



Friday February 1, 2008

MEDIA STATEMENT

Complaints against Stephen Keim SC

The Legal Services Commissioner John Briton today made the following comments in relation to the commission's decision today (1 February 2008) to dismiss complaints against barrister Stephen Keim SC:

"It is a matter of public record that the Commissioner of the Australian Federal Police (AFP), Mick Keelty, and a Brisbane solicitor, Russell Biddle, complained to the Legal Services Commissioner in July and August last year that Stephen Keim SC had acted improperly and in breach of his ethical obligations as a barrister by 'leaking' a record of interview between the AFP and his client Dr Mohammed Haneef which had not been tendered to the court in evidence in the hearing of the-then current terrorism-related charges against him.

"It is also a matter of public record that I referred the complaints to the Bar Association of Queensland for its consideration and recommendation as to what action, if any, I should take in relation to the complaints.

"I excluded myself at that stage from any further role in the matter because, while we are not close, I have had occasional professional and personal dealings with Mr Keim over a decade or more that could give rise to a perception of bias. I do not want to risk such a significant decision being compromised in this way and decided accordingly to delegate the decision to the Commission's Manager-Complaints, Robert Brittan.

"The Commission received the Bar Association's report and recommendations in mid-January. Mr Brittan carefully considered what the Association had to say but came to his own independent decision. He informed Mr Keim and both complainants of his decision earlier today.

"The *Legal Profession Act 2007* prohibits me from disclosing any information obtained in the course of administering the Act except in limited circumstances, most relevantly in this matter the consent of the person who was the subject of the complaint. Mr Keim has given his consent and I am grateful for that given the significant public interest in the matter.

“Mr Brittan has dismissed the complaints against Mr Keim. He decided that Mr Keim’s conduct in releasing the record of interview contravened Rule 60 of the Barrister’s Rules, which prohibits barristers from publishing information concerning a matter currently before a court except in certain limited circumstances. However, given the exceptional circumstances, he also decided there was no reasonable likelihood a disciplinary body would find his contravention of this Rule would amount to unsatisfactory professional conduct or professional misconduct. Accordingly, the Commission will take no further action on the complaints.

“Mr Brittan set out his reasons in detail in the letters he forwarded to Mr Keim and the complainants. The letter to Mr Keim is published in full on the Commission’s website (www.lsc.qld.gov.au) and, to ensure complete transparency, so too is a copy of the Bar Association’s report and recommendations to the Commission.

“Mr Brittan’s decision and his reasons speak for themselves. I have nothing to add and will not be commenting further about them.

“There are two related matters. Firstly, this Commission has nothing to say one way or the other about the conduct or the merits of the AFP’s investigation of Dr Haneef or his subsequent prosecution. We have no jurisdiction in that regard.

“Secondly, no-one, least of all lawyers, should interpret the Commission’s decision in this matter to indicate any willingness on our part to regard failures to comply with the Legal Profession Rules, be they the Barristers Rules or the Solicitors Rules, with anything less than the utmost seriousness, much less as giving a go-ahead to treat them lightly.

“The *Legal Profession Act 2007* states that contraventions of the Rules amounts to actions that are ‘capable of constituting unsatisfactory professional conduct or professional misconduct’. For this reason contraventions do not necessarily fall into these categories, although they typically will.

“Notwithstanding exceptional circumstances, such as those demonstrated in this case, solicitors or barristers who breach their professional Rules can expect in the normal course of events to find themselves answering to the disciplinary bodies.”

For further information: Corporate Communication Unit, Department of Justice and Attorney-General, 3239 6997