



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL  
TERRITORY**

**SELECT COMMITTEE ON PRIVILEGES**

**Members:**

**MR M MULCAHY (The Chair)  
MR M GENTLEMAN (The Deputy Chair)  
MRS V DUNNE**

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**THURSDAY, 14 AUGUST 2008**

**Secretary to the committee:  
Mr T Duncan (Ph: 6205 50191)**

**By authority of the Legislative Assembly for the Australian Capital Territory**

Submissions, answers to questions on notice and other documents relevant to this inquiry that have been authorised for publication by the committee may be obtained from the committee office of the Legislative Assembly (Ph: 6205 0127).

**WITNESS**

**STEFANIAK, MR BILL, Member, ACT Legislative Assembly.....14**

**The committee met at 10.30 am.**

**STEFANIAK, MR BILL**, Member, ACT Legislative Assembly

**THE CHAIR:** We will now commence the hearing of the Select Committee on Privileges. Mr Stefaniak is appearing this morning. Mr Stefaniak, I am sure you are familiar with the privilege statement.

**Mr Stefaniak:** I am indeed.

**THE CHAIR:** Can you formally acknowledge that you have read it?

**Mr Stefaniak:** Yes, I have read it.

**THE CHAIR:** Before we invite the committee to raise any questions—and thank you for your written submission—do you have anything that you would like to say at the outset, by way of an introductory statement?

**Mr Stefaniak:** It is in the submission, chair. Basically, I can answer questions in relation to that. To summarise, it is relatively simple. On Monday the 16th, on the Monday before the committee hearing, I was going through papers and realised that there were still documents outstanding which the committee had requested in one form or another. I wrote up a handwritten list, which you actually have, and gave that to the committee secretary. I believe it was sometime in the morning. Sometime in the late afternoon, she brought up a letter which I duly signed. That went off; I thought nothing more about it. We got a document back from the minister, I think on the Thursday. I had some concerns there. He supplied some documents but did not supply others. I was not surprised to see him not supply the Ellis report because I think the committee had wanted that on several occasions and he had indicated he was not going to do that. I was not particularly surprised, either, that he was not doing the exit statements.

When the committee met, I was very surprised when Ms MacDonald raised this matter with me. I must say I was a little bit concerned that she had spoken to the minister about it. We deliberated; we had a hearing, I think, at 9.30. We actually had a letter drafted in terms of what we required in the way of documentation. You will see that letter dated the 20th, which was agreed to by the committee and signed off at some stage, probably at about 9.30 or something like that. In fact, I think we had actually commenced hearing from the witness then. That letter was signed off, this time not requesting but requiring the minister to provide the Ellis report at 11.30. We noted his comments in relation to not providing the exit interviews and I stated in my letter that we would not pursue that at this point in time, in light of his explanation.

I must say I am somewhat surprised that this matter ended up here. I think, as I said in my submission, the minister protesteth too much. He is a big boy. I am a bit surprised at this. With this particular inquiry, having been involved in a large number in my time in the Assembly, this one strikes me as being one where normally government departments and ministers very readily provide documents to committees, unless they are things like commercial-in-confidence. We have had some difficulty in getting documentation for this inquiry. There have been other issues in relation to this inquiry

which make it a little different from others.

It is obviously a minister's prerogative, at the end of the day, as to whether or not he supplies documents. But I think there are some rather extraordinary things which have occurred in this inquiry. Whilst you are probably not looking into this one, again, on Friday the 20th—I think I made reference to it—the committee certainly was quite concerned when the minister did not allow two of his officials to answer questions, and even had a go himself directed at Ms Leon.

I have read the reports from other people. The particularly relevant one is obviously that of my committee secretary, who is the most experienced committee secretary here and has had a lengthy record up on the hill. I would be very much guided by what she says, because the practice is that the secretary drafts letters and letters are duly signed. As I also indicated, with this particular inquiry, the secretary sent off some letters. I have been involved in earlier inquiries where I have sent off letters as chair. It is routine. Some things certainly go through the committee. I refer you to one of the documents here—my correspondence to Ms Leon in relation to her correspondence of 14 April.

**THE CHAIR:** This is the letter dated 28 April?

**Mr Stefaniak:** That is the one, yes. I might have made reference in my statement that I did not notice any exchange of letters from the committee for this particular matter, the matter at hand—my letter of the 16th. Mind you, I did not see any exchange of letters in a more recent letter I sent to the minister requesting answers to a number of questions. I asked the committee secretary several weeks ago, “Have you actually made sure our colleagues agree with that, in light of this particular inquiry?” and she said she had. That, again, was not up on the computer.

**THE CHAIR:** This is in relation to this letter?

**Mr Stefaniak:** That is a later letter which you do not have. This letter, I recall—I put this in here because that is a particularly strong letter—

**THE CHAIR:** Just so that I am clear and the committee is clear, you are saying that this letter also was not cleared by the committee but at a later time was?

