

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Additional Estimates 2015 - 2016

Agency - Fair Work Commission

Department of Employment Question No. EMSQ16-000231

Senator Bridget McKenzie provided in writing.

Question

FWC - Management of FSU

Has the FWC commenced an inquiry or investigation into misconduct allegations and/or dysfunctional management within the FSU, or for any other reason?

This question relates to a story in the Australian Financial Review 19 February, by Ewin Hannan, 'Peel you like an onion: inside a union civil war.'

Based on the allegations in the article (without commenting on their truth or accuracy), are these the sorts of matters (relating to union misconduct / dysfunctional management) that fall within the jurisdiction of the GM of the FWC?

Answer

1. No formal inquiry or investigation has been commenced. On 22 February 2016, the General Manager's Delegate sought information from the FSU about the allegations raised in the 19 February 2016 article in the Australian Financial Review.
2. Upon receipt of information from the FSU, an assessment will be made about whether any conduct by an organisation or its officers potentially demonstrates contravention of laws or rules relating to the finances or financial administration of the FSU.

The *Fair Work (Registered Organisations) Act 2009* (RO Act) does not provide power to the FWC to inquire or investigate 'dysfunctional management practices' unless those practices involve or include conduct by either an organisation or its officers which demonstrates potential contravention of laws or rules relating to the finances or financial administration of an organisation.

The legislative scheme of the RO Act is directed at ensuring that organisations discharge their obligations of accountability to their members in relation to the financial affairs of the organisation through proper and regular disclosure of financial information.

Inquiries are conducted under section 330 of the RO Act into whether Part 3 of Chapter 8 of the RO Act, the reporting guidelines made under that Part, regulations made for the purposes of that Part, or the rules of an organisation relating to its finances or financial administration have been, or are being, complied with.

If there are reasonable grounds for doing so, an investigation into whether a civil penalty provision has been contravened can be conducted.