

Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Industry Portfolio
Supplementary Budget Estimates Hearing 2014-15
23 October 2014

AGENCY/DEPARTMENT: Commonwealth Scientific & Industrial Research Organisation

TOPIC: Pearce Bullying Investigation

REFERENCE: Written Question – Senator Wright

QUESTION No.: SI-76

1. In response to written QON BI-86 #15 (a) from 2014 Budget Estimates, CSIRO stated that three submissions to the Pearce Review made allegations in relation to Dr Clark and one of these was not further investigated because the person “*declined to provide the necessary privacy approvals required for that investigation to proceed*”.
 - a. How does CSIRO reconcile this answer with the fact that at least one former staff member who made allegations in relation to Dr Clark in Phase 1 was not asked to provide privacy approvals, and was told their allegations in relation to Dr Clark would not be investigated in Phase 2?
2. In response to written QON BI-86 #16 from 2014 Budget Estimates CSIRO’s answer to the question was “*No*”. However, by letter emailed directly to Dr Clark on 16 August 2010, a former staff member tendered her resignation due to failures of CSIRO in resolving a serious complaint. The failures were documented in detail in the letter, and were also raised during the Pearce Investigation.
 - a. Does the CSIRO acknowledge this answer was incorrect?
 - b. How many other staff have resigned during Dr Clark’s tenure due to unresolved complaints?
3. Does the CSIRO Code of Conduct require CSIRO employees to “*provide frank, honest, comprehensive, accurate and timely advice*” to the Government and Parliament?
4. In relation to targeting people for redundancy, how is CSIRO ensuring that people who made a submission to the Pearce Investigation are not being victimised?
 - a. Should any such allegation arise, how would CSIRO address this, particularly given it is CSIRO’s policy to discontinue investigation of grievances or complaints once the complainant ceases employment with CSIRO?
5. Is it correct that a former member of the CSIRO staff tendered her resignation in a letter dated 16 August 2010, alleging that a colleague had repeatedly published her work without her knowledge and without ensuring her contribution was acknowledged?
6. Is it correct that Divisional Managers conducted an investigation which found that the complainant’s colleague had indeed inappropriately published her work without acknowledging her contribution?
7. Is it correct that in their final investigation report, Divisional managers:
 - a. did not recommend any censure of the colleague;
 - b. did not recommend that the colleague apologise for publishing the complainant’s work; and
 - c. did not take any steps to have authorship addressed by the relevant scientific journals?
8. Is it true that authorship of publications is a key criteria for promotion and rewards in CSIRO?
 - a. Would failure to ensure authorship recognition potentially reduce the strength of any promotion case?

