



Mr Graham Perrett MP  
Chair  
House of Representatives Standing Committee on  
Social Policy and Legal Affairs  
PO Box 6021  
Parliament House  
CANBERRA ACT 2600

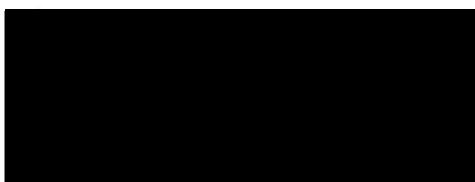
Dear Mr Perrett

The Australian Public Service Commission (the Commission) was represented by Ms Karin Fisher, Group Manager, Ethics at a public hearing convened by the House of Representatives Standing Committee on Social Policy and Legal Affairs on 30 November 2012.

The hearing was conducted as a roundtable to discuss the *Public Interest Disclosure (Whistleblower Protection) Bill 2012* and associated *Public Interest Disclosure (Whistleblower Protection) (Consequential Amendments) Bill 2012* introduced into Parliament by Mr Andrew Wilkie MP.

The Commission took on notice a question from the Hon Mrs Bronwyn Bishop MP at the hearing. The response to the Honourable Member's question is attached.

Yours sincerely



Stephen Sedgwick AO

18 January 2013

HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON SOCIAL POLICY  
AND LEGAL AFFAIRS

PUBLIC HEARING INTO THE PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWER  
PROTECTION) BILL 2012 AND THE PUBLIC INTEREST DISCLOSURE  
(WHISTLEBLOWER PROTECTION) (CONSEQUENTIAL AMENDMENT) BILL 2012,  
FRIDAY, 30 NOVEMBER 2012

AUSTRALIAN PUBLIC SERVICE COMMISSION: QUESTION TAKEN ON NOTICE

**Question**

The Hon Mrs Bronwyn Bishop MP asked:

What I am really saying is that, with regard to covering the Public Service per se, are the things that are in this bill which relate to the Public Service capable of being dealt with by regulations in the Public Service Act?

**Answer**

The *Public Service Act 1999* provides at section 16 that:

*A person performing functions in or for an Agency must not victimise, or discriminate against, an APS employee because the APS employee has reported breaches (or alleged breaches) of the Code of Conduct to:*

*(a) the Commissioner or a person authorised for the purposes of this section by the Commissioner; or*

*(b) the Merit Protection Commissioner or a person authorised for the purposes of this section by the Merit Protection Commissioner.*

*(c) an Agency Head or a person authorised for the purposes of this section by an Agency Head.*

Regulations can be made under section 79 of the *Public Service Act 1999* on matters required or permitted by the Act or necessary or convenient to be prescribed for carrying out or giving effect to the Act. The Public Service Amendment Bill 2012 currently before the Senate would amend section 16 by adding a specific regulation-making power that will enable procedural requirements to be set out in the Public Service Regulations about the way whistleblower reports are to be handled by Agency Heads, the Public Service Commissioner and the Merit Protection Commissioner as appropriate.

In relation to the key features of the Public Interest Disclosure (Whistleblower Protection) Bill 2012 introduced by Mr Andrew Wilkie MP, the table at Attachment A compares the Bill with the *Public Service Act 1999*, including the planned amendments set out above.

Generally speaking, regulations made under the *Public Service Act 1999* would be limited in application to Australian Public Service employees (e.g. would not cover Commonwealth agencies which employ staff under other legislation).