**Mr Stefaniak:** No. I am saying that there was a later letter which you do not have, which is only relevant in that I actually asked the committee secretary whether it had been cleared, because it was not on the computer or anything like that. That was only a few weeks ago. She said, “Yes, it has.” I am saying that sometimes things are sent by electronic mail to committee members and I did not think anything of the letter of the 16th because it had not been. I am just saying that whilst that does occur sometimes, it does not all the time. Even in this inquiry, we have had some letters which have been either checked out or not checked out by the committee, but not through electronic mail.

**MRS DUNNE:** Can I clarify this: the letter to Ms Leon of 28 April—

**Mr Stefaniak:** I am getting to that. With this letter to Ms Leon, I am not too sure

whether that was on electronic mail, either, but it is a strong letter. I asked Robina and this is what I said: “Are my colleagues happy with that?” I thought this was a pretty strong letter and I wondered, in relation to one of my colleagues, whether she would be happy with a letter like this. Robina said, “Yes, that’s fine, checked out,” and so I duly signed it.

**THE CHAIR:** So when you say “checked out”, you are saying it has been approved by the other members of the committee?

**Mr Stefaniak:** It had been approved. I saw no evidence of that in terms of documentation, but the committee secretary assured me it was and I signed it. My point is that, because that letter, to me, was a fairly strong letter, I made sure that my colleagues were quite happy with it. I would not have signed that letter if my colleagues had not been shown it because I regarded that letter as fairly strong and there would be some controversy in relation to that, as opposed to routine, which is what I still maintain the letter of the 16th was. Fundamentally, it was only that it was raised with me on the Friday morning that I was aware that it had not actually gone to my colleagues, not that it initially concerned me either way—that is, the letter of the 16th.

**THE CHAIR:** What is the method being employed by your committee to approve correspondence if you are not seeing it—the method of sign-off?

**Mr Stefaniak:** Normally, in most cases the letters are shot around by electronic mail.

**THE CHAIR:** But not always, you are saying?

**Mr Stefaniak:** Certainly, with a more recent letter I did not recall any electronic mail but because of this inquiry I must say that I checked with the committee secretary to make sure that it had been shown to members.

**MRS DUNNE:** In the running of this committee, is it form and practice for the chairman to commission a letter on a subject, or for the secretary to suggest a letter to the chairman on a subject, for that to be drafted and then to have an electronic sign-off process with the other two members of the committee?

**Mr Stefaniak:** Some of the letters, as I said, have been done electronically and then effectively I just sign them. But I am aware of several instances now where that has not occurred. In one more recent incident, I cannot recall it actually being done electronically but I did ensure that my colleagues had seen it, as a result of the problems relating to this particular matter.

In terms of past practice, I do not think this issue has ever come up quite like this. Normally, we do not have terribly much trouble getting documents. If documents are refused, my recollection is that they involve things like commercial-in-confidence, which you accept and you do not press further. But we have had some difficulty in just getting documents because of this inquiry, and which is, in my experience, a bit rare. So the reason I did the letter of the 16th was simply to ask where we were up to. It is probably something I should have done about a month earlier. Realising that we still did not have certain documents, and those documents had been asked for either in

written form or in the course of hearings, we wrote off to the minister. He subsequently supplied three out of the five and maintained his reason for not supplying one, and we heartily accepted his reason for the other. So I would hardly think that any great damage has been done.

I have read Robina's submission. In terms of practice for future committees, maybe we can learn something from there. I note that she goes into what happens on the hill, but the hill is probably a bit different. I would suggest that the secretary, certainly on this committee and, from my recollection, on others, sends off fairly routine letters herself to government departments. I think that is something that should continue.

**THE CHAIR:** That you do not approve, as chairman?

**Mr Stefaniak:** If they are very routine letters, I do not recall that we see them before she sends them off. They are routine; they are noted. I have not noticed anything particularly controversial in anything she has sent off, and nor have the other members of my committee. What I would suggest, in terms of letters from the chair, just to clarify, is that we could have a rule whereby the committee has to tick off on that electronically—and by electronically I mean that the committee secretary circulates letters to members and says, “Unless I hear differently by 5.00 pm today, I will take it that you accept this and approve it,” and then the chair can sign it. That should be a fairly foolproof system, and a reasonably quick system. I am mindful of not bogging the system down with too much bureaucracy. I think that would overcome any difficulties in the future.

Basically, as far as this was concerned, I did not think either way as to whether it was shown to my colleagues or not. I regarded it as routine. It did not surprise me when no-one came back to me; I did not think anyone would because it was documents we had requested. I simply did not give the matter any thought. It may have been shown; it may not have been. That just did not cross my mind until such time as it was brought to my attention by Ms MacDonald on the 20th.

**THE CHAIR:** I will lead off with some questions. I have reviewed your submission and the supporting documentation quite carefully. Your submission states that the documentation you have provided “shows the committee has, either through letter or references in transcripts, wanted to see all these documents at one stage or another”. Can you go through the documents that you requested in your letter to the minister on 16 June and show us where in the documentation you have provided these items referred to and requested.

