

# **Appendix 1**

## **Correspondence**

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**Australian Government**  
**Australian Public Service Commission**

Australian Public Service Commissioner

Senator Dean Smith  
Chair  
Parliamentary Joint Committee on Human Rights  
S1.111  
Parliament House  
CANBERRA ACT 2600

Dear Senator Smith

I refer to your letter of 13 February 2015 concerning the *Australian Public Service Commissioner's Amendment (Notification of Decisions and Other Measures) Direction 2014*.

I have considered the comments of the Parliamentary Joint Committee made in its *Eighteenth Report of the 44<sup>th</sup> Parliament* that relate to Direction 2.29(1)(i). That Direction requires agencies to notify in the Public Service *Gazette* decisions to terminate the employment of an Australian Public Service (APS) employee on the grounds of breach of the Code of Conduct.

The Committee's comments have been made in the light of Article 17 of the International Covenant on Civil and Political Rights which protects people against arbitrary interference with their privacy.

Strong public interest exists in ensuring that the APS has a robust and effective Code of Conduct that sets high standards for its employees and deals properly with people that do not meet those standards. The Australian community must be confident that its public service meets exemplary standards of behaviour in the way that it serves the Government and delivers services to the community.

I believe that the balance of the public interest lies in continuing to publish in the Public Service *Gazette* decisions of this kind and that that does not represent an arbitrary interference with privacy. In coming to this view I have considered carefully the competing considerations identified by the Committee in its report as well as the arguments made in 43 submissions by agencies and other interested parties to the then Commissioner, Mr Stephen Sedgwick. In particular, I have had regard to the fact that:

- By publishing these decisions, the APS creates a public record that it deals with serious misconduct appropriately, and that there are significant penalties for misconduct. Publication helps to maintain public confidence in the good management and the integrity of the APS.
- It is not uncommon for former employees who have been terminated from their employment with the APS to seek subsequently to regain employment with the APS. If an APS agency were to rehire an employee who had recently been dismissed for serious misconduct, that would be likely to damage public confidence in the integrity of the public service and in the effectiveness of our conduct regime.

- Publishing termination of employment decisions in the *Public Service Gazette* is not a new practice. In my view it is consistent with the provisions of the *Privacy Act 1988* that allow for the disclosure of personal information either where that is authorised by law, where the affected individual has consented to the disclosure, or where the individual would reasonably expect the employing agency to disclose the information in that way.

I am grateful to the Committee for the interest that it has taken in this matter and would be happy to provide any further information if that would be helpful to its deliberations.

Yours sincerely

John Lloyd PSM  
A March 2015