

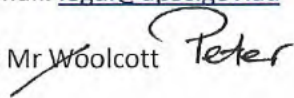
2021-104592

18 March 2022

Mr Peter Woolcott AO  
Australian Public Service Commissioner  
GPO BOX 3176  
CANBERRA ACT 2601

By email: [legal@apsc.gov.au](mailto:legal@apsc.gov.au)

Dear Mr Woolcott



### Commencement of Investigation

I am writing to advise the Office of the Commonwealth Ombudsman (the Office) has decided to commence an investigation under the *Ombudsman Act 1976* (the Ombudsman Act) into the handling of a Public Interest Disclosure (PID) investigation by your PID Investigator Delegate, Ms Kate McMullan, into merit selection processes at the Federal Court of Australia (FCA).

### Background

On 11 May 2020, after consultation with the Australian Public Service Commission (APSC), the Office allocated a PID disclosure to the APSC for investigation (PID-2020-400006). s 47E(d)  
s 47E(d)  
s 47E(d) On 9 December 2020 Ms McMullan finalised a report under s 51 of the *Public Interest Disclosure Act 2013* (the PID Act).

Our Office was subsequently contacted by the anonymous discloser (the complainant) on 26 October 2021 who complained the PID investigation by Ms McMullan was deficient.

On 20 December 2021 the Office sent a preliminary inquiry to the APSC under s 7A of the Ombudsman Act. The APSC provided an unredacted copy of the PID Investigator's report on 20 December 2021, and the remainder of its response on 13 January 2022.

Having considered the information provided by the complainant and the APSC, the Office has decided to investigate the APSC's handling of the PID investigation. This investigation will be conducted by s. 22

### Reprisal and identity protection

While this investigation will be conducted under the Ombudsman Act, the provisions of the PID Act and the obligations they create for agencies to manage risks, all survive the finalisation of the original PID investigation. These include provisions for the protection of discloser identity, secrecy and prohibition against reprisal action and threats of reprisal action.

There is a positive obligation under s 59 of the PID Act on you, as Principal Officer of the APSC, to take reasonable steps to protect officials from detriment and threats of detriment.

## Next Steps

s. 47E(d), s. 47F will advise the complainant the Office is investigating their complaint. s. 47E(d)  
s. 47E(d)

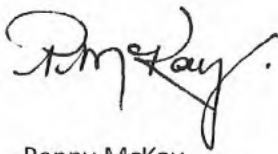
The Office investigates in private, so does not generally announce or make public its complaint investigations. s. 47E(d)  
s. 47E(d)

s. 47E(d)

s. 47E(d), s. 47F

If your staff have any questions about this investigation, they should contact s. 22 on  
s. 22 If you would like to discuss this letter  
please call me s. 22

Yours sincerely



Penny McKay  
A/g Commonwealth Ombudsman

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