9. Has CSIRO ensured that all instances of plagiarism reported during the Pearce Investigation were addressed, and the complainant's contribution properly recognised through appropriate authorship?
10. Is it true that both prior to and after resigning from CSIRO, the complainant repeatedly asked CSIRO for explanations and apologies from these managers for their inappropriate response to her complaint?
11. Is it true that in 2010 an impartial external investigator recommended that the complainant be provided with these explanations and apologies, but the manager concerned disregarded these recommendations?
12. In her submission to the Pearce Investigation, did the complainant specifically request apologies from the managers concerned?
13. In his Phase 1 report on this complaint, did Professor Pearce find that CSIRO managers did not properly implement CSIRO complaints process?
14. Did Prof Pearce propose to further investigate these CSIRO managers in Phase 2 for failing to properly implement CSIRO complaints process?
15. Did Prof Pearce recommend that the managers who failed to properly implement the CSIRO complaints process be censured?
16. In his Phase 2 General Findings report, Prof Pearce highlights the importance of providing appropriate apologies (pp 47-48). Did Prof Pearce recommend these managers provide the apologies the complainant requested?
17. Is CSIRO aware that these events led to the complainant giving up her 30-year career as a successful research scientist, and that she suffered adverse financial impacts and long term health impacts?
 - a. If so, has CSIRO censured or sought apologies from the managers concerned?
18. Is it correct that under the terms of reference of the Pearce Investigation, the decision on which complaints to investigate in Phase 2 were to be made solely by the Investigator?
19. How many supervisors, managers or HR staff did Prof Pearce identify as having failed to implement proper procedures in relation to handling complaints about bullying or other misconduct?
20. Where Prof Pearce identified that supervisors, managers or HR staff failed to implement proper procedures in relation to handling complaints about bullying or other misconduct, did Prof Pearce specifically identify this as a breach of the Code of Conduct in his report to CSIRO and to the complainant?
 - a. If no, why not?
21. Following the Pearce Investigation, how many supervisors, managers or HR staff have been censured by CSIRO for failing to implement proper procedures in relation to complaints about bullying or other misconduct?
 - a. How many have had a note of the failure recorded on their personnel file?
22. For complainants who requested apologies, has CSIRO specifically sought apologies from all current staff members who were identified by Prof Pearce as having behaved inappropriately, including failing to follow proper procedures?
 - a. Should such staff members not apologise, will this failure be recorded on their personnel file?
23. How many submissions received in Phase 1 contained allegations in relation to Executive Director Dr Andrew Johnson?
 - a. How many of these allegations were investigated in Phase 2?
24. Has establishment of the Conduct Integrity Unit now been finalised?
 - a. Who has been appointed to this Unit and what are their substantive roles within CSIRO?
25. Does this Unit comprise a staff elected representative or other position independent of the CSIRO organisational structure?

ANSWER

In answering these questions, CSIRO has taken into account obligations it holds to all individuals involved in investigations and will not provide specific detail in answers where the provision of that detail would breach duties owed by CSIRO to individuals who have both a right and expectation that CSIRO will protect their confidentiality and the integrity of investigation processes or be a breach of privacy. In some cases CSIRO has also chosen to provide additional information to ensure a balanced response in the interest of more complete disclosure.

1. Three submissions were made to the Pearce Investigation that included allegations about the Chief Executive Dr Clark. It was assessed by Professor Pearce that none of the allegations against Dr Clark were substantiated. Two of these submissions were listed for further investigation with respect to aspects other than the allegations about Dr Clark. One of these two, the submission referred to in this question contained another aspect that was listed for further investigation for which purpose Professor Pearce sought privacy consent from the complainant but that consent was not granted. For that reason the intended Phase 2 investigation did not proceed. In preparing the response to this question, CSIRO has determined that the answer provided in response to BI-86 #15 was numerically incorrect and apologises to the Committee for that error in the previous answer.
2. a. No. CSIRO answered QON BI-86 in the context and timeframe of the Pearce Investigation as it was within this context that the question was posed and the answer is correct.
b. In relation to the 6 year period of Dr Clark's tenure as Chief Executive and answering the question beyond the topic of the Pearce Investigation, there will have been staff members over that period where at the time of the staff member resigning there may have been unresolved complaint matters, whether in relation to underperformance or misconduct or grievance issues or other matters. However it is not feasible to give a numerical answer to this broader question as to do so would require a manual check of all letters of resignation received during this period, if indeed the staff member advised CSIRO that was a factor contributing to their decision to resign. Such a check would be an unreasonable diversion of resources.
3. Yes.
4. The answer to question 11 in BI-86 addressed this question where it stated: *"The redundancy process is separate from information as to whether the staff members made submissions to the Pearce Investigation and the decision-makers in relation to a redundancy will, in the majority of cases and depending upon the confidentiality under which the submission was made (and depending on any disclosure made by the staff member themselves) not have access to information as to whether a staff member had made a submission to the Pearce investigation"*. In this way, whether or not a staff member had made a submission to the Pearce Investigation would neither cause the staff member to be selected for redundancy nor cause the staff member to be protected from inclusion in a redundancy process.
 - a. Any such allegation of "victimisation", if received, would be handled through the appropriate CSIRO procedure for managing such an allegation. For example it may be referred to a Senior Manager to consider whether the matter should be investigated under CSIRO's Misconduct Procedure. The procedure varies depending on how the allegation is raised. CSIRO's policy is that it has an ongoing obligation to ensure a safe workplace and so can choose to look into the matter further even after a complainant ceases employment with CSIRO.
5. Based on the assumption that this question relates to the resignation referenced in Question 2, it is correct that CSIRO received a resignation letter dated 16 August 2010. The letter referred to CSIRO's processes for conflict resolution and to specific issues and allegations which had not

been resolved to the satisfaction of the staff member including recognition of the former staff member's scientific contributions.

