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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

PUBLIC HEARING

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 8 JUNE 2010

AT 2.08PM

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ASSISTANT COMMISSIONER: Thank you. Please be seated.

<LESLIE JAMES HULLICK, on former oath

[2.08pm]

10 MR HANLEY: Thank you, Ms Commissioner. Mr Hullick, you were present when Mr Macklin gave evidence about attending the executive meeting formal or informal on 6 April weren't you?---Yeah, I heard him say that, yes.

And at that meeting Mr Romano made it clear didn't he that he wanted Mr Child to be gotten rid of?---The 6 April?

6 April an executive meeting?---I, I'd need to see, I, I can't, there was so many meetings that went on I'm not sure which one's which.

20 Well, this was a fairly significant one wasn't it, it was the Monday after two very - - -?---Oh, yeah, sorry.

- - - significant newspaper articles?---Yeah. I'm not sure they talked about getting rid of Mr Child on that day. I think I said, sorry, I think I said earlier that I'm not sure whether there was exactly an executive meeting in relation to this whole matter, it was more a preamble but yes, I can't necessarily recall that on the day.

30 What I'm suggesting to you is that this meeting whether it was formal or informal between you, Mr Romano and other members of the Burwood executive it was made very clear if not specifically by Mr Romano that he wanted Child gotten rid of. That's correct isn't it?---I can't remember those comments.

I want to suggest to you - no, I'll withdraw that. Did you discuss with him or did he raise with you the members of the executive the documents that he had requested on 5 April, 2009 and the email you were shown this morning by counsel assisting which is now part of Exhibit 301 and Mr Macklin's response by the 6<sup>th</sup> at 1.58pm when you provided those documents?---Sorry, I'd have to see what documents you're talking about.

40 May he be shown Exhibit 300. You were shown that this morning I believe by counsel assisting. Do you recall being shown those emails which appear on the front of that exhibit?---I, today's the first time I'd actually seen this document.

Even though you were cc'd into the one on 5 April?---The one down the bottom there. Yeah, by the look of it I would've seen that, yes.

This was the day after the article in the Sydney Morning Herald wasn't it? It would appear Mr Romano was working on the weekend and had written to Mr Azer and Mr Macklin requesting specific documents which could only be seen to be relevant to the members of the depot. That's correct?  
---Yeah, the, the top, the top document I haven't concerned - - -

No, I'm asking you about the one on 5<sup>th</sup> of the 8<sup>th</sup> or the bottom document?  
---The bottom document, the Sunday one, yeah.

10 Precedes the one on 6 April?---Yeah, that's right.

See that?---Yeah.

And in it he asks for dates et cetera about the Morrison Low report in respect of the depot operations doesn't he?---Yes, I probably would've seen that document, yes.

Was that discussed on 6 April the documents or any documents supplied in response to that request?---Not to my knowledge it wasn't.  
20

Well, on the second page of that document at paragraph 7 it refers to, these are Mr Child in relation to his warnings, grievances, file notes against him doesn't it and Mr Giangrasso?---It does, yes.

And it says, "These are required by me for submission to Council's lawyers, my lawyers the third party authorities."?---That's right.

There was no query by you or any other member of the executive as to why he would be providing Council documents to his lawyers about these  
30 people?---I didn't question him on it, no.

Did that seem unusual to you that Council documents were being sought to be given to his private lawyers about members of the depot staff?---No, I, I didn't, no, it didn't.

Was that something you just accepted as normal at Burwood Council or normal in relation to Mr Romano or you just didn't turn your mind to it at all?---No, I didn't turn my mind to it at all, it's, I was just put in for information by the look of it.  
40

I want to suggest to you that that email by Mr Romano was the commencement of actions to be taken against people suspected of being the whistleblowers of which Mr Child was one?---I don't know.

You don't know. I want to suggest to you that on 7 April at the Cross Functional Team meeting you and Dencker over the express views of Mr Macklin and Mr Azer agreed to adopt Mr Ellul's recommendations which in

effect made Mr Child unable to maintain his current position?---I agreed with Mr Ellul's assessment.

I want to suggest that that was a step that you took knowing either directly or indirectly that it coincided with Mr Romano's wishes to get rid of Child? ---No, I don't agree with that.

And that is consistent with Mr Romano requesting the Morrison Low details and details about Mr Child on 5 April?---No, I don't agree with that.

10

Did you have any discussions with Romano in relation to what happened at the Cross Functional Team meeting on 7 April in respect of Mr Child's job?---I can't remember any conversation.

You were, I want to suggest you kept him up to date all the time as to what was going on in relation the allegations that had been made against him, didn't you?---I probably updated him on certain things at certain times but I didn't, I didn't, yeah, I probably did update him on certain things on certain times but generally I, I wouldn't have.

20

You were upset that these allegations had been made in the newspapers in April about Mr Romano, weren't you?---Yes, I was upset and I was certainly upset from the point of view of Burwood Council as well.

From two points, you were upset because they were made against Mr Romano who you believed in his denial of these allegations and also because they brought the Council into disregard in the community at large, is that right?---That's correct.

30

And you wanted the people responsible for these lies dealt with, didn't you?---Yes, follow the proper process, yes, for sure.

And that process, I suggest, involved you and other members of the Executive by either the direction of Mr Romano or not to set out a course of conduct part of which was to make sure that Steven Child did not resume work at the Council?---No.

40

You wanted to get rid of him, didn't you?---As I said earlier, I thought Mr Child probably had a role that he could play in the organisation, not, not particularly not the position he was in, I didn't think.

Well, I want to suggest that this is just a false statement you've made here today and is not borne out by what you've set out, what's set out in the exhibits that have been produced in these proceedings.

MR EURELL: I object, that's a submission.

ASSISTANT COMMISSIONER: I think it might be a bit general for him to usefully answer that.

MR HANLEY: You were, I suggested, interested in ensuring that Seven Child was suspended and were trying to find a basis for it, weren't you?---I, I was, I think I've said everything about Steven Child that I, I didn't see Steve as, I just thought he was out of his depth in his, in his role and I agreed with the role being taken in relation to the job where the management requirements had to be put into that particular role.

10

ASSISTANT COMMISSIONER: Mr Hullick, the fact that you wanted or supported Mr Child being suspended so he wouldn't be back in the workplace is not consistent with what you're saying now, that you thought he could have some role back in the workplace. You and the other executives seem to go into a bit of a panic at the thought that he'd be coming back at all?---I thought there was a possibility that he could come back in a role where he wasn't in the same position he was in because the position he was in, he was a bully.

20

Well, sorry, you're totally ignoring what I've just said. It seems you didn't think he could come back. You didn't want him to come back for a minute. You wanted him suspended so he couldn't come back?---Yeah, what I was saying is that he was, he was a bully. In the workplace he was a bully but it doesn't - - -

All right. So you didn't want him to come back?---I think that if he had somebody strong looking after him he probably wouldn't be so much of a bully. He probably wouldn't be a bully but, anyway, that's, that was my, that was my observation.

30

Well, that's your response because I just find that totally inconsistent with the evidence, particularly about the desire to suspend him?---That's my position.

Thank you.

MR HANLEY: You were shown today by counsel assisting a letter addressed to David and Darren, the two lawyers, signed by Mr Macklin and attached to an email by Mr Hullick to Mr Gardner, the solicitor, dated  
40 29 June. Do you recall being shown that in which certain advices were sought about suspending or the basis for suspending Mr Cummins and also Mr Child. Do you recall being shown that this morning?---Yes, I, I can't recall what's in it but I do remember the date and I - - -

Well, I put to you that that was being sought as a result of a meeting between you, Dencker and Azer where an opinion was expressed that you wanted these two men suspended and the reason advanced for suspending Mr Child in the advice sought was the fact that he'd spoken to the Sydney

Morning Herald on numerous occasions. Do you recall that?---I, I didn't say that.

