



DPP

Commonwealth Director of Public Prosecutions

Chris Craigie SC

30 April 2012

Senator Gavin Marshall
Chair, Legislation Committee
Senate Standing Committee on Education, Employment
And Workplace Relations
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Senator Marshall,

I refer to your letter to me of 26 April 2012 seeking my advice as to the likelihood that the publication of a report by Fair Work Australia into the National Branch of the Health Services Union would prejudice any subsequent legal proceedings.

On 3 April 2012 my Office was supplied with a copy of the Report of the Delegate to the General Manager of Fair Work Australia (FWA) – Investigation into the National Office of the Health Services Union under section 331 of the Fair Work [Registered Organisations] Act 2009 (the Report) and material that may have been relied on for the Report.

The letter dated 2 April 2012 from Fairwork Australia attaching the Report, noted that Fair Work Australia had not conducted a criminal investigation and the Report did not consider whether any person (or body) may have contravened a provision of the criminal law. In sending the Report, Fair Work Australia considered that it raised many matters which may be appropriate for the DPP's consideration. The material forwarded is not a brief of evidence and as a consequence could not be assessed against the tests for prosecution that are contained in the Prosecution Policy of the Commonwealth.

My Office is not an investigation agency, has no investigative powers and is not able to conduct a criminal investigation. In circumstances where there has been no criminal investigation completed and no brief of evidence referred to my Office, I am not able to say that my Office is presently conducting or about to conduct criminal litigation such that would bring into consideration the principles you refer to in Odgers Australian Senate Practice, 12th edition, pp198-203.

Yours sincerely

Chris Craigie SC
Director