

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S PORTFOLIO
ADDITIONAL ESTIMATES 2025-2026

PA-Commonwealth Ombudsman

AE26-044 - Handling and Investigation of the Professor Tregear Whistleblower Complaint

Senator Lidia Thorpe asked the following question on 12 February 2026:

Question 1

I refer to submissions made by Professor Peter Tregear, on 28 August 2025, to the Senate's Education and Employment Committee:

<https://www.aph.gov.au/DocumentStore.ashx?id=8a4b17b0-51e5-4f2b-a466-ecab74a3a1a1&subId=777818>

According to those submissions, in the context of a complaint about an inadequately investigated whistleblower disclosure made under the Public Interest Disclosure Act 2013 (Cth), an investigator in the Office of the Commonwealth Ombudsman ""requested additional information from the ANU to enable [the Office of the Commonwealth Ombudsman] to better understand what evidence the investigator considered in reaching particular conclusions, and if the investigator did not consider or give weight to certain material or allegations, why.""

According to the evidence, despite issuing requests, ""on a number of occasions between April and August 2020"", for the additional information to assist with the investigation, officials at the Australian National University ""did not provide a response.""

On how many occasions was additional information from the ANU sought by the investigator between April and August 2020? Please identify the dates on which those requests for additional information were made.

Question 2

According to the evidence submitted to the Senate's Education and Employment Committee, the Ombudsman's investigator ""formed the view that the investigation report [prepared by the ANU's investigator] did not adequately explain the basis for some of the investigator's finding."" Please explain why the investigator did not use the powers under section 9 of the Ombudsman Act 1976 (Cth), and elsewhere in that enactment, to compel the production of information to ""explain the basis for some of the investigator's finding.""

Question 3

Between 1 January 2019 and 6 February 2026, have any other agencies or departments failed to cooperate with the Office of the Commonwealth Ombudsman when the Ombudsman or one of his officials has investigated, or attempted to investigate, a complaint about an inadequately handled disclosure investigation under the Public Interest Disclosure Act 2013 (Cth)? If so, please identify those agencies and particularise how they failed to cooperate.

Question 4

In the light of an explicit object of the Public Interest Disclosure Act 2013 (Cth), which is ""to

ensure that disclosures by public officials, and former public officials, are properly investigated and dealt with", and the powers available to the investigator to compel information from the ANU, please explain why the investigator "did not think that further investigation would be likely to result in a different outcome for [Professor Tregear]."

Question 5

Knowing that the investigator did not exercise powers to compel the production of information, is Mr Anderson, the current Commonwealth Ombudsman, confident that the investigator's assessment about the futility of further investigation was justified? If so, please explain why. If not, please explain why not.

Question 6

Is it standard practice for officials in the Office of the Commonwealth Ombudsman to terminate investigations of complaints under the Ombudsman Act 1976 (Cth) when faced with the recalcitrance of officials or agencies? If so, why is it standard practice?

Question 7

Is it standard practice for officials in the Office of the Commonwealth Ombudsman to terminate investigations of complaints about inadequately investigated disclosures under the Public Interest Disclosure Act 2013 (Cth) when faced with the recalcitrance of officials or agencies? If so, why is it standard practice? If not, why was the investigation into Professor Tregear's complaint terminated?

Question 8

In the decision notice provided to Professor Tregear, the investigator stated that she would "progress [the Ombudsman's] investigation of [the] complaint based on the information available to [the Ombudsman]." Having provided the ANU with the opportunity to provide information, why did the investigator not conclude that, on the information before her, Professor Tregear was not afforded procedural fairness?

Question 9

The investigator stated that "[a]s the ANU did not provide us with the additional information we requested, it was difficult for us to be satisfied that the investigator's findings were reasonably open" to the ANU's investigators. In the light of the explicit object of the Public Interest Disclosure Act 2013 (Cth), which is "to ensure that disclosures by public officials, and former public officials, are properly investigated and dealt with", why did the Commonwealth Ombudsman at the time not issue a report to the ANU, under section 15 of the Ombudsman Act 1976 (Cth), recommending that Professor Tregear's disclosure be properly investigated and dealt with?

Question 10

Is it Mr Anderson's view that Professor Tregear was afforded procedural fairness by the ANU's investigator in respect of the disclosure allocated to the ANU for investigation under the Public Interest Disclosure Act 2013 (Cth)? If so, please explain why, and please explain how you have formed that view.

