

Tom Lonsdale Veterinary Surgeon

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21 April 2016

The Registrar
NCAT
Level 10 John Maddison Tower
86-90 Goulburn Street
Sydney NSW 2000

Dear Registrar,

Tom Lonsdale v University of Sydney
Review of a decision under Government Information (Public Access) Act 2009
File No. 1510239 and Appeal File No: AP 15/55753

Thank you for your letter of 11 April 2016 directing me to respond to the Heesom Legal letter of 8 April 2016.

In my view the Heesom letter represents a further breach of the Model Litigant Policy and the Respondent lawyers' obligations to the Tribunal. The Respondent had an opportunity to provide a proper explanation in respect of the points raised in my 29 March 2016 letter entitled *Officers of the court and procedural fairness*.

The University, a public institution obliged to demonstrate exemplary conduct, instead seeks to a.) avoid questions or b.) where avoidance is not possible, resorts to blanket denial.

I believe it's relevant to note that the [Model Litigant Policy](#) provides:

1.4 Issues relating to compliance or non-compliance with this Policy are to be referred to the Chief Executive Officer of the agency concerned.

However, referring breaches of the Policy to Vice-Chancellor Dr Michael Spence would likely be a futile exercise. In his role as Chief Executive Officer, in 2010, [Dr Spence was involved in the improper interception](#) of important mail regarding improper junk pet-food arrangements addressed individually to each Member of the University Senate. Subsequently in 2015 he refused to answer appropriate questions about his conduct and then in 2016 [refused to answer questions posed by the ABC](#).

I propose to respond to each of Heesom Legal's points numbered HL1 to HL12:

HL1.) The University also notes that the reports and associated documents referred to in Dr Lonsdale's letter are not relevant to the issues for consideration in this matter.

On the contrary, the reports and documents confirm the overriding public interest necessitating full disclosure of the secret junk pet-food documents.

The reports and documents confirm that the University is an unreliable witness whose evidence and submissions should be treated with suspicion or disregarded by the Tribunal.

HL2.) The question for determination by the Tribunal is whether there is an overriding public interest against disclosure of the information sought by Dr Lonsdale under the *Government Information (Public Access) Act 2009* ('GIPA Act').

However, Heesom Legal in their 14 July 2015 Submission state: 'In accordance with section 5 of the GIPA Act, there is a ***presumption in favour of the disclosure of government information unless there is an overriding public interest against disclosure.***' [my emphasis]

Given the automatic presumption in favour of disclosure the Tribunal needs to weigh carefully the evidence adduced by the University in support of its resolve to keep secret its junk pet-food deals. I suggest that the University evidence is tainted and in many instances bogus and should be accorded no weight.

HL3.) That question is to be determined primarily on the basis of the information itself.

Information does not and cannot speak for itself. The information in the secret documents needs to be read and interpreted by the Tribunal in the light of evidence placed before the Tribunal revealing gross malfeasance on the part of the University.

HL4.) The appropriateness of the University's lawful sponsorship arrangements with Hill's Pet Nutrition and Royal Canin is not an issue for consideration or determination by the Tribunal, and nor is the nutritional value of any pet food.

I allege that the University's arrangements are corrupt and unlawful — although at this time those arrangements are still to be tested in a Court of Law. It's heartening to be able to report that the matter has been referred by a NSW Government Minister to the Federal Minister of Education for his determination. Various state and federal agencies are looking into the allegations.

I allege that by virtue of its own commissioning of a 1993 article and [publication of a legal opinion contained therein](#), the University has long known about its unlawful promotion of junk pet food. In 1994 Sydney University Associate Professor David Watson [published a paper revealing the harmful effects of junk food](#) and thus the inappropriateness of fostering ties with junk food companies or the inculcating students with junk pet-food propaganda. Recent contributions by [Associate Professor Richard Malik in The Conversation](#) and on [ABC TV and radio](#) ratify the view that, as with junk food in people, it is highly dangerous for pets.

Heesom Legal attempts to bully and bluff the Tribunal into giving no consideration to 'the nutritional value of any pet food'. Clearly that is an absurd proposition. The University is engaged in the mass poisoning of pets by virtue of its generic promotion of junk pet food and the specific promotion of brand name junk manufactured by its multinational sponsors, Colgate-Palmolive and Mars Inc.

Any five year old knows that a relentless diet of junk food is harmful to health. To expect the Tribunal to swallow the lie that 'junk pet food is good for pet health' and that such falsehood peddled by the Respondent should have no bearing on the Tribunal's deliberations beggars belief.

I believe that with the exception of 12 (2) (d) below, the separate clauses are paramount and go to the heart of the University's malfeasance.

