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Senator the Hon. Jane Hume
Chair
Senate Standing Committee on Privileges
Australian Parliament House

By Email Only

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Dear Chair

**Senate Standing Committee on Privileges inquiry into the Department of Parliamentary Services' (DPS) handling of documents and communications
Questions on Notice to HWLE Lawyers**

We refer to the inquiry by the Senate Standing Committee of Privileges (**Committee**) into the Department of Parliamentary Services' (**Department**) handling of documents and communications (**Inquiry**).

1. Introduction

- 1.1 On 27 February 2026, HWLE Lawyers (**HWLE**) received a request from the Deputy Clerk, Secretary, Committee of Privileges to provide a response to questions on notice in the Inquiry (**Questions on Notice**).
- 1.2 This correspondence seeks to respond to those Questions on Notice to assist the Committee in its Inquiry.

2. Relevant Background

- 2.1 The Department initially approached HWLE in June 2024 to assist it with an independent fact-finding investigation into processes surrounding an "Incentive to Retire" payment made to a former Department employee (**ITR Investigation**).
- 2.2 The Department subsequently engaged directly Dr Fiona Roughley SC to undertake the ITR Investigation. Dr Roughley delivered her report to the Department in March 2025.

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2.3 Throughout this period, HWLE was engaged directly by the Department to provide it with legal advice and assist it with the ITR Investigation. As part of that engagement, HWLE liaised with Dr Roughley on behalf of the Department including with regards to Dr Roughley's requests for information and the provision of Departmental data subject to strict controls.

3. The Questions on Notice

3.1 HWLE has sought to address the Committee's questions below to the extent possible in the time provided.

3.2 It notes that its engagement by the Department concerning the ITR Investigation occurred over an extended period. It has not been possible, within the allocated time, to identify precise particulars of some information, nor provide as comprehensive responses to the Questions on Notice as might be possible with a greater time period.

3.3 If the Committee requires further information, HWLE would welcome the opportunity to do so.

3.4 The Committee's specific questions, and HWLE's responses to them, are set out below.

Question 1 - What instructions or guidance did DPS provide regarding parliamentary privilege to support HWLE reviewing the data provided by TransPerfect?

3.5 The nature of the engagement of HWLE by the Department in the ITR Investigation was such that HWLE and the Department had regular and ongoing interactions during the course of that investigation. Guidance and instructions on various matters were provided by Departmental employees regularly, either verbally or in writing, during the engagement.

3.6 The Department instructed HWLE at the outset of HWLE's engagement, of the critical need for secure management of any Departmental data, whilst ensuring the integrity of Dr Roughley' investigation.

3.7 As a result of this, HWLE implemented strict protocols, in consultation with the Department, to ensure data was managed appropriately. This included protocols for the management of any data that may attract parliamentary privilege despite it not being anticipated that such data would be provided. This was because the scope of the ITR investigation was strictly limited to DPS employees only, and data was only to be sourced from the Parliamentary Communication Network, not the Department's Secure Network.

3.8 As part of those protocols, HWLE was expressly instructed at the outset of its engagement that Dr Roughley was not to be provided with any data that may attract parliamentary privilege and that, in the unlikely event any such data was identified, data was to be quarantined and the Department was to be immediately consulted to determine how that data should be treated. This instruction remained in place for the duration of HWLE's engagement on the ITR Investigation.

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3.9 These protocols are outlined further below.

Question 2 - Who provided this guidance and other instructions on the matter?

3.10 HWLE received guidance and other instructions regarding the ITR Investigation from various Departmental employees on different matters at different times. These individuals included, but were not limited to, the following persons:

- (a) Ms Jaala Hinchcliffe, Secretary;
- (b) Ms Nicola Hinder, Deputy Secretary;
- (c) Ms Amanda Harmer, (formerly) Assistant Secretary, Corporate Operations Branch.