Do you recall that being set out in the advice?---It possibly was, I'd have to have a look at it, yeah.

Might he be shown Exhibit 241. Are you saying you can't remember being shown that document this morning by counsel assisting?---Well, I was shown a lot of documents this morning, if I have a look at it I could tell you.

10

Please go to page 8 of that document. Do you have it open in front of you? ---Yes.

And do you remember being shown that by counsel assisting this morning? ---Yes, I do, I do no, yes.

20

What I'm suggesting to you is that that is consistent with the proposition I've been putting to you that you and other members of the Executive, either at the direction of Mr Romano or not, wanted to get rid of Steve Child by having him suspended. That's correct, isn't it?---I said, I said when I saw this document this morning that I wasn't responsible for putting those, those comments there in italics. I don't remember the Executive team meeting, there's no minutes of it. I don't actually remember it even though there might have been some informal sort of meeting.

30

Do you recall that by this time there had been a further article in the Sydney Morning Herald on 20 May in which Mr Azer and Mr Inglese had been suggested of trying to hide up the fact that the Council had been double paid by a private contractor?---I do remember that article, yes.

Was there any discussion about that and who the source of it was?---I was asked to investigate that particular matter.

Did you investigate who you believed the source of the article - - -?---No, I only investigated what, what went wrong.

40

Do you recall waiting to get an advice from solicitors representing the Council as to whether Mr Child or Mr Cummins could be suspended?---(NO AUDIBLE REPLY)

Do you recall awaiting advice for that purpose?---On that matter?

Yes. Of the matters that are set out in the letter to Darren, David and Darren?---In, in that article about, about the owner matter, no, I can't remember that.

Do you recall waiting for an advice being sought by Mr Macklin from Council's solicitors as to whether there was a basis for suspending Mr Child

or Mr Cummins on or about and sought on or about 29 June, 2009?---I, I can't remember that.

Well, do you recall writing, it would appear of your own volition, an email to David Baird on 31 July, 2009 in relation to protection, protected disclosure?---I'd have to see that article.

Might he be shown Exhibit 240. Have you seen that email before?---Yes, I remember that one.

10

You remember sending that one, do you?---Now that I've read it I do, yes.

You see, you have sent an email on that date to David Baird and Darren Gardner, you've cc'd Mr Romano and Mr Dencker in and was this about something that had occurred to you that you should ask for advice about or was this something you were directed to seek advice about by Mr Romano or any other members of the Executive?---No, it was something I sought myself. I was just more interested in, in, in the process so I, I asked the question.

20

You were a little more interested than interested in the process, weren't you? You were interested in finding a way behind the protected disclosure so that Mr Child could be dealt with?---No, I don't agree with that.

Well, you see, I have a question that says, "I have a question regarding PDs and ICAC matters I'd like to run past you," then in the third paragraph you say, "I got the impression that the matter was given to the Sydney Morning Herald before it was sent to ICAC. Assuming that Steve Cummins, Steve Child and Robert Cummins went to the Sydney Morning Herald. Is there any redress against them for doing that? Does it negate the information being protected?" Do you see that?---Yes.

30

You were trying to see if there was a way that you could get to Mr Child and Mr Cummins, were they no longer protected by protected disclosure? ---I was asking the question, yes.

Yes, because you wanted to get of him, Mr Child and Mr Cummins, didn't you?---Well, I just wanted to see if there's a, if there was any, any avenue there for the protected disclosure, whether, whether that had been followed correctly. I was, I was interested in that.

40

You were, well, just intellectually interested in it, were you?---No, no. I, I just, I'd never been involved in this process before so I just asked the question.

You were asked the question I suggest, and it's clear from that email, because you wanted to see whether they were no longer protected by the disclosure if they'd made representations to the Sydney Morning Herald

prior to making a disclosure of that nature to ICAC. That's clear on the face of the document, isn't it, sir?---I was just trying to find out the status of that particular, of the, of, of - - -

And you cc'd Mr Romano in did you, what, to let him know what a bright young fellow you were or to keep him up to date as to how you - - -?---Not, not quite so young, yeah.

10 To try and let him know how imaginative you were dealing with the problem or not?---Well, I always had, I always felt like I should have input into certain things and, yes, that was, I just, for advice of what I was doing.

And I suggest that you wanted to have him put in the fact of a recrimination against Mr Child and you were trying to find a way of getting a, getting rid of him, weren't you?

20 MR EURELL: Well, Commissioner, that question's now been asked three times. The witness has denied it. How many times does he need to tell my friend that that's not what he intended?

MR HANLEY: Well, in view of his acceptance of what now is in there I thought I'd put it again.

ASSISTANT COMMISSIONER: Yes. I think it's been put in the context of what was actually said in this email which is a different issue.

30 MR HANLEY: So you were interested in finding a way and playing a role in enacting a recrimination against Mr Child for speaking to the Sydney Morning Herald, weren't you?---I was interested in finding out what the, what the, the implications were with the connection between the PD and the Sydney Morning Herald.

And you were also interested in seeing whether the Sydney Morning Herald could be found responsible in any way, weren't you?---Yes, because I wasn't happy with the Sydney Morning Herald putting articles in the paper that may be, that may be false.

40 Did you ever suggest to Mr Romano that in view of the serious nature of the allegations that he should step down from any role in managing the Council?---I didn't suggest it, no.

Did you hear any other member of the Executive suggest that?---Not in the, not in the early stages, no.

Any lawyers representing the Council suggest that to him in your presence? ---Not, not earlier on, no.



And what's earlier on?---Well, I think there was some discussion about it probably late, probably late 2009. I know we're in, it's July 2009 there, probably late 2009 there was a bit of discussion about whether he should step down all together. I remember, I remember some meeting in relation to that but, and then eventually he, it, it did reach the stage where he was stood down but that was, that was later still.

10 You were aware, weren't you, that as at 7 April the surveillance had been recommenced in relation to Mr Child and other members of the depot?  
---I'm not sure that I was aware. I've, I've read the, I have read the email since then but I'm not sure that I was aware on the 7<sup>th</sup> that it had been recommenced.

You were certainly aware by 22 May, weren't you, that Mr Dencker was seeking to obtain better quality DVDs of the surveillance to allow him, yourself and Mr Baird to present that when they went to meeting with ICAC on 25 May?---Yes, I do remember part, part of that, yes, that's correct.

20 I want to suggest that there was a deliberate attempt by you and others at the Council to try and find anything that could discredit Mr Child because of his disclosures to ICAC in the Sydney Morning Herald and that was hoped, and it was hoped that material would be obtained of that nature from the surveillance?---There was a continuing problem with Mr Child. There was a continuing problem at the depot. All the surveillance attempts - - -

But he wasn't working there at the time was he?---Sorry?

MR EURELL: I object.

30 MR HANLEY: I've asked him to answer the question.

MR EURELL: The witness was answering the question when he was cut off.

ASSISTANT COMMISSIONER: Yes, finish your answer.

THE WITNESS: Sorry. Could you ask me that again I've forgotten now.

40 MR HANLEY: You were saying there was a continuing problem with Mr Child?---Continuing problem, Mr Child's continuing problem at the depot, yes, so there was a continuing surveillance which, which came to, which came to an end but at that stage I think it was, there was still some belief that there would be evidence gathered that would be, would be of use for the depot, the depot reform, the depot, the depot clean-up if you like which didn't just involve, necessarily involve Mr Child but it involved a number of employees at the depot.