**Mr Stefaniak:** Okay, in the documentation or in the actual transcript. When I talk about the transcript, no-one was contradicting that in any way, so we took it as read that we wanted the documents. In terms of the first document, it is actually a cover-all document which requests a number of documents, including the Ellis report.

**THE CHAIR:** What are you referring to here?

**Mr Stefaniak:** The document of 7 February.

**THE CHAIR:** This is Mr Seselja's letter?

**Mr Stefaniak:** Yes, and including any other documents that may assist in the committee's inquiry. So you have a list of documents there. That does not, I think, state the exit documents. But then, when we get into the correspondence with Ms Leon, Mr Carter's document and my document of 28 April, that, to my mind, very much refers to the exit documents.

**THE CHAIR:** Could you just identify them for my benefit? I have struggled to find them.

**Mr Stefaniak:** The documents?

**THE CHAIR:** Yes. If you go from your letter of 16 June, those requests for five parts take into account Mr Seselja's letter.

**Mr Stefaniak:** That is right.

**THE CHAIR:** Where are the other implications in the transcript where these things were requested?

**Mr Stefaniak:** In terms of the exit statements et cetera, you have that correspondence with Renee Leon, Robert Carter's document plus mine of the 28th.

**THE CHAIR:** Let us go down the list, if I can trouble you. The report by Tim McGuffog—where was that requested?

**Mr Stefaniak:** Perhaps we can go through what I have here. Might I just refer to the Yellow Edge report to start with, simply because I have that highlighted here—pages 109 and 110 of the transcript. Dr Foskey requests that.

**THE CHAIR:** That was requested of Mr Barling, wasn't it?

**Mr Stefaniak:** That was requested of his government official, yes. That is the Yellow Edge report, which he duly gives us. Exit interviews—bottom of pages 118, 119. I have already asked for them. Again, you read that in conjunction with the letters of—

**THE CHAIR:** Where are the exit interviews mentioned there?

**MRS DUNNE:** By Mr Smyth.

**Mr Stefaniak:** Mr Smyth's question.

**MRS DUNNE:** It says:

... I understand they have done exit interviews. Chair, this might be something that we would ask the—

**THE CHAIR:** I have already asked for them.

**THE CHAIR:** Right.

**Mr Stefaniak:** Further to the exit interviews, Mr Corbell seems to agree that he is going to give them. He does not, but that is neither here nor there. But at page 168, he seems to indicate that he will give those, towards the bottom of the page. Ultimately that was not the case, but it does not matter. The state of readiness letter, the McGuffog letter, you refer to—page 179. The minister indicates that report. Mr Pratt asks for it to be tabled at page 179 towards the top of the page. That is the McGuffog report.

**THE CHAIR:** He does not mention the McGuffog report.

**Mr Stefaniak:** No, but that is what it is. It was actually a letter, I understand. I say that I certainly do not have any dramas with that. Mr Corbell takes the question on notice and says he will “provide some more formal advice to the committee as to whether or not that can be made available”. I make some further comments, saying:

... if there are any confidentiality issues, names can be blanked out.

Subsequently, Mr Corbell does provide us with that in his letter of 19 June.

**THE CHAIR:** Version 2 of the strategic bushfire management?

**Mr Stefaniak:** I thought that had been asked for earlier in the correspondence.

**THE CHAIR:** I have not been able to locate it in any of the transcripts or correspondence.

**MRS DUNNE:** For the sake of time, perhaps we could get Mr Stefaniak to point to us where that was requested and get back to the committee.

**THE CHAIR:** And the Stuart Ellis report was requested.

**MRS DUNNE:** That was requested by Mr Seselja.

**Mr Stefaniak:** On 7 February, and rejected several times. We had another go there and the committee had a final attempt on 20 June when we demanded it and it was not—

**THE CHAIR:** I have a few other questions before I hand over. There is a bit of a question as to where the committee had asked for the strategic bushfire management version 2 documentation.

**MRS DUNNE:** And you are getting back to us with that.

**Mr Stefaniak:** Yes, I will get back to you on that.

**THE CHAIR:** Can you tell us where you were when you wrote the note, the handwritten note?

**Mr Stefaniak:** In my office.



**THE CHAIR:** You had spoken to Mr Pratt, I understand, before lodging that request.

**Mr Stefaniak:** Mr Pratt has certainly been speaking to me in the course of this inquiry. I would have spoken to him on a number of occasions.

**THE CHAIR:** Was that an instruction that he gave you or a request to produce that name?

**Mr Stefaniak:** No.

**THE CHAIR:** What was the nature of your discussions with him?

**Mr Stefaniak:** In relation to—

**THE CHAIR:** This matter.

**Mr Stefaniak:** Well—

**THE CHAIR:** Let me assist you. Did he indicate to you why the information would be useful?

**Mr Stefaniak:** Did he indicate why the information would be useful? No. Mr Pratt had attended virtually all the hearings. As you can see, he had made his own requests and indicated what he requested in relation to a number of documents.