4. *Question 3 - How did you go about sifting the data from TransPerfect to ensure no potentially privileged material was provided to Dr Roughley?*

4.1 In consultation with the Department, HWLE implemented a multi-phase process for reviewing Departmental data concerning the ITR Investigation.

4.2 *Firstly*, the investigation was deliberately constructed so that Dr Roughley was independently engaged by the Department and would only receive information or data through HWLE, whilst HWLE was engaged by the Department to provide it with legal advice. This ensured that the Department maintained full control of its data through HWLE whilst also attracting legal professional privilege over that data until its release to Dr Roughley. It also enabled the Department to obtain confidential legal advice from HWLE at any interval during the ITR Investigation.

4.3 *Secondly*, HWLE established a small Canberra based investigation team comprised of specialist lawyers focused on Commonwealth government. HWLE also implemented internal security information barriers to limit access to the digital file to that team only.

4.4 *Thirdly*, all Departmental data was to be securely held by a data forensic specialist with Australian based servers contractually engaged by HWLE to ensure the security of Departmental data and preservation of any privilege claims.

4.5 *Fourthly*, in consultation with the Department and data forensic specialist, HWLE developed bespoke Boolean search strings for electronic searches across data held by the data forensic specialists. These search strings were carefully designed to target only information relevant to the ITR Investigation.

4.6 *Fifthly*, once the data forensic specialist implemented searches, HWLE was provided with Microsoft Excel Spreadsheets containing metadata of documents identified as responsive to the search strings. The metadata enabled HWLE to preliminarily assess each individual document for relevance or privilege claims without having to review the contents of the document.

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- 4.7 HWLE's process of metadata review involved a staged review process where metadata was initially reviewed and triaged by lawyers, followed by a peer review at the level of Senior Associate and, finally, a quality control review at Partner level.
- 4.8 The protocol agreed with the Department for when a document was identified from the metadata as originating from a Parliamentarian or a Parliamentarian Staffer, or was data which was provided to a Parliamentarian or their staffer, or was a document that was described or appeared in any way to relate to the operation of parliament, was for HWLE to immediately mark the document in the database as privileged ensuring it was electrically quarantined and the contents not reviewed. HWLE was then to notify the Department that a document might attract a claim for parliamentary privilege so that the Department could consider that document and further advise how it was to be treated. We note that it was unnecessary for this protocol to be implemented during the ITR Investigation as no material subject to parliamentary privilege was identified.
- 4.9 *Sixthly*, following review of metadata and triaging of relevant documents, HWLE undertook a manual review of documents identified as relevant to the ITR investigation using the Relativity program. Reviewing the data using this program meant that data remained securely held on the data forensic specialists' servers during the review process.
- 4.10 The purpose of the review was to assess relevance of documents whilst undertaking a quality check for any privilege claims, including any potential privilege claims that might be identified in the contents of the documents but not from the metadata, and to also triage material for Dr Roughley. In the event any possible privilege claims were identified in that review, the above protocol was to apply with the relevant document quarantined and the Department advised for the purposes of providing further instructions.
- 4.11 HWLE again implemented a staged review process where documents were initially reviewed by lawyers, followed by a peer review at the level of Senior Associate, and again a final quality control review at Partner level.
- 4.12 Following this review, HWLE prepared a list of documents proposed for release to Dr Roughley to be approved by the Department. Once approved for release by the Department, HWLE instructed the data forensic specialists to create a secure workspace within the Relativity program for Dr Roughley to access the data on those secure servers for the ITR Investigation.

5. *How did you approach any uncertainty regarding the application of parliamentary privilege to particular data?*

- 5.1 HWLE did not encounter any uncertainty regarding the application of parliamentary privilege when reviewing Departmental data relevant to the ITR Investigation. All Departmental data reviewed by HWLE regarding the ITR Investigation was DPS employee data.
- 5.2 If uncertainty did occur during the review phase of Departmental Data, HWLE would have sought, consistent with the established protocols, guidance from the

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Department before any further actions were taken concerning that data. That situation did not arise.

Yours sincerely

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