And why would you want to show that to ICAC?---Because one of the people that was associated with any particular clean-up at the depot would've possibly included Mr Child. There was a lot of, there was a lot of talk at the depot, again a lot, a lot of rumours and I, as I said before I wasn't, the depot doesn't come under my control so I, I - - -

Can I just stop you there? Could you please - - -

10 ASSISTANT COMMISSIONER: Yes, Mr Hullick, sorry, you're not, Mr Hanley's asking why was it necessary to show it to the ICAC not why it was being done.

20 THE WITNESS: Wasn't it ICAC that advised us that we weren't allowed to touch certain employees? I'm not sure of the timing here but that's why it was going back to ICAC because there still had to be, there still had to be reforms done at the depot, there still had to be reforms done across the Council. It's a constant thing, you can't just wait for 12 or 18 months while, while, while ICAC is waiting to, to do whatever they're going to do. That was, that was more behind it than anything else.

MR HANLEY: And that's what the critical evidence was was it that was referred to by Mr Dencker and his email to Mr Mailey?---Yes, that's, that sounds correct, yes.

I want to suggest that your answers in relation to that are just not truthful are they?---I don't agree with that.

30 You have been shown today I believe some documentation in relation to a draft of a letter dated 2 October, 2009 to the solicitor for the ICAC Mr Darren Kerr from Burwood Council. Do you recall being shown that today?---I do recall being shown that, yes.

And that involved a number of matters about various people including Mr Child didn't it?---Yes, I believe so, yes.

And do you recall it advised Mr Child is currently suspended pending the outcome of an Anti-Discrimination Board investigation?---I haven't got the document in front of me.

40 Might he have access - - -?---I'll, I'll no, I'll, I'll accept that.

- - - (not transcribable)?---Yeah, go on.

Do you recall being shown that document this morning?---Yes, I do.

Could you go to the second page of the letter which was the third page of the exhibit. And three-quarters of a page down there should be in bold letters "To Mr Steven Child." Do you see that?---Yes, I do.

The anti-discrimination matter had been settled by 2 October, 2009 hadn't it?---I don't know, I wasn't involved with that, I don't know but I do remember I think in his letter somewhere doesn't it say something about there was a further independent, there were other matters that were, were still pending in relation to Mr Azer.

10 I'll take you to the paragraph that starts off, "Mr Child is currently suspended from all duties with pay pending the outcome of an independent, an Anti-Discrimination Board investigation of an incident involving another Council employee." See that?---Yes.

Then it goes on to recite a number of other allegations made in respect of Mr Child's employment with Burwood Council doesn't it?---That's right.

Did you assist in providing this information to the author as to these allegations?---Sorry, what was that?

20 Did you assist in providing this information to the author in relation to these allegations against Mr Child?---No, I had very little to do with this document at all. I did read it but I, I think it was prepared by Mr Baird wasn't it?

If I could take you to A of that paragraph that Mr Child paid Council staff out of his own pocket for overtime work by staff at Council. Do you see that?---Yes.

30 Were you aware that that matter had been dealt with by a warning letter written by Mr Azer to Mr Child on 5 March, 2009?---No.

In relation to B so-called bullying are you aware as to whether that was ever raised with Mr Child and his views sought in accordance with Council policy?---No.

In relation to C that refers to a matter failing to comply with directions of his manager Khaled Azer in September 2008. See that?---Yes.

Do you know what that was?---No.

40 And D, Mr Child breached Burwood Council's Code of Conduct and his contract of employment by divulging sensitive and confidential information he became aware of during the course of his employment at Council to a journalist. Did that refer to him speaking to a client in relation to the allegations against - - ?---Probably by the look of it, yes.

See I want to suggest that those matters were inserted in there in an attempt to discredit Mr Child with the officers of ICAC weren't they?---As I said I didn't, I didn't, I didn't put this letter together it was put together by, by the

lawyers. I had very little input, if any, I think I might've made a couple of spelling corrections or something but apart from that um, hardly any input at all.

According to the email on the first page of the exhibit it appears to be sent to you and Mr Dencker?---Yeah, to read it, yes.

10 Well, did you raise any queries in relation to these matters as set out in 2 about Mr Child?---No, I didn't raise any queries, it was done through Mr, Mr Baird and it included Mr Leggat's comments. I had no, as I said I might've made a few minor adjustments where they got a word wrong or something like that.

Can I take you to page 5 paragraph 6, The Way Forward?---Yep. It refers to A, a letter to Les Hullick. Do you see that?---Yes, I do.

20 Had you written about the allegations levelled at Mr Romano and your concerns about it?---The, no, I think the, the lawyers wrote the letter, I can't, I can't actually remember what was in the letter that was written but that's the, that was their response obviously.

Well, it says, "Acknowledging your concerns about the allegations levelled at Mr Romano and noting that no further action be taken in the matter." Had you written a letter to Council or - - -

Well, the lawyers had written a letter, yes. I would've looked at it obviously.

30 And was that a letter where you were in effect standing up for Mr Romano, were you?---I can't remember exactly what was in the letter. I'd have to have a copy of the letter but - - -

Are you saying that lawyers prepared a letter of this nature for you to sign?--I think that was the case, yes.

And who were the lawyers that prepared a letter where you were expressing concerns about allegations levelled at Mr Romano?---I'd have to have a look at the letter. I can't - - -

40 Well, do you - - -?---It would've, it would've been, the dates would've been 2 October. It would've been probably, probably - - -

So if I understand you, do you recall lawyers preparing a letter of this nature for you to sign? You have that recollection, do you?---Yeah, I think that would've been the case. I think I said earlier on that, particularly in any of these sorts of matters, you know, I, I'd be, you know, I'd be getting the lawyers to check how I spelt my name. It's, it's something that I wouldn't - - -

If you could please just answer the question. Do you recall this letter being prepared by lawyers for you to sign?---I'd say it was, yes.

But this was not something instigated by you, is that what you're saying?---I don't know, I'd have to see the letter. I can't, I can't recall the letter.

In your evidence you've referred to, from time to time, about Mr Child being a bully, haven't you?---Yes.

10

And I want to suggest that your evidence on that basis and those matters and making those assertions is a further continuance, people like yourself and other members of the Executive, to try and discredit Mr Child in these proceedings, isn't it?---There are numerous times when the, it was brought up that Mr Child was a bully. As I said, the depot wasn't under my control but I did hear on numerous occasions where he's a bully. There was a number of, and I think people who give evidence, have given evidence here where there were numerous incidents where Mr, Mr Child was being a bully. I, I formed my opinion on, on what, what I was told by those other individuals.

20

Well, did you form any opinion on the basis of allegations made by Mr Risteski?---I didn't, no, I didn't.

You're aware, aren't you, that he had made allegations of Mr Child bullying him?---That would've been one probably, yes, that - - -

And that had been dealt with by Mr Macklin who found in Mr Child's favour, didn't he?---I don't know, I didn't get involved in that, in that side.

30

And Mr Saad had made allegations about bullying, hadn't he?---Could've, Mr Saad, yes.

But he was a problem that you knew from reports which you'd received, I suggest, that he was man whose credibility was very limited?---My understanding of Mr Saad was that, yes, he, yeah, he was, you wouldn't know what, what he was saying was, was true or not true.

Well, did you play any part in determining that Mr Saad's claim of discrimination by Mr Child and others should be settled by the Council? ---No.

40

Were you aware that part of the agreement to settle it was that Mr Saad agreed to assist Council in a further investigation of his allegations against Mr Child?---Yes, I think I was told that and I don't think that's completed yet.

