

McDonald, Christine (SEN)Inquiry: Add. Estimates.Date/Time: 4:50pm, 22/2.Witness Name: Sen. Polley, ChairOrganisation: AEC.

From: Laing, Rosemary (Private)
Sent: Tuesday, 22 February 2011 4:44 PM
To: Morris, Jackie (SEN)
Cc:
Subject: RE: Request for advice on public interest immunity claim by Minister

Dear Jackie

The order of the Senate of 13 May 2009 is silent on whether the rationale should be provided at the time the claim is made. However, paragraph (8) of the order, which allows a minister to consider that a statement should more appropriately be made by the head of an agency (by reason of the independence of that agency from ministerial direction or control), assumes that the minister should have an opportunity to consider matters. In my view, it would therefore not be unreasonable for the minister to seek to provide the rationale on notice. The significant point for the committee is that it should be provided with a considered and well-founded explanation for the claim. Conceding that the Minister may need to take advice and to consider the matter further is not at all inconsistent with the practices of the Senate.

Please let me know if I can provide any further assistance.

Yours sincerely

Rosemary Laing
 Clerk of the Senate

From: Morris, Jackie (SEN)
Sent: Tuesday, 22 February 2011 4:25 PM
To: Laing, Rosemary (Private)
Cc:
Subject: Request for advice on public interest immunity claim by Minister

Dear Rosemary

Senator Ronaldson requested a copy of a DPP advice that there was insufficient evidence to pursue a prosecution under the Electoral Act.

The officer refused to provide it claiming legal professional privilege and referred this claim to the Minister.

The Minister said she would provide on notice the basis for refusing to provide the advice (ie not taking the question itself on notice but the basis for a claim it is not in the public interest to reveal the information).

Senator Ronaldson would like advice on whether the Minister can provide the rationale on notice or if it must be provided at the time the claim is made?

Jackie Morris