6. Based on the assumption that this question relates to the resignation letter referenced in Question 2, CSIRO can confirm that an internal investigation had been undertaken into the matters in October 2009, which resulted in a number of actions being pursued including recommendations for improvements in the procedures for managing the attribution of authorship of scientific publications.
7. Based on the assumption that this question relates to the resignation referenced in Question 2, CSIRO refers to the comments made above in relation to its privacy obligations and also to its answer to Question 6. In relation to the recommended modifications to the procedures for managing attribution of authorship of scientific publications, this procedure was revised in 2009 as a result of this report. Arising from the investigation process, one scientific paper was withdrawn from publication and in relation to two other publications there was a change to the authorship. It should be noted that the recorded authorship of scientific journal articles are, in some cases, unable to be modified once the publication has occurred.
8. Authorship is one of a number of factors that is taken into account in determining a promotions or rewards case for Research Scientists/Research Engineers.
 - a. Possibly but not invariably, depending on the individual's performance in other areas.
9. CSIRO was made aware of a limited number of allegations of inappropriate or incomplete attribution of authorship as a result of the Pearce Investigation process. In response, CSIRO has (a) changed policy in relation to misconduct to include misappropriation of authorship; and (b) is in the process of implementing a change to the organisation's procedure in relation to authorship. Based on the assumption that this question specifically relates to the resignation referenced in Question 2, this matter is still under CSIRO's consideration as to any further actions that are able to be taken (see answer to Question 7 to certain limitations in this regard).
10. Based on the assumption that this question relates to the resignation referenced in Question 2, yes in relation to specific issues and allegations which had not been resolved to the satisfaction of the staff member.
11. Based on the assumption that this question relates to the resignation referenced in Question 2, an external investigation was commissioned and the report of that investigation was received in 2010. The senior manager considered the report from the external investigation and also considered at the same time the final investigation report referred to in the answer to question 7. The senior manager considered that the external investigation had deviated from the terms of reference of that investigation and therefore put aside the recommendations from that report. The senior manager accepted a number of the recommendations from the final investigation report referred to in the answer to question 7. CSIRO refers to the comments made above in relation to its privacy obligations.
12. Based on the assumption that this question relates to the resignation referenced in Question 2, yes, CSIRO understands that the former staff member sought that an apology from the managers concerned be an outcome of Professor Pearce's investigation. In providing this answer, CSIRO requests the committee note that CSIRO is needing to comply with the confidentiality obligations in relation to the individual investigations under the Pearce Investigation. Submissions were made directly to the Pearce Investigation and were made subject to confidentiality obligations between the persons making the submission and the Independent Inquiry team as is described in the General Findings Report. However in this case CSIRO has received from the former staff member a copy of the summary report prepared by

Professor Pearce in relation to their individual submission and responds to the question on the basis of that source.