Well, I want to suggest that that seeking of Mr Saad to assist Council in further investigating Mr Child on his allegations was a further step in attempting to take out recriminations against Mr Child?---I'm unaware of that.

Are you aware that those investigations were conducted and that he was cleared, Mr Child was cleared?---The, the anti-discrimination one was, the ones after?

10 Yeah?---I, I thought that was still not completed.

Are you still working at Council?---Mmm.

Were you there a couple of weeks ago?---Yes.

Were you aware that a letter was sent to Mr Child saying that the claims by Mr Saad have been investigated independently by Council and its lawyers and that he was cleared?---Well, that could be right. I didn't see that letter. As I said, it's not, it's not in my area.

20

Are you aware that he's still suspended despite being cleared?---Yes.

And I suggest again, that's a further act against him as a recrimination for him advising ICAC of Mr Romano's misdeeds, isn't it?---I, I just assumed that it's, we're waiting till the end of this inquiry but yes, I, you know, as I said I haven't, I haven't been involved very much on that side of it.

How senior are you in the Executive?---The same as anybody else in the Executive.

30

Well, you seem to be a fairly senior member who was awarded position of Acting General Manager in relation to certain inquiries?---Yeah, but that's, that's spread around.

Well, are you aware as to whether there was any basis for Council continuing to suspend Mr Child?---My understanding that it was to do with the, the continuation or the finalisation of the report from, that came out of the Saad matter and that, that was my understanding.

Well, you accept from me that he received a letter, it's been tendered in these proceedings?---Mmm.

That investigation has been completed?---Yeah, well, I, I must admit I wasn't aware that it was completed. I'm still not, I, I'm still not 100 per cent sure where it's at because, as I said, it's not, it's not in my area.

Well, it would be in your area though, wouldn't it, to know that in accordance with Council policy, if he has been cleared he should've been  
10 advised he's no longer suspended?---Possibly.

MR EURELL: If it please the Commission, these matters are really matters that fall within Mr Macklin's purview. They're HR questions. Mr Hullick has said on a number of occasions he's simply not seized of information. It seems that we're really just delaying.

ASSISTANT COMMISSIONER: Yes, although Mr Hullick seems quite  
(not transcribable) to express views about Mr Child and his conduct and his  
behaviour and that he was a bully. With it appears very little knowledge  
20 except rumours. I think it's fair to ask him about what, if any, part he's  
played in his continued suspension.

MR EURELL: I think my objection goes more to this area generally. I hear what you say, Commissioner, but it just seems to me that this has been canvassed with Mr Macklin. Mr Hullick has indicated he's really only speculating as you've rightly identified. I'm wondering whether or not it really assists you to continue down this path, given the time.

ASSISTANT COMMISSIONER: Yes.  
30

MR HANLEY: Well, Commissioner, I have one more question if I may.

I want to suggest, sir, that this continued suspension of Mr Child without any basis is a final continuation of what was a determined policy by you and the Executive and Mr Romano to carry out recriminations against Mr Child for him having the audacity to rat on Mr Romano, wasn't it?---I don't agree with that.

Yes, thank you.  
40

ASSISTANT COMMISSIONER: Thank you, Mr Hanley. Yes, Mr Neil?

MR NEIL: Thank you, Commissioner.

Mr Hullick, do you still have Exhibit 297 in front of you?---Yes.

Could we just look at page 3 of the letter?---Page 3, yes.

Towards the top of the page in the part 2 that deals with Mr Child, the last paragraph says, "Because of the ongoing Anti-Discrimination Board ADB proceedings and Council's obligations under the OH & S Act, Council is unable to undertake any further investigation of this matter until the determination is made by the ABD"?---Yes.

Was it your understanding that as of 2 October, 2009, the Anti-Discrimination Board proceedings had, at that stage, not been completed?  
---Yes.

10

All right. Thank you. Now, I just want to ask you some questions about the HWL Ebsworths application to go on the Council's legal panel. Firstly, is the case that Mr Baird and Mr Barakate had done work in a number of areas including property work for the Council prior to, I think, 4 June, 2009 when they went from Maddocks to HWL Ebsworths?---They'd both been involved in the civic precinct project which involved a lot of property work plus other legal matters associated with that for a number of years.

20

Yes. And to your observations had they performed their duties in a competent manner?---Quite a competent manner.

Thank you. And I think you've said that as far as you were concerned the application to be made to go onto the panel was, I think you've described as a technical matter, is that right?---That's the way I understood it, yes.

But having that in mind, might that explain why, as I think you've said, you didn't take any independent legal advice about the application?---That's right.

30

Now, HWL Ebsworths I suppose like any other firm are entitled to make an application, is that right?---To the panel?

Yes?---Well, when we call for panels, yes.

In this circumstance, however, there was some advantage in having the persons who had previously done some work continue with the ongoing work, is that right?---A major advantage I thought.

40

All right. Now, did Mr Baird suggest to you that you should get your own legal advice on the matter?---I don't remember him saying that to me.

Are you sure of that?---Yeah.

Could it be that you thinking the matter was just only a technicality you could have forgotten such a conversation, that it didn't seem important to you?---I can't remember, I can't remember that.



Now, it was your role to put the application before the Council. Is that right?---Yes, to put up a, basically a one-page report so the matter would get onto the business paper and could be discussed by Councillors, yes.

To the extent that Mr Baird went to any meeting or meetings, he would be there to give information not to give any legal advice, do you agree?---My understanding was that he would explain the situation, he'd explain the situation why Ebsworths needed now to be included.

10 But you'd agree that he was not there for the purpose of giving any legal advice on the application, indeed, you didn't think any advice, legal advice - - -?---No.

- - - was required, isn't that right?---Yes, it's, well, yeah, that's probably right, yeah.

Yes. The papers show that there was a, an initial set of resolutions I think on 25 June and then you sought some further information from HWL Ebsworths in accordance with the Council's request, is that so?---That's right. Council requested more information and I sought that.

20 And further information was provided, correct?---That's correct.

In effect, you were able to do, you were able to obtain that information and ultimately the Council made a, another decision confirming their position I think in late July. Is that right?---That's correct.

Now, you didn't, you didn't give any consideration as I understand it, tell me if I'm right or wrong, to section 55 of the Local Government Act?---My only consideration I gave to section 55 is that there, there is a, there is a clause in there which allows you to do what was being done in, in my opinion but - - -

30 Is that the dot point relating to extenuating circumstances and other factors? ---That's right.

Did you give any consideration to the one that says there's a prescribed amount, I think now of \$150,000 in respect of particular matters?---I didn't give great consideration to that except that there, there was a, a fair possibility that any amount in relation to the civic precinct in particular for the rest of the project if your like would, would exceed that anyway.

40 All right. I think you've told counsel assisting that you didn't consider it was a matter of an emergency?---No.

That's one of the dot points, correct?---Not emergency, no.

Yes, but that is, one of the dot points relates to cases of emergency, correct?

---Mmm.

But did you give consideration to whether that dot point applied? You came to the, you, you, you agreed with counsel assisting that you did not think it was a matter involving an emergency. Correct?---That's correct.

Does that mean that you gave some consideration to that question and concluded no emergency?---Well, I thought it was covered with the other, with the other clause so - - -

10

What, the extenuating circumstances clause?---Yeah.

All right. So does that mean because of that you did not give consideration to the emergency one?---I suppose so, yes.

