

## Estimates Opening Statement

I would like to provide an update to the Committee on how the Australian Public Service Commission is undertaking its statutory responsibilities to strengthen the capability and integrity of the Australian public service, so that it can better serve the Government, Parliament and public.

The conduct of senior APS leaders and employees remains an issue of heightened public interest.

The Commission is currently conducting around 2 dozen investigations into possible breaches of the APS code of conduct.

Each investigation is a fresh process that collects and assesses evidence anew. There are typically three stages in an investigation:

- first, forming allegations of possible breaches of the code of conduct that are issued in a notice to the person being investigated; notices can be long documents given that they detail the evidence behind the allegations of which there may be several,
- second, preliminary determination of possible breaches, and
- third, final determination of breaches with sanctions, if relevant.

To ensure procedural fairness, the person being investigated has the right to respond at multiple stages of the inquiry process and before a final decision is made. The person may draw on legal advice and representation in this process, they may request an extension of time to respond, and their wellbeing is a matter of constant attention. Investigations that involve contested and complex matters with large amounts of evidence, including from additional witnesses, can mean that it is not unusual for a process to take between 6 and 12 months.

A code of conduct investigation is not a public civil or criminal investigation. Because it occurs legally within the employment relationship and is subject to privacy law, the starting point is that it is confidential and constructive.

As discussed at our last appearance before this Committee, the Commission does not provide commentary on individual inquiries, including details of specific allegations, lines of inquiry, projected timeframes, or likely outcomes. Such commentary may disclose sensitive personal information, prejudice those processes or jeopardise outcomes, inadvertently undermine the effectiveness of future code inquiries, or potentially affect inquiries conducted by other integrity agencies.

I understand public commentary questioning the level of secrecy around code of conduct investigations and the time that they can take.

The Public Service Act (S72A) prohibits public disclosure of information about code investigations but does provide an exemption where the Commissioner is satisfied that it is in the public interest and disclosure of a person's name is fair and reasonable.

This high threshold was met in the circumstances surrounding the code of conduct investigation into Mr Pezzullo. The release of high-level findings sought to balance the public interest in this matter and the importance of maintaining the integrity of statutory processes.

Similarly, with respect to the Robodebt code of conduct investigations, it is proper to say that of the 16 referrals made to the Commission, 15 have progressed to the issuing of notices outlining the grounds and categories for potential breach of the code of conduct, and that 4 have also proceeded to the next stage of preliminary determinations of breach of the code, with 11 still under investigation. One investigation has concluded as the individual's actions did not meet the threshold to issue a notice of suspected breach.

I welcome public scrutiny. The Commission works hard to conduct investigations properly in accord with all the dimensions of the law and the public's expectations of accountability for the service's actions.

Consistent with the Commission's recently released Capability Review Action Plan, the Commission is proactively supporting departments and agencies to identify and respond to emerging integrity risks.

In the Commission's last appearance at Estimates, I summarised important steps taken by the Government, the Minister for the Public Service and Secretaries Board to strengthen integrity in the public service. Since then,

- the Government has released its detailed response to the Robodebt Royal Commission,
- the Minister for the Public Service has announced a second tranche of integrity reforms to amend the Public Service Act, including strengthening appointment and performance processes for Secretaries, strengthening performance processes for statutory officers, enabling code of conduct processes for former agency heads, and creating own-motion powers for the Public Service Commissioner, and
- Secretaries Board has released its action plan for the service to strengthen integrity, *Louder than Words*.

I hope these additional steps give the Australian Parliament and public greater confidence in the integrity of the Australian public service. Thank you.

Dr Gordon de Brouwer  
Australian Public Service Commissioner  
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