**THE CHAIR:** I am just curious as to why you are able to refer to the documents in such detail, by their titles, in a fairly rapidly written note, but they have never been referred to, for example, in such detail in the hearings. Certainly version 2 of the bushfire management plan and the report written by Mr McGuffog have never been referred to in that level of detail in the committee hearings, transcripts of which are provided. I just wonder if you can explain it.

**Mr Stefaniak:** Mr Pratt would have mentioned all of those documents at various stages over probably a three-month period.

**THE CHAIR:** So the request was really to assist his request rather than to assist the committee?

**Mr Stefaniak:** No; the request was very much to ensure that I had not forgotten any documents we needed which had not been supplied.

**THE CHAIR:** Sorry; say that again.

**Mr Stefaniak:** I said the request was because I had not—we had not—got documents which the committee, I thought, needed, and I was making sure that any documents we did not have at least we attempted to get prior to our last hearing, which was on 20 January.

**THE CHAIR:** But a number of these were not even detailed in the committee's

hearings or in Mr Seselja's letters.

**Mr Stefaniak:** They are all sort of referred to in one way or another during the committee hearings, or that was—

**MRS DUNNE:** The McGuffog report.

**Mr Stefaniak:** That is my understanding.

**THE CHAIR:** Just let the witness answer the question.

**Mr Stefaniak:** That is my understanding.

**THE CHAIR:** Okay, but I cannot find them and you have not been able to provide a comprehensive matching.

**Mr Stefaniak:** I have certainly found all but one, and certainly in relation to the strategic management bushfire plan, that had been referred to, and that had been discussed and questions asked on it, probably on several occasions, during the committee hearing. I was concerned just to ensure that we had as much information as we could as a committee. I was not necessarily confident of getting the Ellis report, but, as you can see, the committee was very keen to get that because—refer letter of 20 June.

**THE CHAIR:** I am aware of that, going back to Mr Seselja's letter. I am struggling with the depth of the drafting when I look at the evidence to the committee and what you are saying today.

**Mr Stefaniak:** Mr Pratt—

**THE CHAIR:** Just to go through a few of the other procedures afterwards, the first you knew that there was an issue, I take it, was on 20 June when Ms MacDonald raised the issue.

**Mr Stefaniak:** That is right.

**THE CHAIR:** Can you elaborate on what the nature of the discussion was on that day?

**Mr Stefaniak:** The committee secretary probably—it is probably there in my letter—had—

**THE CHAIR:** I might just get your version.

**Mr Stefaniak:** Basically—I think I have referred to it, actually. She came in. She raised—I cannot remember if it was the first point she raised; it was fairly early in the piece. We had only 15 minutes before, I think, Peter Dunn came. She raised that Simon was angry at that. I was somewhat surprised at that. Then I was a little bit concerned that—“Hold on. Why are you talking to the minister?” That raises issues in itself, which I am not going to go into. As I said, I hardly think it is a hanging offence.

That concerned me.

**THE CHAIR:** So you are concerned that Ms MacDonald has breached privilege?

**Mr Stefaniak:** That is a concern. Again, I hardly—I do not know quite the circumstances; she can explain that herself. But that concerned me. I was somewhat surprised when she said that the minister had expressed a concern. I think the minister has been less than forthcoming in terms of provision of documents in this particular inquiry. I think the committee has had some difficulty in terms of getting all the information we would reasonably need.

**THE CHAIR:** You were surprised she talked to him or surprised that you had not had a sign-off on the letter—

**Mr Stefaniak:** Both.

**MR GENTLEMAN:** In your submission, Mr Stefaniak, you do not explain that Ms MacDonald said that the minister was concerned. You said that she was concerned.

**Mr Stefaniak:** She raised it.

**MR GENTLEMAN:** You said:

At ... 9.15 ... committee member Karin MacDonald indicated the minister ... was concerned that my letter had been sent off without the Committee seeing it.

**THE CHAIR:** I have no more questions at this stage, if you want to take over.

**MR GENTLEMAN:** I just want to get a bit of a feel for how the committee works. I have been the chair of quite a few committees now. We normally deliberate. We deliberate about whether we send correspondence out. I am wondering in this case whether there was deliberation and therefore the committee had reached a position to write and request these documents.

**Mr Stefaniak:** In terms of the 16th, no. As I said earlier, if I have done something wrong, I apologise for it. I did not believe I was. I was concerned that it was the last chance to get whatever documentation we still had not got. Hence my handwritten note; I was just trying to ascertain exactly what we did not have, to the best of my recollection. I might have missed something out, too, by the way, but it does not matter.

**THE CHAIR:** It is very comprehensive and detailed.

**Mr Stefaniak:** It is comprehensive, but I still could have missed something out, because there is quite a lot of stuff in this. I thought, “Right. Those seem to me to be the main things we still do not have and need.” No, there would not have been, because the normal course of events would be—as I said, some letters probably are routine, but the normal course of events would be that the secretary types out an appropriate letter and in most instances that would be flicked around by electronic mail.