20

All right. But, now, but you didn't think that you should get any legal advice on the question of whether the extenuating circumstances clause applied or not?---No, well, I thought that, as I said, there was, there'd been a, there'd been a meeting that had been held about a week before I think it was and, which I wasn't at but apparently at that meeting it was, this is the civic precinct meeting where, where Mr Baird and the, the, I think it was a steering committee meeting which is, which has some outside people there and in that it was mentioned that the probity auditors and the, and, and Mr Baird would know, well, the probity auditors were no longer working for Deloitte and it was a similar sort of process there, that they would, they would just come over to continue on with their, with their probity in relation to the project even though they're moving to a different, different firm and the same applied with Mr Baird who also advised that he was moving from Maddocks to Ebsworths.

30

Well, you formed an understanding based upon some information about a meeting you'd not attended, is that right?---I read the minutes of it but, yes, I was aware of it, yes.

40

You were of the view that it was advantageous to council to have the HWL Ebsworths work once Mr, have them do work once Mr Baird and Mr Barakate had gone across to them. Is that right?---There was a letter from Maddocks which basic, which said that, that, well, there was a letter in relation to the fact that Mr Baird and Mr Barakate were given the, the, I don't know what you call it, the brief I suppose of, it was similar to what they were doing at Maddocks, that they could take them across, take that across with them to Ebsworths - - -

That was from Maddocks?--- - - - and Maddocks had no, Maddocks had no problem with it.

No objection?---No.

Thank you. You thought the matter came under the extenuating circumstances clause. Is that right?---That's correct.

But you thought, and you made a decision, not to take any legal advice on the matter. Correct?---Yeah, well, I didn't think I needed to take any more legal advice.

10 Thank you. All right. Thank you. Now, just one matter, you were asked some questions about Exhibit 261, do you need to see that again? Do you have it there? It's the article about the firm that had paid twice. Do you remember that?---I do remember it, yes, I don't need to see that again. I, I remember that because as I said I did an investigation into that.

Was there, you consulted the, you consulted Mr Baird over this matter, did you?---Yes, I did.

20 Was there reached a commercial settlement in relation to that matter?---The commercial settlement, yes, there was.

All right. Did you understand it to be a routine commercial settlement?---It, sorry, I don't understand "routine". It was a settlement, it was, it was fixing up the mistake.

All right, if you like, but were some documents drawn up that effected a commercial settlement?---Yes, I think that's correct, yes.

30 All right. And do they include some described as a confidentiality agreement or clause?---Yes, it did, yes.

All right, thank you.

ASSISTANT COMMISSIONER: Thank you. Yes, is there any other application? Mr Blake?

MR BLAKE: I wonder, Mr Hullick, if those exhibits might be returned and Mr Hullick can be given Exhibit 242 please. Also Exhibit 298.

40 Mr Hullick, could you open Exhibit 242 to tab 33, please. You received this email from Mr Romano on 26 March?---Yes.

And your appointment as Acting General Manager was for the purpose of dealing with the allegations. You understood that to be the allegations made in the Harmers letter of 16 March, 2009?---Yes.

And the (not transcribable) separation of Mr Cummins from Burwood Council's employment?---That's right.

And you understood that that might arise out of the shorter Harmers letter where he was seeking two years salary and legal costs in return to leaving the, the Council?---Yes.

And Mr Romano said he'd be stepping aside and not making decisions on behalf of the Council on these matters?---That's right, yes.

10

And you understood it was your role as Acting General Manager to make decisions on those matters if they arose, the allegations and Mr Cummins's separation from Council's employment?---That's right.

And Mr Romano suggested that you make contact with Mr Baird of Maddocks at the earliest opportunity?---Yes, that's what - - -

And that was so that you could get legal advice about how to deal with those issues?---Yes.

20

And can you go to tab 27 of Exhibit 242?---Yes.

I think you said you read that at the time?---Yes, I have read it, that's true.

And you understood that there were serious issues being raised about the information services area while under the directorship of Mr Cummins? ---That's correct.

30

And you read, I take it, the finding on page 2 of 8 underneath the heading, Findings?---Yes.

And you see that that's evident, but a former senior manager, information services and subsequently his supervisor, Director of Governance and Corporate Services, were ineffective in ensuring appropriate procedures and controls were taking place within the Information Services Department. Effective management would have highlighted key issues of concern, allowing for appropriate action?---Yes.

40

And your belief on reading that and in the ensuing months was that it was appropriate that Council should seek information about the matters raised by the draft report from Mr Cummins?---Yes.

And it was your belief that in seeking that information you were acting in the best interests of the Council?---Yes.

Can I now just ask you to look at Exhibit 298 please?---Yes.

You were taken to this earlier today and your first involvement was as the recipient of the first draft by Mr Macklin sent at 7.02pm on Thursday, 23 April. I think if you go to the third page you'll - - -?---Yeah, I can see that, yes.

And in Mr Gardner's response at 10.31am on Friday, 24 April, to Mr Macklin, also copied to you, you see in the last paragraph he expressed his understanding that Les would be working on this process as well today? ---Yes.

10

And then that is in fact what happened. You gave some attention to the terms of the letter to be sent to Mr Cummins during Friday, 24 April, didn't you?---Yes.

And you saw in that email from Mr Gardner to Mr Macklin, copies to you, that in the third paragraph Mr Gardner had expressed the opinion, "Indeed, the letter needs to state that his responses will be further investigated and considered before any final conclusion is reached"?---Yes.

20 And when you read that, you had no reason to question that, did you?---No.

And in fact a letter, sorry, a sentence reflecting the substance of that advice was included in the letter, wasn't it?---Yes.

And you in turn at 12.04pm on Friday the 24<sup>th</sup>, sent a letter to Mr Gardner and Mr Macklin, copied to Mr Dencker, where you included some amendments you had made to the letter?---Yes.

30 And early in the afternoon at 2.26pm you sent a further email to Mr Gardner together with Mr Macklin and Mr Dencker incorporating some changes by Mr Dencker?---That's right.

And I think you identified those changes in the draft letter as being in the shaded - - -?---Shaded, that's right.

- - - shaded area?---Mmm.

And at 2.51pm you got a letter, sorry, an email from Mr Gardner?---Yes.

40 You read that?---I would've, yes.

Yes. It was addressed to you, "Dear Les" and in the second last paragraph of the email he said to you, "I otherwise agree that we require his responses as the issues are serious and his failure to respond as requested will be taken into account as to whether the Council can reasonably continue his employment"?---Yes.

“If we don’t issue this warning now, any attempt to mention it later will be difficult”?---Yes.

]

And did you have any reason to doubt that advice when you read it?---Not at all.

And the substance of that advice was also included in the letter to Mr Cummins, wasn’t it?---Yes.

10 And following from that you went the proposed final version to Mr Gardner, Mr Macklin and Mr Dencker asking for any final comments?---Yes.

Can you now recall whether you received any further advice from Mr Gardner?---I can’t recall. I mean there’s nothing there but I can’t recall if I did.

Yes. And can you now recall whether you received any final comments from Mr Macklin or Mr Dencker?---No.

20 And the letter as sent, you’ve been shown I think it’s Exhibit 155, pages 60 to 62. Do you need to see that, Mr Hullick?---No, no.

And in sending that letter were you in any way influenced by your belief that Mr Romano didn’t want Mr Cummins in the workplace?---No.

And when you say no you’re agreeing that that matter did not influence your decision to send the letter?---No.

30 Just so we’re aware is the no disagreeing with me or you are - - -?---Sorry. Yes.

Yes. Okay.

ASSISTANT COMMISSIONER: I think he’s now agreed he was disagreeing with you. He says yes, he was disagreeing with you but I don’t think he is.

40 MR BLAKE: In sending that letter, Mr Hullick, were you in any way influenced by your belief that Mr Romano did not want Mr Cummins in the workplace?---No.