Question 11

In the light of the explicit object of the Public Interest Disclosure Act 2013 (Cth), which is "to ensure that disclosures by public officials, and former public officials, are properly investigated and dealt with", is the Commonwealth Ombudsman, Iain Anderson, convinced that the ANU

properly investigated and dealt with Professor Tregear's disclosure? If so, please explain why, and please explain how you have formed that view. If not, please explain why, and please explain how you have formed that view.

Question 12

In the light of the explicit object of the Public Interest Disclosure Act 2013 (Cth), which is ""to ensure that disclosures by public officials, and former public officials, are properly investigated and dealt with"", and the circumstances of the complaint, including the failure of officials to cooperate with the investigation commenced by the Commonwealth Ombudsman, is it the current Commonwealth Ombudsman's view that the decision to terminate the investigation under the Ombudsman Act 1976 (Cth) was justified? If so, please explain why. If not, please explain why not.

Question 13

In response to the Education and Employment Committee's invitation to comment on Professor Tregear's submissions, Sarah Bendall, the acting Commonwealth Ombudsman, noted that the ""current Ombudsman has made clear his intention, where appropriate, to use the full suite of powers available to him under the Ombudsman Act"":

<https://www.aph.gov.au/DocumentStore.ashx?id=86d78567-49f3-4a31-8eab-1cd3d2bed660&subId=777818>

In circumstances where an agency or its officials fail to cooperate with an investigation into a complaint about inadequately investigated whistleblower disclosures, is it the current Ombudsman's view that powers, available under the Ombudsman Act 1976 (Cth), to compel the production of information should be exercised?

Question 14

In response to the Education and Employment Committee's invitation to comment on Professor Tregear's adverse reflections, Sarah Bendall, the acting Commonwealth Ombudsman, noted that it was ""disappointing to learn that we have not met [Professor Tregear's] expectations."" Was Ms Bendall suggesting that Professor Tregear's expectations were anything other than:
a) being provided with procedural fairness by those investigating his disclosure; and/or
b) ensuring that disclosures by public officials, and former public officials, are properly investigated and dealt with?

If so, what other expectations was Ms Bendall suggesting that Professor Tregear had, and on what evidence did she base her views about the expectations Professor Tregear actually had (and to which she adverted in her response to the Senate's Education and Employment Committee)?

Question 15

In response to the Education and Employment Committee's invitation to comment on Professor Tregear's adverse reflections, Sarah Bendall, the acting Commonwealth Ombudsman, noted her appreciation for the opportunity that consideration of Professor Tregear's submissions provided for improving the practices of the Office of the Commonwealth Ombudsman.

Is it the current Commonwealth Ombudsman's view that the handling of Professor Tregear's complaint by the investigator in his office was in need of improvement? If so, please explain why. If not, please explain why not.

Question 16

Was the handling of Professor Tregear's complaint by the investigator in the Office of the Commonwealth Ombudsman unsatisfactory? If so, please explain why. If not, please explain why not.

Question 17

In response to the Education and Employment Committee's invitation to comment on Professor Tregear's adverse reflections, Sarah Bendall, the acting Commonwealth Ombudsman, noted her appreciation for the opportunity that consideration of Professor Tregear's submissions provided for improving the practices of the Office of the Commonwealth Ombudsman.

In the light of Professor Tregear's submissions, please identify how your office's practices, in respect of complaints received from whistleblowers about inadequately investigated disclosures under the Public Interest Disclosure Act 2013 (Cth), shall be improved.

Question 18

Has the Commonwealth Ombudsman, or anybody in the Office of the Commonwealth Ombudsman, apologised to Professor Tregear for the way that his complaint about the inadequately investigated whistleblower disclosure was handled? If so, when was that apology provided to Professor Tregear? If not, why has no apology been forthcoming?

Question 19

If given the chance to, today, consider Professor Tregear's complaint about the inadequacy of the investigation conducted by the ANU's investigators under the Public Interest Disclosure Act 2013 (Cth), is there anything that the Commonwealth Ombudsman would do differently? If so, what would he do differently?

Question 20

In the light of Professor Tregear's submissions about the inadequacy of the ANU's investigation of his disclosure, and the seeming concession, from Ms Bendall, that Professor Tregear is still aggrieved by the way that he was treated by officials in the Office of the Commonwealth Ombudsman, does the Commonwealth Ombudsman have any intention of ensuring that the disclosure made by Professor Tregear is properly investigated and dealt with, in furtherance of paragraph 6(d) of Public Interest Disclosure Act 2013 (Cth)? If not, please explain why the Commonwealth Ombudsman has no such intention, and please explain how that coheres with paragraph 6(d) of the Public Interest Disclosure Act 2013 (Cth).