13. Based on the assumption that this question relates to the allegations of the former staff member referenced in Question 2, in his Phase 1 (preliminary) investigation Professor Pearce found that there had been some procedural flaws in prior investigations of matters raised by that former staff member and recommended that the Chair of the CSIRO Board acknowledge those flaws and apologise on behalf of the organisation. See also the answer to Question 16 for additional information in relation to this matter.
14. Based on the assumption that this question relates to the former staff member referenced in Question 2, CSIRO responds to this question on the basis of the individual summary report as described in its answer to Question 13. Professor Pearce did not propose to conduct a further investigation and instead recommended the actions described in the answer to Question 13.
15. Based on the assumption that this question relates to the former staff member referenced in Question 2, no, that was not a recommendation made to CSIRO by the Independent Investigator.
16. Based on the assumption that this question relates to the former staff member referenced in Question 2, CSIRO refers to its answer to Question 13. Both the Chief Executive and Chair of the CSIRO Board have acknowledged the flaws and apologised to the former staff member, both in writing and in personal meetings.
17. Based on the assumption that this question relates to the former staff member referenced in Question 2, yes CSIRO is aware of the situation.
 - a. No. CSIRO has investigated the complaint, has managed the investigations with integrity and has at all times sought to manage this complex situation with compassion.
18. Yes. However, in one instance CSIRO requested that Professor Pearce undertake a further investigation into an aspect of a complaint received in Phase 1, which Professor Pearce agreed to conduct.
19. CSIRO does not hold the information and records provided to Professor Pearce for his Independent Investigation. CSIRO would therefore need to commission Professor Pearce and HWL Ebsworth to undertake an assessment of their records in order to answer this question. As this would involve a significant body of work, this would entail an unreasonable diversion of CSIRO's financial resources. CSIRO is therefore unable to answer this question.
20. No.
 - a. As noted in Professor Pearce's Phase 2 General Findings Report (see sections 2.7 and 2.8.2), Professor Pearce's task during Phase 2 was to "*conduct further inquiries in specific cases so that we could make recommendations as to whether CSIRO should take action in accordance with its Misconduct Procedure or should take some other (non-misconduct) action, or both, in each specific case. The purpose of our investigation was not to determine whether or not any CSIRO employee or affiliate had breached the CSIRO Code of Conduct*". This technical approach was used as it is only CSIRO acting in accordance with its own Misconduct Procedure that can inquire into and discipline a CSIRO employee. Based on the assumption that this question may relate to the Phase 1 investigation of the submission by the former staff member referenced in Question 2, in providing this answer CSIRO notes that it should not be inferred from this answer that Professor Pearce identified any breach of the Code of Conduct for the reason described.

21. No current CSIRO staff have been censured and this is consistent with the recommendations that Professor Pearce made to CSIRO. However, it is the case that a number of current CSIRO staff have been reminded and, in some cases, provided with training, with respect to the recommendations from Professor Pearce in relation to CSIRO's procedures for handling complaints about bullying or other misconduct.
 - a. CSIRO record keeping practice for such matters does not involve an individual's personnel file and CSIRO considers that it would be an unreasonable diversion of resources to review all of CSIRO's files for this information.
22. There are a limited number of cases where Professor Pearce has recommended in his individual reports to CSIRO that an apology be provided for past failures by CSIRO. These recommendations have been and are being addressed by CSIRO taking into account concurrent actions in these cases.
 - a. No.
23. For the following reasons, CSIRO is unable to provide a definitive answer to this question. The question seeks information in relation to allegations (if any) that Professor Pearce assessed were made against a named individual in the Independent Investigation at the Phase 1 stage of the process, at which stage the individual investigations were incomplete and had not involved procedural justice. Furthermore the Independent Investigation was conducted under confidentiality arrangements (see answer to Question 12 above) and CSIRO seeks to comply with, and be seen to comply with, these confidentiality arrangements. The submissions have been made directly to Professor Pearce rather than to CSIRO. CSIRO does not have full access to the information provided to Professor Pearce; including information in relation to some submissions made to Professor Pearce on a confidential basis (see sections 2.6, 2.8 and 3.1.3 of Workplace Conduct in CSIRO, Phase 1 – General Findings, Dennis Pearce, 31 July 2013). Importantly, no inference whatsoever should be drawn from this answer as to whether any allegations were made or substantiated in this process, regarding particular individuals.
24. Since the recommendation from Professor Pearce regarding the establishment of an Integrity Unit in CSIRO, CSIRO has considered the changes to its misconduct and grievance procedures and the introduction of the new *Public Interest Disclosure* legislation. CSIRO is now working through a modified proposal that would achieve the objectives of the Pearce recommendations.
25. See answer to question 24.