But, as I said, there are instances where that has not happened, obviously, due to time. I referred to a letter earlier—several weeks ago—where she obviously did not flick it around. She came to me. I said, “Have my colleagues seen this?”—in the light of this inquiry. They had, but it had not gone by electronic mail. So I could not say that all the time it goes by electronic mail. Sometimes it does, but obviously she is a busy secretary and sometimes it does not.

We had had some deliberations in the committee in terms of just basically requesting—wanting the minister to provide documents. There are one or two letters in relation to that. But also in the transcript itself I have verbally requested it. Other members had—like Dr Foskey in that part I showed you. And the committee secretary would have probably, by telephone, rung up on a few occasions as well just seeking documents or certainly trying to hurry up the relevant government departments as well.

**MR GENTLEMAN:** I understand your position in regard to your statement on sending documents around electronically for approval. That is not the point I am making. I am simply saying that normally in my committees we create a document from deliberation. The committee deliberates and says, “We need to send for more papers and other documents.” The committee then says, “The chair should write to the minister”—for example, in this case—“and request those documents.” It does not appear that this has occurred in this instance.

**Mr Stefaniak:** It has occurred on occasions—for example, the first letter. That was the start of the process. That was, as I understand it, a result of Mr Seselja needing certain documents, so that letter went off. Off the top of my head, I am unaware of whether there are other letters from me. Certainly there is that letter to Renee Leon which relates to some of the documents there. And there are the verbal requests, and I understand that the committee secretary was chasing up with the department a number of documents which relate back to probably the Seselja letter plus a verbal request and what I understand to be probably the government actually agreeing to supply them through the hearings, especially the hearings in March.

**THE CHAIR:** More questions, Mr Gentleman?

**MR GENTLEMAN:** The only other thing I wanted to nut out was this: when the committee retrospectively approved the request on the 20th, did the committee approve it as a whole?

**Mr Stefaniak:** The committee wrote a letter on the 20th. The committee accepted—because we had the letter of the 19th from the minister, which was why I called the meeting early on the 20th. I was concerned that the minister still had not supplied documents. I wanted the committee to actually—I had spoken to the committee secretary on the 19th. I said, “The minister still has not supplied documents.” I wanted the committee to meet so that we could actually demand documents. The committee looked at the minister’s letter. Obviously, the committee also quickly discussed the fact that the minister was—Karin MacDonald’s point about the letter of the 16th. The committee then wrote, on the 20th, effectively actually demanding by 11.30—not requesting—certain documents, especially effectively the Ellis document, for

probably the second or third time. Of course, the minister did not supply that, as is his right. The committee accepted, however—or partly accepted—the minister's comments in relation to the exit interviews and decided not to pursue that at that point in time.

**MR GENTLEMAN:** My question was this: with the retrospective approval of the letter that you sent earlier, did all the committee members approve the letter?

**Mr Stefaniak:** All the committee members approved the letter of the 20th.

**THE CHAIR:** Were you saying all of the members or all of the content of the letter was totally accepted, if it was signed?

**Mr Stefaniak:** It was probably superseded because the minister's reply superseded it. I was concerned to see if the committee wanted to agree to a stronger letter, just in relation to the documents not supplied. The committee did in relation to the Ellis report. We discussed the minister's response. We were not totally happy with it but we accepted it and decided not to pursue it further at that point.

**THE CHAIR:** Was your correspondence ratified by the committee?

**Mr Stefaniak:** I don't think we formally ratified it. It was briefly discussed, which I was surprised—

**THE CHAIR:** And then moved on?

**Mr Stefaniak:** And then moved on, because of the minister's letter of—

**MRS DUNNE:** So it was not retrospectively fixed up? You actually moved on to a—

**Mr Stefaniak:** We moved on, yes. If that is an oversight then that is an oversight.

**MRS DUNNE:** You might have to consult the committee secretary about this: the letter that you wrote on 16 June, when the committee met on the 20th, was that accepted as correspondence of the committee? I want you to take that on notice because you obviously do not recall accurately, at this stage. The characterisation which Mr Gentleman used was that when the committee met on the 20th the committee retrospectively approved, fixed up, that letter. My understanding of the situation is that the letter of the 16th was discussed and at some stage the committee moved on to a higher level of action.

**Mr Stefaniak:** That is right. As to whether it was accepted as correspondence, I will check that.

**MRS DUNNE:** I will probably come back to that question. Mr Stefaniak, you are obviously now the chairman of the legal affairs committee. Can you outline for the committee your experience as a chair of committees and as a member of committees over your career in the Legislative Assembly?

**Mr Stefaniak:** It is extensive. In the First Assembly, I was the inaugural chair of the

legal affairs committee and I was a member of the scrutiny of bills committee. I believe Carmel Maher was the chair of the scrutiny of bills committee.

