

**Senate Finance and Public Administration Legislation Committee**  
**Budget Estimates Hearing – October 2012**  
**ANSWER TO QUESTIONS ON NOTICE**

Prime Minister and Cabinet portfolio

**Department/Agency:** Office of the Official Secretary to the Governor-General

**Program 1:** Support for the Governor-General and Official Activities

**Outcome 1:** The performance of the Governor-General's role is facilitated through the organisation and management of official duties, management and maintenance of the official household and property and administration of the Australian Honours and Awards system.

**Topic:** Provision of documents requested by Ms Kline to the Committee

**Senator:** Ronaldson

**Question reference number:** PM56

**Type of Question:** Written

**Date set by the committee for the return of answer:** 30 November 2012

**Number of Pages:** 3

With reference to the *Proof Hansard*, 15 October 2012, pp.59-61, the office again refused to provide the documents requested by Ms Kline to the Committee, without any *public interest immunity* being claimed. Given that the office stated in its Answers to Questions of Notice (reference PM117) that these documents “do not form part of the Council’s decision-making processes” and that these documents are “better described as a reference guide...a compilation of timeline templates, technical and formatting advice, suggestions, protocols, database instructions, research tips and examples...to assist staff in their work”:

- g. What does the office see is the *public interest* in not providing these seemingly administrative documents (of a trivial nature as reported by the office) to Ms Kline in the first place as against pursuing this case in the courts (with the associated current and projected legal and other costs, as well as time wasted)?
- h. How does the office’s answer that these documents “do not form part of the Council’s decision-making processes” correspond to the office’s previous comments in Senate Estimates on 13 February 2012 that the public release of the material “...could inadvertently damage the public interest and the confidentiality and privacy that underpins the Australian honours process”?
- i. What information is contained within the documents which are, as the office state, a “compilation of timeline templates, technical and formatting advice, suggestions, protocols, database instructions, research tips and examples” that could possibly

compromise the Honours system? How could the release of any of this information result in an individual's privacy being breached?

- j. Why are these documents not of an administrative nature, given that the office has already declared that they are documents of a seemingly trivial nature?

Does the office claim *public interest immunity* with respect to these documents? If so, on what basis? In asking this question, please state that the provision of these documents under FOI to an individual is a separate matter to providing these documents to the Finance and Public Administration Legislation Committee when requested, noting that these documents must be provided unless a public interest immunity is claimed, in accordance with Resolution 8 agreed to by the Senate.

**Answer:**

- g. The Office does not consider the documents sought to be of a trivial nature. They form part of the substantive functions of the Governor-General, as Chancellor of the Order of Australia, in administering the honours system and in conferring awards. The matter of public interest immunity has been addressed by Senator Evans to the Committee separately. The Office has not pursued this case in the courts. Rather, it has responded to legal action brought against it. The Office would prefer not to have had to incur the legal and other costs and spend the time and resources associated with responding to these matters. However it would be unethical not to properly uphold and defend the law.
- h. The documents to which the Committee has sought public access relate to the manner in which nominations are processed and researched and the nature and form of deliberations by the Council.

The "*working manuals, policy guidelines and criteria related to the administration of the awards*" referred to by the Committee, are not seen or accessed by the Council. However, the documents form a necessary part of the work undertaken by the staff of the Secretariat in preparing nominations for consideration by the Council and as such, they shape the form and substance of Council's deliberative processes and the manner in which the Council performs its functions.

General public access to the documents sought could inadvertently damage the public interest and the confidentiality and privacy that underpins the Australian honours process, by enabling individuals to exploit or manipulate the process to their advantage, or could give rise to an expectation of a right or entitlement to a particular process or outcome, all of which could undermine public confidence in the honours system.

- i. General public access to the documents sought could inadvertently damage the public interest and the confidentiality and privacy that underpins the Australian honours process, by enabling individuals to exploit or manipulate the process to their advantage, or could give rise to an expectation of a right or entitlement to a particular process or outcome, all of which could undermine the system itself. What is at stake is the confidentiality and privacy of the system,

rather than any individuals necessarily, although individuals are referenced in the documents sought.

- j. The documents sought form part of the substantive work of the Governor-General, as Chancellor of the Order of Australia in the conferral of awards under a royal prerogative. The question before the Federal Court is whether the documents relate to matters of an administrative nature. The matter with respect to this request, is not a matter of an administrative nature.

No claim of public interest immunity is being sought at this time. Refer to correspondence from Senator Chris Evans to the Chair, Senate Finance and Public Administration Committee, regarding Senate Standing Order 165 where the royal prerogative is concerned.