Government Information (Public Access) Act 2009

12 Public interest considerations in favour of disclosure

- (1) There is a general public interest in favour of the disclosure of government information.
- (2) Nothing in this Act limits any other public interest considerations in favour of the disclosure of government information that may be taken into account for the purpose of determining whether there is an overriding public interest against disclosure of government information.
Note. The following are examples of public interest considerations in favour of disclosure of information:
 - (a) Disclosure of the information could reasonably be expected to promote open discussion of public affairs, enhance Government accountability or contribute to positive and informed debate on issues of public importance.
 - (b) Disclosure of the information could reasonably be expected to inform the public about the operations of agencies and, in particular, their policies and practices for dealing with members of the public.
 - (c) Disclosure of the information could reasonably be expected to ensure effective oversight of the expenditure of public funds.
 - (d) ~~The information is personal information of the person to whom it is to be disclosed.~~
 - (e) Disclosure of the information could reasonably be expected to reveal or substantiate that an agency (or a member of an agency) has engaged in misconduct or negligent, improper or unlawful conduct.

HL5.) As the 'new evidence' to which Dr Lonsdale refers is not relevant, it should not be received by the Tribunal.

The 'new evidence' as set out in my [29 March 2016 letter](#) is an important addition facilitating the proper determination of the matters before the Tribunal and should be admitted accordingly.

HL6.) Further, there is no need to 'determine to convene further hearings' as suggested by Dr Lonsdale, or to re-open the proceedings in any other manner.

In light of the hearings to date and the 'new evidence' the Tribunal may wish to order the full disclosure of all the secret documents. In those circumstances there would be no further need to re-open the proceedings. If, however, the Tribunal declines to order the full disclosure then I submit that further hearings will be necessary for proper consideration of the issues.

HL7.) The University strongly resists any such step being taken.

No doubt! The University and its junk pet-food sponsors are desperate to avoid any scrutiny of their illicit deals involving 'misconduct or negligent, improper or unlawful conduct'.

HL8.) Dr Lonsdale has misrepresented the submissions made and the evidence adduced by the University during the hearing of this matter.

It's for the Tribunal to decide if I have made misrepresentations. I believe that my submissions are accurate and reflect the substance and tenor of the hearings.

HL9.) Except to the extent that it rejected Dr Lonsdale's allegations of unlawful conduct, the University did not make any submissions on or adduce any evidence relating to the sponsorship issues raised by Dr Lonsdale.

I agree that the University did not venture *written* submissions or evidence rebutting the alleged illegality of its position.

However the University was evasive and sought to obfuscate by virtue of its conduct throughout the hearings.

The University witness Olivia Alexandra Perks was a tongue-tied inadequate witness unworthy of any educational institution.

The University Counsel Brenda Tronson, throughout the hearings, interjected on numerous occasions in an attempt to steer the Tribunal away from considerations of the University's malfeasance.

However I suggest that the need for transparency and the examination of any hint of malfeasance are the very foundation of the GIPA case before the Tribunal; the very foundation of why we need public access to government information.

HL10.) The University did submit that, in responding to Dr Lonsdale's application to the Tribunal for review, it was doing no more than exercising its legal rights under the GIPA Act in an entirely orthodox manner. The University maintains that submission.

Evasive and unworthy claptrap. The University in its [Draft Veterinary Faculty Local Provisions for Sponsorship states](#):

- Gifts and sponsorships, no matter how small, have been shown to influence recipients. . . .
- Gifts and sponsorship can give rise to potential, perceived or actual conflicts of interest. . . .
- Sponsorship should not result in exclusive access to students or staff within an academic context. . . .
- Staff and students are reminded that all sponsorship arrangements with the University, a publicly funded institution, are matters of public interest and subject to potential freedom of information requests.

Whilst the University may have a legal right to frustrate freedom of information requests it's hardly honest, orthodox or honourable.

HL11.) The University rejects Dr Lonsdale's assertion that the evidence placed before the Tribunal did not accurately reflect its true position. The University also rejects any implication by Dr Lonsdale that there has been dishonesty, or a breach of professional or ethical standards, in the University's conduct of the matter before the Tribunal.

The Tribunal can decide if the University, in its interpretation and reliance on the GIPA Act, sought to obscure its true motives as revealed in my evidence and then further revealed by the ABC, the national broadcaster, [in four separate programmes](#).

HL12.) Finally, Dr Lonsdale asserts that ‘had legitimate cross-examination of University witnesses and junk pet-food company witnesses taken place a truer picture would have arisen.’ Dr Lonsdale had an opportunity to cross-examine the witness called by the University, and he did so. The objections made by the University are appropriate and entirely conventional and, with respect, the Tribunal decision to uphold some of these objections did not constitute a denial of natural justice or procedural fairness.

