

**Senate Standing Committee on Environment and Communications**  
**Answers to Senate Estimates Questions on Notice**  
**Additional Estimates Hearings February 2016**  
**Communications Portfolio**  
**Australian Broadcasting Corporation**

**Question No: 38**

**Australian Broadcasting Corporation**

**Hansard Ref: Page 55, 9/02/2016**

**Topic: Complaints and review processes**

**Senator Dastyari, Sam asked:**

**“Mr Scott:** There have been some processes underway internally. They are now complete. And I am advised that I am not in a position to speak about those matters.

**Senator DASTYARI:** On the basis of what?

**Mr Scott:** Legal advice.

**Senator DASTYARI:** But this is Senate estimates: none of this will be pending anything—

**Mr Scott:** There are laws that apply on complaints and review processes internally, and I am not going to speak on them further.

**Senator DASTYARI:** I am not quite sure what the basis for immunity is here. What is the public interest immunity test?

**Mr Scott:** I will have to take that on notice. I am telling you what I have been legally advised to tell you, and there is nothing more I can say on that matter.

**Senator DASTYARI:** I just want to put where we are right now—

**Mr Scott:** There are provisions that safeguard people who make complaints, and I respect those provisions.

**Senator DASTYARI:** But this is Senate estimates. You cannot come and say 'public interest immunity' and not say what the public interest immunity is and say, 'We'll just get back to you on what the immunity is.'

**CHAIR:** Senator Dastyari, Mr Scott is within his rights to take that on notice and consult further before he comes back with the answer to your question.

...

**CHAIR:** Just to confirm, Mr Scott, you are taking the question on notice so you can further consider any issues of public interest immunity before you come back with a response to the question?

**Mr Scott:** That is correct.

**Senator DASTYARI:** But you are not claiming public interest immunity?

**Mr Scott:** No, I am going to take the question on notice.

**Senator DASTYARI:** That is the difference. I have a bit more on this.

**CHAIR:** No, I will come back to you, Senator Dastyari, thank you.”

**Answer:**

No public interest immunity is being claimed. The issue is that where a disclosure investigation is carried out under the Public Interest Disclosure Act 2013 (PID Act), there are stringent legislative restrictions on the information that can be provided.

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The key one is Section 65(1) of the PID Act which provides:

“(1) A person commits an offence if:

- (a) the person has information (*protected information*) that the person obtained:
  - (i) in the course of conducting a disclosure investigation; or
  - (ii) in connection with the performance of a function, or the exercise of a power, by the person under this Act; and
- (b) the person:
  - (i) discloses the information to another person; or
  - (ii) uses the information.

Penalty: Imprisonment for 2 years or 120 penalty units, or both.”

Questions will be answered where this can be done in compliance with the PID Act. Given the penalties that are applicable, it is likely that specific questions will need to be taken on notice.