**MRS DUNNE:** Just tell us about your experience.

**Mr Stefaniak:** I was chair of the first two standing committees, one on occupational health and safety and one on move-on powers. I sat on other committees—the planning and environment committee in the First Assembly and several other committees as well. I have been deputy chair of several of those. I was involved in estimates committees. In the Second Assembly, I became chair of an economics and tourism committee, of which Mr Berry was a member. In the third and fourth assemblies, I was a minister. In the Fifth Assembly, for the whole period I was chair of the scrutiny of bills and legal affairs committee. I was also the chair of an estimates committee, which I think you were on as well. In this Assembly, I was the chair of the legal affairs committee until September 2006 and I was back on the committee again in February this year, as chair. I have been involved in one estimates committee in this Assembly. I do not think I have been on the health committee but I know that I have been on most committees.

**MRS DUNNE:** In the letter to Ms Leon in April that you referred to, can you tell the committee the genesis of that? You received correspondence; this was in response to correspondence.

**Mr Stefaniak:** Yes.

**MRS DUNNE:** Did you or the committee secretary do this off your own bat or did you discuss the possibility of writing that letter with the committee before it was first drafted?

**Mr Stefaniak:** You probably need to ask the other committee members and the secretary, but you will see, if you go through the transcript of 19 March, that generally the majority of the committee certainly would not have been terribly happy that we still had not got a lot of documentation. There were still a number of issues. We felt that the minister and the department could assist the committee a lot more in terms of—

**THE CHAIR:** I am not sure that Mrs Dunne's question is being answered.

**MRS DUNNE:** The question is a very simple one: did it come out of a discussion in the committee or was it something that—

**Mr Stefaniak:** I am getting to that.

**MRS DUNNE:** I would like you to get to it—you or the secretary decided to write, and then you went back to the committee for clearance?

**Mr Stefaniak:** It had its genesis on the 19th. The secretary then drafted up a letter—and she does that very well, I must say—and obviously discussed that with my colleagues, because I ultimately signed a letter to Ms Leon on 28 April about—

**MRS DUNNE:** But this is—

**Mr Stefaniak:** In terms of what happened before the 14th with Ms Leon—

**MRS DUNNE:** No, I am actually asking: this letter—

**THE CHAIR:** The approval of the letter was earlier on; you were not clear on whether it was approved.

**MRS DUNNE:** You signed the lettered on 28 April. You said that before you signed it you asked the secretary whether other members of the committee had seen it.

**Mr Stefaniak:** I did.

**MRS DUNNE:** And you ensured that that happened.

**Mr Stefaniak:** Yes.

**MRS DUNNE:** My question goes one step before that. What was the genesis of the letter in the first place? On whose initiative was it drafted? Was it yours, was it the committee secretary's or was it a joint decision of the committee?

**Mr Stefaniak:** The committee secretary drafted it. As I said—

**MRS DUNNE:** On whose initiative?

**Mr Stefaniak:** The committee secretary probably got the vibes of the committee from 19 March. I don't think there is anything formal in there—

**MRS DUNNE:** Okay, that is all I need to know.

**Mr Stefaniak:** It was quite logical to me that she drafted it, and I think she would have picked up on vibes from the committee.

**MRS DUNNE:** With respect to the letter that you wrote on 16 June, could you characterise it as essentially writing to the minister as an aide-memoire, saying, "These are the things that have been requested; can we have them"?

**Mr Stefaniak:** Yes.

**MRS DUNNE:** You would characterise it in those terms?

**Mr Stefaniak:** Yes.

**MRS DUNNE:** Is there anything at the time of writing or on reflection now that you believe would give someone the impression that in any way you were upping the ante in terms of the application of standing orders or anything like that?

**THE CHAIR:** Could you clarify your question?

**MRS DUNNE:** You say it could be characterised as an aide-memoire. Other people have characterised it as something else. I would like your opinion, reflecting both on what you were thinking at the time of writing the letter and on what has transpired. Is there anything you think that is in that letter that could be interpreted as raising the stakes, of making a demand when you thought that you were making a request or reminding someone that this is what was being looked for?

**Mr Stefaniak:** No, there would be nothing. If you read the letter, it is quite simple: it requests.

**MRS DUNNE:** Going back to the thing that Mr Gentleman characterised as a retrospective fix-up, the letter of 20 June, do you characterise that as upping the ante?

**Mr Stefaniak:** I characterise the letter of 20 June—yes, effectively it is a retrospective fix-up, but it also deliberately ups the ante.

**MRS DUNNE:** In that letter of 20 June, why did you not refer to your powers under the standing orders? Was it discussed with the committee to refer to your powers under section 239 to call for papers?

**Mr Stefaniak:** We demanded those documents. Why we did not actually quote the standing order, I do not know. Again, it was drafted by the committee secretary and we all ticked off on it. We were actually in a hearing.

