



## Australian Government

### Department of the Prime Minister and Cabinet

ANDREW FISHER BUILDING  
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BARTON

Ms Julie Dennett  
Secretary  
Senate Standing Committee on Legal and Constitutional Affairs  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Dear Ms Dennett

I refer to the Inspector-General of Intelligence and Security's appearance on 24 May 2013 at the public hearing of the Committee's inquiry into the Public Interest Disclosure Bill 2013.

During the Inspector-General's appearance, she took a question on notice, as indicated in the proof Committee Hansard at page 24. We understand that Senator Wright has clarified that this question has two parts. As this question on notice relate to matters within the responsibility of the Department, the Inspector-General has referred it to me. The Department's response to the question is attached.

Yours sincerely

Renée Leon  
Deputy Secretary – Governance

30 May 2013

*Enclosed:* response to question on notice.

## Senate Legal and Constitutional Affairs Legislation Committee Hearing: Question on Notice

Public Interest Disclosure Bill 2013 - Friday 24 May

Response from the Department of the Prime Minister and Cabinet

*Question: Similarly, it seems to me that even if your office were concerned and made recommendations to the intelligence agency and the agency did not act on those—even though the practice may be that they generally do—and there was no actual redress or an adverse action was taken against the employee, again, they would have nowhere else to go. Is that right? I am trying to work out how it might work on the ground.*

At the request of the Office of the Inspector General for Intelligence and Security (IGIS), we understand that Senator Wright has clarified that this question has two parts:

1. Are intelligence agency employees able to go to Fair Work Australia under the adverse action provisions?
2. The question didn't relate to the mechanisms of the bill, but an explanation of what practical options are available for an employee who has been wrongly treated by their employer/colleagues/agency after making a disclosure and they felt IGIS' investigations and actions were inadequate.

The Department's response:

If a member of an intelligence agency is an employee within the meaning of Part 3-1 of the *Fair Work Act*, that individual is able to go to the Fair Work Commission under the adverse action provisions.

If a public official makes a disclosure under the PID Bill (when enacted) and they feel wrongly treated and that the IGIS' investigations and actions were inadequate, that official is entitled to seek a remedy:

- under the PID Bill, when enacted, through the Federal Court or Federal Circuit Court for any reprisal taken or threatened against them (s 13 PID Bill); or
- through the Fair Work Act 2009.

If a public official wishes to complain about the IGIS, they could take their complaint to:

- the Public Service Commissioner, as the IGIS is an Agency Head; or
- the Minister responsible for the IGIS.