ASSISTANT COMMISSIONER: I think you’ve done it, yes. He was not influenced he says in any way.

MR BLAKE: Thank you. You understood, Mr Hullick, that in 2008 there had been some serious difficulties between Mr Romano and Mr Cummins didn’t you?---Yes.

And Mr Romano was dissatisfied by Mr Cummins' performance as Director of Governance and Service, Governance and Corporate Services?---Yes.

And Mr Romano expressed to you in 2008 that he didn't think that Mr Cummins was adequately carrying out that role?---I think he more or less sort of indicated that he certainly wasn't carrying out the role that would allow him to participate in any performance reward.

10 And Mr Romano expressed the view that in 2008 that he didn't think Mr Cummins was suitable in the long term to remain as the Director of Governance and Corporate Services?---Not in that role. Yes, I, yeah, yeah, not in that, not as, not as a Director in that role, yes, I think that would be reasonable, yeah.

And when you gave the evidence that Mr Romano, I think it was put to you, made it clear he didn't want Mr Cummins on the Council you were reflecting back on the conversations you had in 2008 weren't you?---Yes.

20 Now, Mr Hullick, you were asked some questions about the reclassification of Mr Child's position in April, May of 2009?---Yes.

I'm just wondering can that exhibit be returned and Mr Hullick shown Exhibit 200 please. At page 4 it's the minutes of 7 April of the Depot Reform Cross Functional Team. You see those?---Yep.

30 And you see that you were present. And item 2.2, sorry, I withdraw that. In item 1.1 the issue of changes to the Civil Maintenance Co-Ordinator role came up by the inclusion of contract and project managing experience. You see that?---Yes, I do.

And that issue was raised on a number of occasions over the following or throughout April at the Depot Reform Cross Functional Team meetings?---It was raised on a couple of occasions, yes.

Yes. And one of the issues that was raised was that there would be a significant advantage to Council in having that role capable of carrying out project management models?---Yes.

40 And also carry out external contract administration?---Yes.

And to centralise the internal contract administration and external contract administration and project management roles fall within a single role? ---Yes, that sounds, yes, that sounds, that was talked about, yes.

And your view as a participant in those meetings that it was in the best interests of the Council to have those roles fall within the role of the Civil Maintenance Co-Ordinator?---Yeah, I think that would be the case, yes.

And I suggest to you in coming to that view you were not in any way influenced by your understanding that Mr Romano wanted Mr Child out of the workforce. Do you agree with that?---Yes, I agree.

In about May of 2009 Mr Hullick, an issue being discussed within the executive team was how to progress a number of employment matters those involving Mr Cummins, Mr Child and Mr Giangrasso without the Council being seen to be taking any reprisal action against them?---Yes.

10 That was something that was, you were concerned about at the time?---Yes.

And in fact that matter had been raised at a Cross Functional Team meeting hadn't it? If you go to Exhibit 200 - - -?---Yes.

- - - at page 5 it was agreed on 14 April that once the approval process within Council had taken place that the position descriptions including that of the Civil Maintenance Co-Ordinator was to be run past Maddocks for their review and Maddocks were to advise if the PDs need to go through ICAC?---Yeah, I can see that there, yes.

20

And that's something that you were alert to that issue as from 14 April weren't you?---I'd say by the look of that, yes.

Yes. That exhibit can be returned. Mr Hullick, I'd like to show you this document, Mr Hullick. Sorry, just before I do that, can Mr Hullick be shown Exhibit 264, please. You received a copy of this email on Wednesday, 20 May, 2009?---Yes, that's what it says there, yes.

30 And attached to it was an advice from Maddocks of 19 May, 2009?---Yeah, I presume so, yes.

Did you peruse that advice at the time?---I can't remember that but I, I may have, yes.

In your normal practice you would have perused documents that you received from Mr Macklin?---Not in, not necessarily in great detail but I, but I, I would have. I mean, I was obviously just, I was copied in on that but, yes, I'd, I'd say that I probably did.

40 And it was copied to Mr Azer and Mr Dencker as well as yourself - - -?  
---Yes.

- - - who were all members of the depot reform cross-functional team?  
---Yes.

And I suggest you would have seen the third paragraph of the letter that Maddocks say they are pleased to advise our confirmatory advice in respect of the impact of these changes have had on the position of the maintenance



supervisor and its incumbent, Steve Child?---I can't remember that but I can see that now, yes.

Yes. It's something you would have read at the time though?---Yes, I probably would have, yes.

And you would have been concerned at the time to ensure that the issue raised at the cross-functional team meeting on 14 April, 2009 of getting advice from Maddocks had been dealt with by Maddocks?---Yes.

10

Yes. And that can be returned. And can Mr Hullick now be shown Exhibit 296, please. I suggest that's an email that you received on the same day, Wednesday, 20 May at 10.06am from Mr Romano?---Yes, it looks like it, yes.

Yes. And Mr Romano was expressing the view that progressing the matter of Mr Child requires the approval of ICAC?---Yes.

20

And he suggested that instructions are sought from ICAC before proceeding any further?---Yes.

And he said it is important to ensure that there is no perception that Mr Child is being victimised or singled out, he is to be treated fairly in accordance with the relevant legislation and Council's policies?---Yes.

And that was also your view at the time?---Yes.

30

And you sought throughout the period after that in 2009 to adhere to that view?---Yes.

I'd like to show you a document now, Mr Hullick. Mr Hullick, I'd suggest you received an email from Mr Macklin on 27 May at 2.24pm?---Yes.

It had the subject Issues for Discussion with ICAC?---Yes.

And that attached to it a draft document that Mr Macklin had prepared to be used as background and meeting notes when the ICAC meeting to discuss staffing matters occurs?---Yes.

40

And he asked for any additional information or comment that may be needed in relation to Mr Cummins and his response to Council's letter and this could be provided by you or Mr Gardner?---Yes.

And you, I take it, carefully read the attached Internal Draft Memorandum Briefing document?---Yes, I would have read it, yes.

Yes. And you'll see there's a section on Robert Cummins?---Yes.

And background, you'll see some headings, Background, Current Situation and Recommended Course of Action?---Yes.

And under the heading Current Situation the second paragraph referred to the serious maladministration issues as part of the investigation conducted by the information services cross-functional team?---Yeah, I can see that.

10 And the third paragraph said Mr Cummins' responses to the matters put to him indicate that he does not accept responsibility for the maladministration but Council's position is that the information services function was under his direct control?---Yes.

And that paragraph was consistent with your own view at the time, wasn't it?---Yes.

I seek to tender that email, Commissioner.

20 ASSISTANT COMMISSIONER: Yes. The email from Mr Macklin to Mr Romano and others dated 27 May will be Exhibit 303.

**#EXHIBIT 303 - EMAIL FROM MR MACKLIN TO MR ROMANO AND OTHERS DATED 27 MAY 2009 AND ATTACHMENT RE ISSUES FOR DISCUSSION WITH ICAC**

30 MR BLAKE: Mr Hullick, can I now show you another document. This is a further email from Mr Macklin sent on Wednesday, 27 May at 3.29pm. That's just over an hour later than the email I just showed you, Mr Hullick? ---Yes.

And you provided some input into the section dealing with Mr Cummins, didn't you?---(NO AUDIBLE REPLY)

You'll see in the attachments it says Issues for Discussion with ICAC version 2, Les's input. Do you see that?---Oh, yeah, yeah, yeah, okay.

And if you go to the section on Mr Cummins and the attachment?---Yes.

40 The last two paragraphs before the heading, Current Situation Anew? ---Okay, yes.

Do you agree with that?---Yeah, yeah.

