



## HON GARY GRAY AO MP

Special Minister of State  
Special Minister of State for the Public Service and Integrity

REF: GA11/280

Senator Helen Polley  
Chair  
Senate Standing Committee on Finance and Public Administration (Legislation)  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Dear Senator Polley

I am writing in relation to certain information sought from the Australian Public Service Commission (the Commission) by Senator the Hon Michael Ronaldson at the last Budget Estimates hearings in May 2011.

At the hearings on 24 May Senator Ronaldson asked the Public Service Commissioner questions about the employment of Ms Jane Wolfe, a Senior Executive Service employee in the Department of Defence. The questions were taken on notice and included ones about a decision to terminate Ms Wolfe's employment in 2009 and the subsequent litigation. In particular, Senator Ronaldson has asked for:

- A copy of the correspondence between Dr Gumley (delegate of the Secretary of the Department of Defence) and the then Public Service Commissioner and a copy of the then Public Service Commissioner's decision which was passed to Dr Gumley.
- A copy of the legal advice received in relation to the matter.
- Information about when advice was received.
- Information about evidence and advice relied upon in making certain decisions.

The Public Service Commissioner has referred the matter to me and I have agreed that it would not be in the public interest to disclose the totality of the information requested to the Committee. I have come to this conclusion for the following reasons:

- The correspondence between Dr Gumley and the then Public Service Commissioner (question 95) contains personal and sensitive information relating to Ms Wolfe and others which is not in the public domain and disclosure would be an unreasonable interference with their privacy. Moreover, disclosure of sensitive appraisal information about senior staff provided by APS managers on a confidential basis could affect their willingness to provide such information in the future, thereby prejudicing the

future performance of agencies' functions in relation to the effective management of their staff and the development of their leadership groups.

- Having regard to the large volume of legal advice provided to the Commonwealth in the matter, it would not be possible for the Commonwealth to satisfy itself that disclosure of any part of the advice received would not prejudice the public interest without a substantial and unreasonable diversion of resources. Accordingly, I have determined that these documents should be subject to a public interest immunity claim. The public interest considerations relevant are principally that:
  - disclosure could prejudice the Commonwealth's position in potential future litigation;
  - disclosure could prejudice a current inquiry process that is being undertaken in the Department of Defence;
  - disclosure of sensitive personal information about Ms Wolfe and others contained in the legal advice would be an unreasonable interference with their privacy; and
  - disclosure of sensitive appraisal information about senior staff provided by APS managers on a confidential basis could affect their willingness to provide such information in the future, thereby prejudicing the future performance of agencies' functions in relation to the effective management of their staff and the development of their leadership groups.

The Commission has provided this information in its answers to the questions. Other information sought by Senator Ronaldson has been provided by the Commission.

Yours sincerely

**GARY GRAY**

16 AUG 2011