The attached letter from junk pet-food makers Hill’s in response to my [highly relevant questions](#) reveals how, if proper cross-examination had been permitted, illicit motives and behind the scenes manoeuvres could have been revealed.

The attached 12 April 2016 photos of the Hill’s junk pet-food showroom, doubling as a waiting room, at Sydney University Veterinary Teaching Hospital shows some of the evidence the summonses were intended to adduce but which were specifically refused by the University.

The Tribunal obstructed the calling of my own witnesses, Dr Brian Lam and Dr Iris Ma.

In the single permitted cross-examination of the University witness I was subjected to obstruction, browbeating, bullying, unintelligible and incoherent rambling by presiding Senior Member McAteer as per the attached transcript of the NCAT 17 September 2015 Hearing.

As per my [letter of 13 April 2016](#) NCAT has shown itself biased against litigants in person with respect to the summoning of documents and witnesses.

As a result of this admitted bias, I believe that the NCAT Hearings and Appeal Hearing were reduced to a charade. I was opposed by the lawyers for the University, Sarah Heesom, Brenda Tronson and Olivia Alexandra Perks, who may know of the NCAT bias. The Registrar, Senior Member McAteer, A/Judge K O’Connor AM, Deputy President, Appeals and Dr J Lucy certainly did know about the admitted bias.

Despite their individual and collective obligations to the Tribunal not one of the seven lawyers advised me of the inherent bias in the proceedings.

I trust, in the light of the expanded evidence that fortunately now is before the Tribunal, that a considered and unbiased decision will be forthcoming.

Yours faithfully,



Tom Lonsdale

Encs.

CC: Heesom Legal, Information Commissioner



12/4/16 Sydney University Veterinary Teaching Hospital waiting room with dominant display of Hill's junk food and 'Hill's Pet Nutrition Consulting Room' number 5.



12/4/16 Sydney University Veterinary Teaching Hospital waiting room with dominant display of Royal Canin junk food and 'Hill's Pet Nutrition Consulting Room' 3 and 4.





Hill's Pet Nutrition Pty Limited (ABN 86 003 954 550)
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Fax: +61 2 9229 5700
Website: www.hillspet.com.au

31 July 2015

Mr Tom Lonsdale
Bligh Park Pet Health Centre
48 Rifle Range Road
Bligh Park NSW 2756

By email: tom@rawmeatybones.com

Dear Mr Lonsdale

We refer to your email dated 27 July 2015.

As we understand it, you have made an access application to the New South Wales Civil and Administrative Tribunal (**NCAT**) pursuant to the *Government Information (Public Access) Act 2009* (NSW) (**GIPAA**) for certain information held by University of Sydney. It concerns whether you are entitled to be provided with the said information under GIPAA; it is not, as you have sensationally described it, a "NCAT Hearing into University of Sydney's secret junk pet-food deals".

You have requested that we produce certain documentation to you. With respect, the case as we understand it concerns your right to access the relevant documents hence, in the circumstances, it would be inappropriate to produce the material sought to you prior to NCAT's determination and we do not propose to do so. Further, in the event you were to request NCAT to issue a Summons, it would be an abuse of process. The proposed Summons would also lack a legitimate forensic purpose because the documents sought by you lack any forensic relevance to your access application and would amount to a 'fishing expedition'.

We further note that, although framed as a request for information, you in substance put a series of baseless allegations to Hill's and demand that it disproves these matters to your satisfaction. Hill's does not propose to do so, although we note the following:

1. Hill's rejects the allegations implicit in your request for information suggesting that it has engaged in any inappropriate dealings;
2. Hill's takes great pride in the quality of its pet foods and rejects the description of its products are "junk pet-food" or any suggestion that its products are unsuitable or cause any adverse health consequences;
3. Hill's rejects the statement implicit in your correspondence that its high quality pet foods are inferior to a diet comprising purely of raw meaty bones (being, incidentally, the product that you market and sell). The statement is unsupported by any evidence conducted to a recognised scientific standard and is misleading or deceptive.

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We request that you desist from making unfounded statements of the nature set out in your email and from disparaging Hill's' high quality products and its business practices. It is misleading or deceptive conduct in trade or commerce (particularly having regard to the clear link between your allegations and your commercial activities) and relate only to your private commercial interests rather than that of the public.

Yours sincerely,



Tricia Andres
Legal Counsel – Hill's Pet Nutrition Australasia & Far East