Question 21

In the light of the submissions made by Professor Tregear, why should public servants be confident that the Office of the Commonwealth Ombudsman will handle complaints about inadequately investigated whistleblower disclosures in a manner that reflects the intentions of the Parliament and the expectations of the community?

The response to the senator's questions is as follows:

Questions 1, 2, 4, 5, 8, 9, 10, 11, 12, 15, 16, 17, 19, 20 and 21

The Robodebt Royal Commission observed in 2023 that:

‘It can be accepted that it is important for the Ombudsman to work cooperatively with the departments it is investigating, but it is also necessary that the Ombudsman be capable of taking a stand. Maladministration is much less likely to occur where there is an Ombudsman who is known to impose limits on the cooperative approach in an appropriate case. The [Robodebt] scheme demonstrated the importance of a properly resourced and more importantly, an

independent and robust Ombudsman.’ (Report, Royal Commission into the Robodebt Scheme, p. 599).

Since being appointed I have endeavoured to perform my functions in an independent and robust manner. I hope that public servants looking at my record over the last 3 and a half years can be confident that I am acting in an independent and robust manner.

At the same time, I have also given evidence to this Committee that my Office receives no funding for its functions under the PID Act, and that my Office could do more with respect to the PID Act if it was resourced to do so – a point also made by Philip Moss in his 2016 review of the PID Act.

Section 8 of the *Ombudsman Act 1976* (Ombudsman Act) requires the Office to conduct investigations in private. The PID being referred to is also subject to the former secrecy provision of the PID Act (section 65). This response therefore does not comment on the specifics of the investigation described in the submission.

Under the PID Act, Parliament has established a devolved scheme where it is the duty of the relevant agency to ensure that PIDs are investigated and properly dealt with. A discloser can make a complaint to the Ombudsman about the handling of a PID by an agency and if we investigate, we will consider whether the agency’s handling was consistent with its duties under the PID Act and the PID Standard and whether it was lawful, reasonable and fair in all the circumstances. We may decide not to investigate, including if the complaint concerns action taken more than 12 months before the complaint is made.

Section 8(2) of the Ombudsman Act provides that an investigation under the Ombudsman Act shall be conducted in such a manner as the Ombudsman sees fit, and the power to issue a report under section 15 of the Ombudsman Act is only exercisable by the Ombudsman. I do not intend to comment on the deliberations and decisions of previous occupants of this role, but note that I have made clear my intention, where appropriate, to use the full suite of powers available to my Office under the Ombudsman Act, including section 9 and section 15.

The Office’s Investigations Policy supports this intention by outlining the use of section 9 of the Ombudsman Act, which Professor Tregear’s submission refers to, as one of several methods to obtain information.

Question 3

No.

Question 6

No.

Question 7

No. As noted above, it would not be appropriate to comment on the specifics of the investigation described in Professor Tregear’s submission.

Question 13

The Office's Investigations Policy, which was revised following my appointment as Ombudsman, provides that we may decide to use section 9 if an agency or third party will not or cannot provide the information voluntarily or asks us to use the powers to provide additional protection.

My Office has used section 9, and equivalent powers exercisable by my Office in other legislation, in investigations conducted by the Office since I was appointed as Ombudsman. Another option which has also been used is to escalate with the agency a failure of their officials to provide information which we have requested. In addition, I have issued a Statement of Expectations to all agencies which states that agencies are expected to engage with us in good faith and actively assist us to perform our statutory functions including providing information, documents and access to staff, premises and systems. The Statement goes on to say that in the absence of a response to requests for information, we may also choose to proceed to form a view based on the information already available, and may publicly refer to an agency's failure to provide a response, including in a public report. Subsequent to the issuing of the Statement of Expectations, Parliament has also enacted section 32 of the Ombudsman Act which provides that public servants must use their best endeavours to assist the Ombudsman in the performance of the Ombudsman's functions.

Question 14

Ms Bendall was referring to Professor Tregear's expectations regarding the outcome he may have hoped to achieve in making a complaint to our Office.

Question 18

We have previously been made aware of Professor Tregear's concerns about the complaint investigation and we responded directly to Professor Tregear at that time. As a result of Professor Tregear's submission, we understand that he remains dissatisfied with the outcome of our complaint investigation. We have not issued an apology to Professor Tregear.

Given the passage of time involved, and given that the Ombudsman Act invests the Ombudsman of the day with responsibility for forming opinions, I do not consider it is appropriate for me to seek to re-visit decisions of my predecessors or to re-visit investigations carried out by or under them, or to seek to substitute my opinion for theirs. Decisions such as how to carry out an investigation, how long to investigate and how much resources to devote to an investigation are matters for the Ombudsman of the day.