**THE CHAIR:** Do you acknowledge that there are escalations in this that can be employed?

**Mr Stefaniak:** That was meant to be an escalation. As I said, with respect to my letter of the 16th, if there is anything that has been done that is wrong, I am sorry about that, but I regard that very much as routine. “Aide-memoire” is probably a good way of describing it. It is a request. The next step, obviously, if someone does not abide by the request, is: what do you do? Do you decide to up the ante or just accept what you are given? We decided to up the ante, as a committee.

**MRS DUNNE:** Did you think that there was yet another stage of upping the ante that might follow because you did not formally invoke the standing orders in this letter? Was that an oversight or was there a plan to move to a later stage?

**Mr Stefaniak:** I believe, as best I can answer that question, we demanded the documents probably at around 9.30, 9.35, or whenever, because I was keen to make sure the minister had time to consider it. At 11.30, I think, if we had decided anything, we would say, “Let’s see what he does at 11.30.” He still maintained that he would not give us the Ellis report. We were, I think, concerned—some of the committee was very concerned—at his stopping a couple of public servants answering questions and we had some deliberation after the meeting in relation to that.

**MRS DUNNE:** Can I just go back to the Ellis report, which seems to have been serially requested.

**Mr Stefaniak:** Yes.



**MRS DUNNE:** Did the committee ever discuss before the 20th, or before the 16th, I suppose, the fact that the minister had refused, and had they come to a conclusion about—and I am going on from what the minister said in evidence yesterday—where he claimed that he had been serially requested this document and serially refused to give it on the basis that it was a cabinet-in-confidence document? Did the committee discuss this? Did the committee discuss the likelihood of ever obtaining that document or did the committee ever discuss a course of action of ramping it up?

**Mr Stefaniak:** Yes. You can see how keen the committee was to try to get that document by the letter of the 20th. After that the committee had some discussions in relation to that because we did not accept—I think it is fairly true to say we did not accept, and our advice from our secretary was that the reasons he was giving us were not really appropriate—and we looked at what other things we could do. I think some of the committee were concerned about it being very late in the term of this Assembly. There were issues around whether the minister was in contempt by not providing that document, which was clearly wanted and we clearly asked for and then demanded on several occasions, and also the minister’s attitude on the 20th especially, when he refused to let those public servants actually answer questions. There were a number of concerns about—

**MRS DUNNE:** So were these questions about the Stuart Ellis report?

**Mr Stefaniak:** They were questions about the exit statements and I think other people were probably asked about the Stuart Ellis report but played a straight bat because the minister had not approved that.

**MR GENTLEMAN:** Mr Stefaniak, you have just said that the committee was concerned that the minister did not allow public servants to answer questions.

**Mr Stefaniak:** Yes.

**MR GENTLEMAN:** But the letter of the 20th was prior to that public hearing.

**Mr Stefaniak:** Yes, it was.

**MR GENTLEMAN:** You just said that the reason you wrote such a strong letter was because the minister would not let the public servants answer questions at a public hearing.

**MRS DUNNE:** No.

**Mr Stefaniak:** No, I am saying we had a number of concerns in this inquiry. On the 20th, a big issue at the hearing and a new issue—because we had a number of public servants there who had come along and the committee had—the secretary had asked for them; I am not quite sure of the process but they all turned up and that was fine, and I think there were two deputy commissioners—but then the minister would not allow them to answer questions and that was something the committee discussed afterwards. What I am saying is, and in answer to Ms Dunne’s questions, is there were a number of concerns running through this inquiry and the latest lot was the minister’s

not letting these people answer questions at the hearing, which started a new case at 11.30.

**MR GENTLEMAN:** That is probably not relevant to our inquiry.

**MR STEFANIAK:** It is probably not super-relevant to your inquiry, but it certainly goes to show that there have been some difficult issues in this one and the minister has not been as entirely forthcoming as one would perhaps hope for in terms of assisting the committee in all regards, although—to pay him credit—he appeared twice.

**MR GENTLEMAN:** Can we just go back to the letter of the 20th?

**Mr Stefaniak:** Yes, sure.

**MR GENTLEMAN:** Ms Dunne suggested that you were upping the ante with that letter.

**Mr Stefaniak:** Yes.

**MR GENTLEMAN:** By that do you mean where you say you have asked for the Stuart Ellis report as a matter of urgency?

**MRS DUNNE:** No, I think the word is “demand”.

**Mr Stefaniak:** “We demand it”. “Requires” actually: “The committee requires the Stuart Ellis report as a matter of urgency.”

**MRS DUNNE:** I am sorry, “requires”.

**MR GENTLEMAN:** I am asking Mr Stefaniak—

**Mr Stefaniak:** “The committee requires the Stuart Ellis report as a matter of urgency.”

**MR GENTLEMAN:** “The committee requires the Stuart Ellis report as a matter of urgency.” Is that where you have upped the ante?

**Mr Stefaniak:** Yes.

**MR GENTLEMAN:** But you have actually left off a request for a document in that letter from the previous letter—

**Mr Stefaniak:** Which one is that?

**MR GENTLEMAN:** where you say in that letter, “The committee will not be pursuing the request for the exit interview documents at this time.”

