



OFFICE OF THE CLERK

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24 July 2019

The Honourable Ruth Forrest MLC
Chair
Legislative Council Select Committee on the
Production of Documents
Parliament House
HOBART 7000

Dear Chair

Thank you for the opportunity to consider providing a submission to the Legislative Council Select Committee on the Production of Documents. Clearly one of the powers of the Legislative Council is the power to call for papers or other records. I have observed on occasion over time that this power to call for papers from the Government of the day has tested relations between the Executive and the House due to claims of executive privilege/public interest immunity.

I know that your Committee will be looking to explore options to resolve disputes between the Executive and the Council and its Committees as it relates to the refusal to provide papers. I do not consider at this stage that it would be entirely appropriate for me to suggest a preferred model or process as to the resolution of these types of disputes as this may be perceived as a derogation from the impartiality of my role as Clerk of the Legislative Council.

I would however be pleased to provide any advice to you or the Committee about the following:

- (1) the power to call for papers generally;
- (2) custom and practice; and
- (3) provide practical comments and suggestion on a proposed model or recommendation of the Committee insofar as it affects the administration of the Council and its proceedings. For instance, if it was proposed that a recommendation be that disputed material be held in the custody of the Clerk for inspection by members and perhaps determination by an independent arbiter then I may have comment about matters such as amendment to Standing Orders, financial implications and the safekeeping of those papers and other records.

Thank you again for the opportunity to make comment.

Yours sincerely

A handwritten signature in dark ink, appearing to read "D. T. Pearce", followed by a horizontal line.

D. T. PEARCE
Clerk of the Legislative Council