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GOVERNMENT RESPONSE  
TO THE  
SENATE EMPLOYMENT, WORKPLACE RELATIONS AND  
EDUCATION REFERENCES COMMITTEE  
REPORT ON THE INQUIRY  
INTO  
THE OFFICE OF THE CHIEF SCIENTIST

NOVEMBER 2005

## INTRODUCTION

The Government welcomes the acknowledgement in the Senate Employment, Workplace Relations and Education References Committee Report that the inquiry "has not questioned Dr Batterham's standing in Australia and overseas as a highly respected research scientist. Dr Batterham's professional record is beyond reproach" (p xvi) and further, the finding that "The committee does not believe there is any evidence to demonstrate either a direct or indirect pecuniary conflict of interest, or a real conflict of interest arising from the Chief Scientist's role in PMSEIC" (p 16).

## RECOMMENDATIONS

### **Recommendation 1:**

**The committee recommends that the conflict of interest guidelines included in the Australian Public Service Code of Conduct should be reviewed to ensure that the broader conflict of interest concepts examined in this report can be addressed more transparently and rigorously.**

The Government does not support this recommendation.

The Australian Public Service Code of Conduct, in subsection 13 of the *Public Service Act 1999* (the PS Act), does not include guidelines. Rather, it sets out the obligation that APS employees have to disclose and take reasonable steps to avoid conflicts of interest. The relevant provision states that:

*an APS employee must disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with APS employment (subsection 13(7) of the PS Act).*

*APS Values and Code of Conduct in Practice: Guide to official conduct for APS employees and Agency Heads* (<http://www.apsc.gov.au/values/conductguidelines.htm>) was published in August 2004 and contains guidance on managing conflict of interest (specifically, Chapter 9). The guide lists a range of issues that agency procedures on managing conflicts of interest could cover, and makes clear that it is the Agency Head's responsibility to determine what action should be taken where there is a conflict. It notes that, while avoiding a conflict is best, it is not always practical.

The guide is not prescriptive. As stated in the introduction, it is intended to be a guide not a rulebook. There will always be a need for judgement on what is reasonable in seeking to avoid conflicts of interest and deciding on the best approach is often not straightforward. Agency Heads are responsible for determining what action should be taken where there is a conflict of interest and need to tailor solutions to the specific circumstances.

### **Recommendation 2:**

**The committee recommends that in view of the responsibility and potential workload attached to the Office of the Chief Scientist, and in the light of the potential for conflict of interest associated in particular with a part-time Chief Scientist, the position of the Chief Scientist should be full time.**

The Government does not support this recommendation.

The solution to the problem of any potential conflict of interest is effective management. There are a number of provisions in the Chief Scientist's contract with the Australian Government to manage the potential for conflict of interest. The Chief Scientist is also required to comply with the rules of the various bodies of which he is a member.

The Government determines whether the appointment of the Chief Scientist should be full-time or part-time in light of the requirements of the position at the time of the appointment and the best arrangements for the chosen appointee from time to time.

**Recommendation 3:**

**The committee recommends that guidelines, codes of conduct and procedures on dealing with potential and actual conflicts of interest, applying to holders of public office in the Australian Government, should be similar and consistent across all government agencies and bodies.**

The Government supports the underlying objective of this recommendation.

There should be effective arrangements for dealing with conflict of interest for all holders of public office that are appropriate to each body or office. Consistent with the response to Recommendation 1, the Government considers that procedures should be tailored to the circumstances of each agency or body.

In relation to statutory authorities, the Government has endorsed the relevant recommendations of the report on the Review of the Corporate Governance of Statutory Authorities and Office Holders (the Uhrig Review), including that the Government "should clarify expectations of statutory authorities by Ministers issuing Statements of Expectations to statutory authorities; by statutory authorities responding with Statements of Intent for approval by Ministers; and by Ministers making public Statements of Expectations and Intent". The Government has endorsed the recommendation that Statements of Expectations and Intent should "include those values central to the success of the authority, including those relating to its relationships with outsiders". The Values and Code of Conduct for the APS should be seen as a useful starting point for the development of such statements.

**Recommendation 4:**

**The committee recommends that the position of Chief Scientist should be appointed under public service conditions. In doing so, it also recognises the public education role of this position, and the possibility, given that science and scientific research is contestable, that the occupant of the position may express controversial views. The terms of the appointment should be such that the Office of the Chief Scientist will be subject to public accountability equivalent to that applying to other senior public servants.**

The Government does not support the basis for this recommendation.

The contract between the former Chief Scientist and the Minister required the Chief Scientist to act in accordance with the APS Values and Code of Conduct contained in sections 10 and 13 of the PS Act. The former Chief Scientist, Dr Robin Batterham, gave evidence to, and answered questions at, the Committee's public hearings. The Chief Scientist has been fully accountable to the Minister for Science for his actions. Appointment of the Chief Scientist under the PS Act may be appropriate in some circumstances and the Government may consider it as an option in the future.

**SUPPLEMENTARY RECOMMENDATION – Senator Natasha Stott Despoja**

**That the position of the Chief Scientist is a statutory appointment and criteria for the appointment and the role of Chief Scientist are further developed in consultation with the science community.**

The Government does not support this recommendation.

The Chief Scientist is appointed on the basis of knowledge, skills and experience. There has been no question about the relevance of the knowledge, skills and experience of any Chief Scientist appointed to date.

The Government sees no advantage in the appointment of the Chief Scientist on a statutory basis.