And that was information that you provided to Mr Macklin, wasn't it? ---Yes, it was.

But he had experience in information technology and he also had extensive project management experience and experience in managing technical and creative staff?---That's correct, yes.

And that was something known to you?---Yes, and now that's come out of his, his resume that he provided to Council. That's correct, yes.

I seek to tender that.

10 ASSISTANT COMMISSIONER: Yes, the second email from Mr Macklin to Mr Romano and others on 27 May will be Exhibit 304.

**#EXHIBIT 304 - SECOND EMAIL FROM MR MACKLIN TO MR ROMANO AND OTHERS DATED 27 MAY 2009 AND ATTACHMENT**

20 MR BLAKE: Can Mr Hullick be shown Exhibit 281 please.

And you received a third version of this document from Mr Macklin on 29 May at 9.50am?---Yes.

And to the best of your knowledge was the, did that contain the final form of the document?---I don't know but I don't know, I can't answer that.

You're not sure?---No.

30 It's something you saw at the time and reviewed?---I probably, I probably didn't review this. I put my input into it in the previous one. I don't think I put any, any, I didn't put any, any input into this.

Thank you?---Additional input.

40 Okay, thank you. That can be returned. Can Mr Hullick be shown Exhibit 282 please. Mr Hullick, you'll see that the bottom email first in time is an email sent on behalf of Mr Dencker to Mr Baird copied to Messrs Macklin, Romano, Walker and yourself, sent on Monday, 11 June, 2009 at 11.43am?---1 June, yes.

Yes, and you'll see that in that email Mr Dencker sent to Mr Baird on his first day at the new firm, HWL Ebsworths, asking for an urgent update or progress regarding the following, and you'll see item 1, "A meeting between yourself, Les, the ICAC and I. When will this happen? I believe that you have all the information required for this meeting. It's compiled chiefly by Mr Macklin"?---Yes.

You saw that email at the time?---I would've.

Yes. And your understand was that the information required for the proposed meeting compiled chiefly by Mr Macklin is the successive drafts of the internal memorandum I've just taken you to?---Yes.

And you, I suggest, attended a meeting with Mr Leggat on mid-June, 15 June, 2009 to discuss how to approach ICAC about these matters?---I probably did, yes, I did speak to Mr Leggat at, yes, that's probably right, yes.

10

And one of the things discussed was whether Council should approach ICAC about these staff matters?---That's possibly, yeah, that probably would've been discussed, yes.

And advice was sought from Mr Leggat about that?---Yes.

And advice was also sought about Mr Giangrasso's employment, you agree with that?---Could've, I'm not sure. I'm not sure. It could've.

20

Not sure about that. And was advice sought in relation to any role Mr Romano should play in regard to the ICAC investigation?---Probably, probably, yes.

And from this time, that's from at least May, 2009, going up to throughout the balance of 2009, you were aware in May 2009 that at that stage each of Mr Cummins, Mr Child and Mr Giangrasso had made a claim for workers compensation?---I know they all made claims for workers compensation. I'm not sure of the exact dates but you're right, yeah, around about that time probably.

30

And you know as at May, 2009, that there were employment issues relating to each of Mr Cummins, Mr Child and Mr Giangrasso?---Yes.

And you knew at that stage that ICAC was investigating particular matters relating to the Council arising out of the allegations in the Sydney Morning Herald, that was your understanding at the time?---Yes.

40

And a series of meetings were held, I suggest, in the second half of 2009 involving lawyers from Maddocks, also from 1 June 2009 HWL Ebsworths and Henry Davis York, and held in the city, either at the offices of one of those firms?---Yes, there were a few meetings held, that's correct.

And you attended a number of those?---I did attend some of them, yes.

And you were aware throughout that period that there was three intersecting legal issues. One, the workers compensation claims - - -?---Yes.

- - - of each of Mr Cummins, Child and Giangrasso. Secondly, their respective employment issues?---Yes.

And thirdly, the intersection of those matters with the ICAC investigation?  
---Yeah.

And you were concerned, I suggest throughout that period that any steps the Council might take in relation to Mr Cummins, Mr Child or Mr Giangrasso would not interfere with the ICAC investigation?---Yes.

10

And to your understanding that was the reason why Mr Romano was excluded from various parts of these legal meetings?---Yes.

And to your observation at the meetings you attended you didn't see any occasion where Mr Romano was present wherein your view he should not have been present?---No, not from my view.

20

And to your observation, the lawyers collectively took great care to ensure that Mr Romano was not present in meetings in which he had no interest?---Yes.

And you had no reason to question the lawyer's judgement in that regard did you?---No.

30

Can Mr Hullick be shown Exhibit 252. Mr Hullick, can you go to, it's about the third last page of this thick exhibit. It's an email not the one at the top but the one immediately below it, it's an email from Mr Macklin sent to Messrs Azer, Dencker, Romano, Ms Wilson and yourself copied to Mr Ellul sent on Friday, 12 June, 2009 at 5.49pm?---Yeah.

And you saw that email either on the Friday or early the following week?  
---Possibly, yes.

And one of the concerns or a concern about Mr Giangrasso, you knew he was on leave at the time, sick leave?---Yeah, I believe so, yeah.

40

And you were aware as at 12 June that there were allegations against Mr Giangrasso relating to his employment which had not yet been dealt with?  
---Yes, I think that's the case, yeah.

And you were also aware that there were at that time allegations against Mr Child relating to his employment that had not yet been dealt with?---Yeah.

And the concern that Mr Macklin was expressing to your understanding was how Council might deal with the situation if Mr Giangrasso or Mr Child returned to work when those allegations had not been dealt with?---Yes, I think so, yes.

And he had a concern about disruption in the workplace?---Yes, yeah, I believe so, that's right.

And that was concern that you shared as well?---Yes. Yes.

If that exhibit can be returned. Can Mr Hullick be shown Exhibit 241 please. You've been taken to this email before but if I could just ask you to go to page 9, Mr Hullick?---Yes.

10 In the second paragraph - - -?---Yes.

- - - that set out a concern that you had at the time?---Sorry, what - - -

Second paragraph addressed to David and Darren, I'm talking about the last - - -?---Sorry, I may have the wrong email have I?

Page 9 - - -?---Yes, yes, page 9.

20 You'll see there is an email from Mr Macklin - - -?---Sorry, I missed the top there, yes, okay.

Sent to Messrs Baird and Gardner on Monday, 29 June at 1.03pm and copied to Messrs Dencker, Azer and yourself?---Yeah.

And the second paragraph sets out Mr Macklin's record of a meeting with the executive team that morning?---Yes. It does, yeah, I think I indicated this morning that I checked, I couldn't see of any, any meeting that was held, if it was it was an informal meeting, there's no minutes or, but yeah.

30 You don't doubt Mr Macklin was accurately setting out what had happened that morning though do you?---No, that's probably right, yeah.

And the Council's preferred position which he expressed was if either Mr Cummins or Mr Child attempts to return to work how that would impact upon the investigation of the outstanding matters?---Probably.

And the Council's preferred position was that they should be suspended during or for the duration of the investigation?---Yes, I think that was the case.

40

And it was your view at the time that that preferred position was in the best interests of the Council?---Yes.

And in coming to that view you were not in any way influenced by your belief that Mr Romano didn't want either Mr Cummins or Mr Child in the workplace were you?---No.

And however you agree I take it with Mr Macklin's approach that legal advice should be obtained on that issue?---Yes, I was of the opinion that legal advice should be obtained on every issue in relation to any of this.

And one of the issues that was in the forefront of your own mind was that Council would not act in any way that might be seen to be a reprisal against Mr Cummins or Mr Child?---That's correct.

