

OFFICIAL: Sensitive

Legal Privilege

Talking Points – Integrity

- Ray and Rebecca wrote to Glyn and me regarding the approach to potential actions for current and former APS Staff in relation to the Robodebt Royal Commission
 - In particular:
 - investigation under the APS Code of Conduct
 - the wellbeing of staff now and following the final report
- The range of issues Rebecca and Ray raise are worth discussing at this time, but we must remain mindful in doing so we not pre-empt the Royal Commission’s findings
- I have the power under paragraph 41 of the Public Service Act 1999 to inquire into alleged breaches of the Code of Conduct by a current Agency Head and/or by an APS employee, or a former APS employee.
 - For an Agency Head inquiry, my investigation powers are equivalent to the Auditor General including to compel provision of information; for current or former APS employees, my investigation powers are equivalent to their own Agency Head.
- The suggestion is there should be a central process to investigate all APS Code of Conduct allegations to ensure fair and consistent processes across all agencies
- The request to inquire into an APS employee or former employee can come from either the Agency Head or the Prime Minister
- I consider it would be preferable for each Agency Head to write to me to request the investigation
- I would appoint an eminent person to conduct the investigations and establish a taskforce/team within the APSC to support the investigator
 - A separate person would be appointed to provide any advice on sanctions
- Following conversations with Glyn and Katherine, I have approached Steven Sedgwick to test his availability and interest
 - *Am keen to hear your thoughts*
- In order to appropriately staff and resource the taskforce and remunerate the investigator we will need to seek contributions from all Agencies who request investigations of their staff
 - There is precedent for the user pays model and the APSC receives no funding for such investigations
- Depending on how many staff the Royal Commission recommend be investigated this may be an expensive and lengthy process.

OFFICIAL: Sensitive

Legal Privilege

OFFICIAL: Sensitive

Legal Privilege

- I have been turning my mind to how to establish a team to support the investigator
- The difficulty will be finding the appropriately qualified staff within the APS, who are not conflicted in any way (for example, know staff involved), and who can be released by their Agency given all the other priorities (establishment of the NACC, APS Reform Integrity related initiatives)
- The best model may be to procure the services of a private legal firm
 - This will no doubt add to the cost
 - *I'd like to hear your thoughts on this*
- At the appropriate time a Terms of Reference for the Investigator will need to be developed
 - We will work with PM&C, including the Integrity Taskforce, AGD, DSS and Services Australia
 - The investigator could have a wider role to work on behaviour and cultural issues raised by the Royal Commission. But I am also mindful of the range of work already underway or planned that covers these issues
- *Any questions before I turn to the important topic of the welfare of staff?*
- I would like to discuss the approach to be taken with staff between now, and the Royal Commission making its final findings, in particular where a return to their usual role may need to be considered
- There are several things to consider, including:
 - Compliance with the Royal Commissions Act 1902, in particular the offence provisions relating to third party dealings with witnesses, including actions by their employers. This consideration relates to timing decisions about all courses of action regarding APS witnesses.
 - *seek Katherine's views*
 - The nature of the issues covered by the employee's evidence and the employee's role relative to the Robodebt Scheme
 - The nature of the employee's current position
 - The welfare of individuals
 - I know Ray and Rebecca have put much effort and resources into the well-being of staff and wonder if this could also be made available to those in other agencies
 - *seek Ray and Rebecca 's views*

OFFICIAL: Sensitive

Legal Privilege