

**Senate Standing Committee on Education Employment and Workplace
Relations**

**QUESTIONS ON NOTICE
Additional Estimates 2010-2011**

Outcome 5 - Workplace Relations

DEEWR Question No.EW0736_11

Senator Ronaldson asked on 23/02/2011, Hansard page 63.

Question

FWA - DETAIL OF ONGOING INVESTIGATION

Senator Chris Evans—Let us make it clear, Senator: the officer first of all indicated he did not have the detail in front of him so he did not want to answer on that ground, but I make it clear to you I would want to seek advice before I allowed the officer to discuss evidence given to him by witnesses while his investigation was ongoing. I would regard it as highly improper unless I am advised to the contrary. I would seek advice on that. I certainly will not be allowing the officer to discuss evidence given to him by witnesses in an ongoing investigation. I would be completely taken aback if that was considered by anyone to be appropriate. Senator RONALDSON—You are now taking it on notice and will come back as to whether the officer will be allowed to answer that question, similarly to the previous matter? Senator Chris Evans—Certainly my view would be that he should not, but I am happy to take it on notice. Senator RONALDSON—And you will seek advice as well? Senator Chris Evans—Yes, I will seek advice, but I would need to be persuaded that officers of any investigative authority ought to be discussing current cases and evidence of witnesses to them in their current cases. Senator RONALDSON—This is a separate matter to the one we raised before, as part of that inquiry will you take into account the fact that the officer at the table acknowledged that he was happy to answer it and it would not interfere with the conduct of his inquiry? Will that form part of your brief when seeking advice on this? I would hope so.

Answer

The investigation is not yet concluded and no decision has been made as to whether the matter should be referred to the Commonwealth Director of Public Prosecutions or whether an application should be made to the Federal Court for civil penalties, the prospect of inflicting prejudice on the investigation through the provision of the details sought is substantial.

The risk that any consequential criminal prosecution would be compromised by premature disclosure of the information collected by the General Manager, Fair Work Australia (or his delegate) is very real.