10 And you'll see that Mr Dencker asked for Mr Gardner to ensure that the legal advice incorporates these matters?---Yes.

And I take it you saw Mr Gardner's response sent at 6.04pm on 29 June where he said, "Will do."?---I would've seen it, yes.

Yes. And you also saw Mr Romano's response on 30 June at 10.01am? ---I would've seen that, yes.

20 And you understood that Mr Romano was also concerned that any action taken by the Council would not be, would not be or be perceived to be a reprisal against Mr Child or Mr Cummins?---That's correct.

That can be returned. Can Mr Hullick be shown Exhibit 283 please. Just before I come to that, Mr Hullick, I think I've jumped over something. Yes, I think that's Exhibit 241 pages 10 to 16. Mr Hullick you saw an email from Mr Macklin sent to you and Messrs Dencker, Azer and Romano on Wednesday 8 July 2009 at 2.32pm?---Yeah.

30 And you saw Mr Macklin's message that the attached briefing would be provided to SC for advice.---Yes.

You understood that referred to Mr Leggat?---Yes.

And I take it you read the attached advice from Maddocks of 8 July 2009? ---I probably would have, yes.

Yes. You certainly would have read the first page that dealt with the scope of the advice and the summary of advice and recommendations?---I don't remember but I would have read it, yes.

40 Yes. And you're aware at that time that Council was to, was proposing to take advice from Mr Leggat regarding any particular action that might be taken against Messrs Cummins, Child and Giangrasso and – in the light of the current ICAC investigations.---Yes.

And that was part of Council's strategy to ensure that it took no action or was perceived as taking no action in reprisal against Mr Cummins, Mr Child or Mr Giangrasso.---Yes.

That can be returned. And to the best of your knowledge, advice was obtained from Mr Leggat about those issues?---Yes.

And did you – was there a conference with Mr Leggat?---There was a couple of conferences with Mr Leggat that I was involved in, I can't think of the details of those at the moment. It certainly, it probably was on this matter, yes.

10 That can be returned. Can Mr Hullick be shown exhibit 283 please.---I've got it.

I did as you before. You'll see that's an email from Mr Macklin to a number of people, Dencker, Azer, (not transcribable) Romano, Erin Wilson and yourself copied to Mr Gardiner, Mr Baird and Miss Langshaw and it dealt with an investigation into an alleged threatening and intimidating behaviour of Mr Giangrasso.---Yeah.

20 And it attached a letter, a draft letter to Mr Giangrasso regarding that threatened behaviour.---Yes.

And you read the attached memorandum of Mr Macklin?---I can't remember reading it but I probably did – even though it's not addressed – it might have been an attachment – it's not addressed to me but I can't remember whether I read or that, I can't recall.

You'll see that the email itself says, "Please find my report in your investigation." And the third paragraph below that, "Executive team for your information and comment."---Yes.

30 In the light of that specific matter it's something that you would have read at the time. Do you agree with that?---Yes.

You, I take it, agree with the conclusion and the recommendations expressed at the end of Mr Macklin's memorandum?---Um, yeah, I had no reason to disagree.

And in particular recommendation 3 referred to the matter of whether after legal advice being obtained ICAC should be informed?---Yes.

40 And that was a matter of concern to you at that time?---It was always a matter of concern, yes.

Yes. And if that can be returned and if Mr Hullick can be shown Exhibit 284. You'll see, Mr Hullick, that this contains three emails, the first is the one I just showed you, Exhibit 284, Mr Macklin's email of 30 July?---Yeah.

You'll see the second email in time is one from Mr Baird to Mr Macklin recording some advice?---Yes.



And the first email, last in time, is an email from Mr Macklin to Mr Baird sent on Wednesday, 5 April, 2009 at 11.29am copied to various people including yourself?---5 August, yes.

10 Yes. And in the second paragraph Mr Macklin set out or recorded a meeting with the Executive team that had been held either on that day or shortly before that day, Wednesday, 5 August?---That could have been the case, I, I can't remember. There was Executive team meetings on a regular basis.

Yes. And you can see the third paragraph, the Executive team was concerned that the appropriate way forward was to notify ICAC before conducting a full and proper investigation into the matter of Mr Giangrasso? ---Yes.

And that was a view you held at the time, that it was appropriate to notify ICAC?---As I've indicated, yes, on all occasions.

20 Yes, and that was to avoid any suggestion that any investigation against Mr Giangrasso would be perceived as a reprisal?---Yes.

Can, that can be returned. Can Mr Hullick be shown Exhibit 276 please. Mr Hullick, this is an email from Mr Macklin sent on Monday, 17 August at 6.13pm addressed to senior officers?---Yes.

And if you look at the text of the email you'll see four attached documents? ---Yes.

30 And you'll see item 4 is a letter to Steve Child advising him he is suspended from duty on pay effective 17 August, 2009 sent by email this afternoon after approval by Mr Hullick?---Yes.

And if you go to the last two pages of the email you'll see a letter of 17 August, 2009 from Mr Macklin to Mr Child?---Yes.

And that's the letter that you gave approval to?---Yes, it would be, yes.

40 And before giving approval to that letter you read an advice from Maddocks of 17 August, 2009 and if you go to the four pages or the two pages if you look at front and reverse, immediately before the, the letter to Mr Child, you'll see a letter of 17 August, 2009 of Maddocks - - -?---Yes.

- - - addressed to Mr Macklin?---Yes.

And you saw, if you turn over to page 2 of that advice, you read paragraphs 9 and 10, didn't you?---I probably would have, I can't remember back that far but I probably would've, yes.

And I suggest to you, in giving instructions to send the letter to Mr Child, you acted on legal advice, do you agree with that?---Yes.

Yes. And that legal advice, I suggest, is the letter of 17 August, 2009 I've just shown you?---It, it probably is without reading it through, it probably was, yes.

10 Yes. Well, look, I just would like you to take a moment or two to peruse that letter please?---Yes, that was what's the case.

And you had no reason to doubt the advice or the opinion expressed in paragraph 9 of the letter on page 2, did you?---No.

Nor did you have any reason to doubt the opinion expressed in paragraph 10 of the letter?---No.

20 And you regarded in the best interests of the Council that Mr Child be suspended pending a full investigation of the matters raised in the complaint?---That's correct.

And in making that decision you were not in any way influenced by the belief that you had that Mr Romano wanted Mr Child out of the workforce, were you?---No.

Commissioner, I see the time.

30 ASSISTANT COMMISSIONER: Yes. Do you have much more, Mr Blake?

MR BLAKE: I need to take him to a few more emails then I need to take him to some material in various statements that Mr Romano has put on.

ASSISTANT COMMISSIONER: What do you estimate?

MR BLAKE: About half an hour.

40 ASSISTANT COMMISSIONER: All right. Well, we will, yes, Ms Ronalds?

MS RONALDS: If I could tender a bundle of correspondence between HWL Ebsworths and this Commission, some of which was referred to earlier, to save confusion so that people can ask questions accurately based. I thought perhaps correspondence might be better rather than guesses.

ASSISTANT COMMISSIONER: Yes. Well, that bundle of correspondence will be Exhibit 305.

**#EXHIBIT 305 - BUNDLE OF DOCUMENTS AND  
CORRESPONDENCE BETWEEN HWL EBSWORTH AND THE  
ICAC**

ASSISTANT COMMISSIONER: We will resume at 10 o'clock tomorrow morning.

10

**<WITNESS STOOD DOWN** [4.03pm]

**AT 4.03PM THE MATTER WAS ADJOURNED UNTIL  
10.00AM, WEDNESDAY, 9 JUNE, 2010** [4.03pm]