**Mr Stefaniak:** That is right, as a result of the minister’s response to the letter of the 16th, his response of the 19th. The committee considered that. Whilst it is probably

fair to say we were not entirely happy with it, we accepted some of his argument there and we thought we would revisit that one later, hence we would not be pursuing the request at this time. We left that up in the air. We thought there was some merit in his response. I am just looking for his response. Yes, we thought there was some merit there and we thought, “Okay, let’s hear from Ms Leon and also let’s hear from the two deputy commissioners.” Of course, Ms Leon was certainly giving evidence there but the two deputy commissioners were not allowed to.

**MRS DUNNE:** Okay.

**MR GENTLEMAN:** What about version 2 of the strategic bushfire management plan? That is not in the letter of the 20th.

**Mr Stefaniak:** No, because he supplied that.

**MR GENTLEMAN:** He did?

**Mr Stefaniak:** Yes, he did. That was fine.

**MRS DUNNE:** That is in the letter of the 19th.

**Mr Stefaniak:** He supplied that and he supplied that by taking out—

**MRS DUNNE:** I am happy to provide the committee with copies of the document.

**MR GENTLEMAN:** Yes.

**Mr Stefaniak:** And he has taken out relevant parts where they have not got any decision yet, and that is fine. I believe—and this is certainly relevant to my letter of the 16th—that we indicated that if it was not ready, “Just give us what you can,” and in one or two of the hearings I think that was discussed with government officials or indeed the minister. I will try to find the reference for you, but I think that is relevant in terms of when I did that handwritten note in terms of that particular document. It was something where we appreciated, or certainly I appreciated, that, all right, he might not be able to supply all of it but some of it, because we had made that fairly clear to him at some stage in the past.

**MR GENTLEMAN:** Just to clarify this: in the letter from Mr Corbell on 19 June there were three documents that he did not supply to you?

**Mr Stefaniak:** Two, I believe. No, he supplied—

**MRS DUNNE:** There were two documents that were still outstanding.

**Mr Stefaniak:** Two. The exit interviews, which are several, but there were two documents only. With the exit interviews, he basically maintained—he might have said something like that before but then he indicated that Ms Leon would provide as much information as possible and the committee thought on that one, “Well, that sounds pretty good, we’ll reserve our right to pursue that further, but let’s hear from Ms Leon,” and we knew the deputy commissioners were coming and they also had

relevant information to give the committee orally in relation to the exit interviews, and we thought that was fine.

It was mentioned with the exit interviews we would always protect names of people because they were confidential documents and that was one of the reasons for not giving them, but when the minister said, “Ms Leon is going to help you as much as possible,” and we knew the deputy commissioners were coming, we thought, “That’s probably all we need. If they tell us what’s in them we don’t actually need to see the documents and everyone’s happy then.”

**THE CHAIR:** But you did not actually ask the Attorney-General, did you?

**Mr Stefaniak:** For what?

**THE CHAIR:** For the exit interviews.

**MRS DUNNE:** Yes, he did.

**Mr Stefaniak:** Yes, we did, and also—

**MRS DUNNE:** Yes, he did, on 16 June.

**THE CHAIR:** No, I am talking about at the hearings.

**Mr Stefaniak:** Yes, I did. Exit interviews, pages 118 and 119.

**THE CHAIR:** I do not think that was the Attorney, though. You did not ask the Attorney for that, did you?

**MRS DUNNE:** There was a request from—

**Mr Stefaniak:** We had already asked for them.

**THE CHAIR:** Did you not ask Mr—

**Mr Stefaniak:** No. Mr Smyth was saying something and I said I had already asked for them. They had been asked for. And then you have also got the letters—

**THE CHAIR:** The Attorney does not appear on those—

**Mr Stefaniak:** No, but in terms of the exit interviews we also had the letter to Ms Leon which relates, amongst other things—on my understanding anyway—to exit interviews.

**THE CHAIR:** No, I was just talking about requesting it of the Attorney-General.

**Mr Stefaniak:** And obviously, Mr Mulcahy, that had been done earlier because I refer to it on page 119 that it had been done before.

**MRS DUNNE:** On the question that Mr Mulcahy just asked: Mr Stefaniak, if you ask

an official for a document in the course of a hearing, do you consider that the same as asking the minister for a document?

**Mr Stefaniak:** Yes, especially if the minister is there.

**THE CHAIR:** Any more questions, Ms Dunne?

**MRS DUNNE:** No.

**THE CHAIR:** Mr Gentleman?

**MR GENTLEMAN:** No.

**THE CHAIR:** Is there anything else you want to add, Mr Stefaniak, apart from I think you were getting back to us on one or two items that are now on the transcript?

**Mr Stefaniak:** I will see if I can find the references to that other document.

**THE CHAIR:** All right. We will adjourn this public hearing at this point. Thank you for your attendance.

**The committee adjourned at 11.20 am.**