow we had been selective in who we solicited submissions from.

THE CHAIR: Right. Thank you.

Mr Coe: I am second guessing.

THE CHAIR: And regarding the concerns, I appreciate that you are not disclosing individuals, but that was members of the public or within your own party?

Mr Coe: Members of the Assembly.

THE CHAIR: Okay.

MS CHEYNE: I have just got a couple more questions, Mr Coe; is that all right?

Mr Coe: Yes.

MS CHEYNE: Are any other of your party room members trained in the use of the website?

Mr Coe: Trained in the use of it? I do not think so. I do think anybody else outside of my office has a login to it.

MS CHEYNE: So if someone wants to set up a community survey or something, they approach you and say, “This is what I want to do”?

Mr Coe: Yes. We have got just a one-pager that you fill out: what is the name of your consultation; what should the web address be—forward-slash X; what should the questions be; what will the response to the submitter be—“Thanks for your submission et cetera”; and who should the submissions be send to? It is just a one-pager that people can fill out.

MS CHEYNE: Consistent in the evidence of Ms Lee and Miss Burch is that they are not webmasters and they do not really have any understanding about how the website works. Has that ever been communicated directly to you or have any concerns been raised with you about how the website works, apart from the concerns that you alluded to?

Mr Coe: I do not follow. What do you mean?

MS CHEYNE: I guess you are using this as a communication tool and a tool to collect feedback about a range of issues. You have said that it has been somewhat successful and you have found the tool helpful, but what assurances or confidence have you given your party members about how it works, and particularly when they are using it to promote other Assembly work?

Mr Coe: Firstly, I think there is trust down the corridor, so that helps. Secondly, if they create a consultation and it gets promoted, the emails generally flow in. The submissions flow in. So, you know, the proof of the pudding is in the tasting, and when the emails come in I think there is some satisfaction that the system has worked.

MS CHEYNE: But in this case Ms Lee and Miss Burch have said that the emails were not automatically forwarded to them.

Mr Coe: No. That is right.

MS CHEYNE: What was the reasoning behind doing that?

Mr Coe: Because, in effect, I was the owner of this consultation, not them.

MS CHEYNE: Okay.

Mr Coe: That one-pager belonged to me, as opposed to them, whereas if Ms Lee was doing one on buses in Narrabundah the emails would flow to her.

MS CHEYNE: Okay. Can I just be absolutely clear about both the survey and the letter? From the evidence—and please correct me if I am wrong, because I just want to be super clear—you were already going to do a survey, with the intention that that would be forwarded on to the committee, and Ms Lee and Miss Burch had, in their own right, separately, had their own conversation about wanting to write a letter to promote the inquiry because they were concerned, and they told you about it and it just so happened that the timing was right?

Mr Coe: Yes. I believe that is right. It is one thing to have an idea; it is one thing to say you are going to do something, and then to actually do it. I think everyone was at the ideas stage at about the same time. As for who drafted the letter first or who set up the website first, I am not sure about all those ins and outs, but there was definitely a willingness by all members of the Assembly, and especially the Kurrajong members, to pursue this issue, given the number of people it affects in Kurrajong.

MS CHEYNE: And it was your suggestion to them to use the form on your website and to put a link to that.

Mr Coe: Yes; I am pretty sure that is right.

MS CHEYNE: Okay.

THE CHAIR: Just one last question for clarification. You said that on the morning of 13 April consultation was closed on the have your say website.

Mr Coe: Yes.

THE CHAIR: I just want to clarify why it got closed on that day.

Mr Coe: Well, just because we had, the previous night, discovered that there had been emails caught up by the sender domain policy. I was not confident to leave it open. I remember thinking about it that night a fair bit and then driving in that morning thinking: “Let us just cut it. That is the best thing to do: just to cut it and go from there.”

THE CHAIR: All right, thank you. Colleagues, any other questions for Mr Coe?

MS CHEYNE: I have two very quick final ones. Did you approve the final version of the letter?

Mr Coe: I beg your pardon?

MS CHEYNE: Did you approve the final version of the letter that was distributed?

Mr Coe: No, I do not think so.

MS CHEYNE: And did you have any conversations with Ms Lee or Miss Burch about how successful the letter and the use of the form had been or about how it was going?

Mr Coe: Not that I can recall. Perhaps in a very general sense.

MS CHEYNE: So they did not approach you to say, “Hey, we have just spent quite a lot of money.”

Mr Coe: Possibly in the general sense.

MS CHEYNE: I just would think that, in the normal course of a campaign, 6,000 letters is quite a lot.

Mr Coe: No.

MS CHEYNE: It is a reasonably big expenditure. We do not have the biggest communications allowance. Put that in *Hansard*. But, you know, that is a reasonably big expenditure. Volunteers really pushed it out, so I am just interested if they had contacted you to say how that was received.

Mr Coe: Again, unless—

MS CHEYNE: Was it useful?

Mr Coe: It is quite possible that we chatted in passing about it, noting of course that they could also look at the inquiry’s web page to see what submissions were coming in. Perhaps in passing I said it was going well. I am not sure. I am just not sure.

At any point in time, we have got a reasonable number of consultations on the go. Whilst it might seem like the have your say site is front and centre in my daily operations, believe it or not, it is not. There are a few other things on the go in my office, so I do not walk in and get an update on how many submissions we have had the night before and whether we have met our target or not.

MS CHEYNE: Okay.

THE CHAIR: Very good. Mr Wall, any questions?

MR WALL: I am good.

THE CHAIR: Mr Coe, thank you for your time today.

Mr Coe: Thanks.

THE CHAIR: Are there any follow-up matters?

MS CHEYNE: Just about whether the—

Mr Coe: The light rail? Light rail have your say?

MS CHEYNE: The have your say on the light rail. If not, I am sure I can have a look myself.

PROOF

Mr Coe: Yes. The exhibit? No problem. Thanks.

THE CHAIR: Thank you. That is the end of the formal hearing. You are free to go. Thank you.

The committee adjourned at 9.07 am.