

LEGISLATIVE COUNCIL

Question on notice

21 JUN 2011

Thursday, 14 April 2011

3839. Hon Robin Chapple to the Minister for Mines and Petroleum.

I refer to question on notice No. 3248 asked on 2 December 2010, and ask -

- (1) Can the Minister explain the rationale in the context of what relevance does of the, 'information was being provided to a statutory supervisory body', have in terms of all the information that was released free of charge to the lawyer concerned?
- (2) If no to (1), why not?
- (3) Will the Department of Mines and Petroleum for any Wardens Court matter, not necessarily all the matters raised in question on notice No. 3248 referred to above in the last five years, refund large fees charged to any person including practitioners in obtaining transcripts on the basis that they were the legal representative of one of the parties to the proceedings when they were charged by the Department?
- (4) If no to (3), why not?
- (5) If yes to (3), when will this occur?
- (6) At any time did the Regional Mining Registrar or any other staff member sign a statement or several statements and provide that to the lawyer concerned?
- (7) If yes to (6), will the Minister quote the full text of those documents?
- (8) At any time did the lawyer email or send by post to the Regional Mining Registrar or any other staff member a copy of a draft statement seeking that it be signed?
- (9) If yes to (8), will the Minister quote the full text of that email and the draft statement?
- (10) Does the Minister stand by the answer that Ms McKenzie did not have access to the files?
- (11) If no to (10), why has this changed?
- (12) Can the Minister explain what Ms McKenzie precisely did for the three hours when she visited the Regional Mining Registrar?
- (13) If no to (12), why not?
- (14) Can the Minister explain the rationale as to how the documents that were tabled as part of tabled paper No. 2943 were specifically identified and then released to Ms McKenzie?

(15) If no to (14), why not?

(16) Can the Minister explain why only the documents for tabled paper 2943 were released to Ms McKenzie and not all the documents which exist on the departmental files?

(17) If no to (16), why not?

Answer

- (1) The relevance of item (iv) in the preamble to the answer to Parliamentary Question 3248 is that, this was one of four factors which together justified the subject documents being provided to Mrs Carmel McKenzie without a subpoena or a freedom of information application and at no cost. The subject documents were sought by Mrs McKenzie for the specific purpose of assisting her in preparing a response to the Legal Professional Complaints Committee (the statutory supervisory body) which was investigating a complaint made against her.
- (2) Not applicable
- (3) No
- (4) Special circumstances exist in this particular case, refer to answer (1) above, the four factors [(i), (ii), (iii) & (iv)] referred to in the Preamble to the answer to Parliamentary Question 3248 together justified the subject documents being provided without the usual requirement for a subpoena or a freedom of information application and payment of requisite fees.
- (5) Not applicable
- (6) Yes, a staff member prepared a statement and provided it to the lawyer concerned.
- (7) See attached. [*tabled paper no.*]
- (8) Yes. The lawyer emailed a draft statement to a staff member, seeking that it be signed. The draft statement made reference to the phrase "on numerous occasions" to which the staff member could not attest. The statement tabled in response to Question 7 was instead prepared and provided to the lawyer concerned.
- (9) No. The original email and attached draft statement were not retained by the staff member.
- (10) Yes
- (11) Not applicable

- (12) Ms McKenzie sat at a table whilst the Regional Mining Registrar searched through the files to locate and extract the documents given to her. The files have more than 1000 pages of documents.
- (13) Not applicable
- (14) The released documents were identified by the regional mining registrar as being those documents that recorded the progress of the relevant legal proceedings through the Warden's court.
- (15) Not Applicable
- (16) The files consist of documents relating to the Warden's Court proceedings for the tenements as well as documents pertinent to the administration of the mining tenure. Only documents in respect to the Warden's Court proceedings relevant to Ms McKenzie's request were supplied.
- (17) Not applicable



MINISTER FOR MINES AND PETROLEUM

To whom it may concern

I am employed by the Department of Mines and Petroleum in Kalgoorlie. My duties included bench clerking for the Warden in wardens court proceedings.

I can recall on one occasion when Mrs Diane Mills was in the back of the court during wardens court proceedings involving KCGM/ Madigan/Guest/Westcombe/and or Optimum and Steven Kean. I cannot now recall the specific date or which particular matter as it was so long ago.

I was aware of who Mrs Mills was because she had previously attended at the Mines Department front counter.

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