

Senate Finance and Public Administration Legislation Committee —Additional Estimates Hearing—February 2016

Answers to Questions on Notice

Parliamentary departments, Department of Parliamentary Services

Topic: **Potential conflict of interest**

Question: **171**

Hansard Reference **p 67, 68-69; 8 February 2016**

Date set by the committee for the return of answer: 1 April 2016

Senator LUDWIG: The other issue that stood out was CPM Reviews. Senator Bernardi specifically raised the use of a company called CPM Reviews in question on notice No. 31. It also appears a number of times in your answers. From that material it seems an individual who used to work for CPM Reviews now works for the Department of Parliamentary Services. You could get the circumstance where someone who used to work for CPM and now works for you refers work to CPM for investigation. Has that happened? If so, how do you manage the conflicts of interest that poses?

Ms Croke: We are satisfied that has not happened. The delegation to decide to refer an investigation is at a higher level than that individual.

Senator LUDWIG: So you can say that has never happened? That individual has not—

Ms Croke: I am satisfied it has not happened.

Senator LUDWIG: It has not happened that that individual has recommended a referral to a person higher up the line who has then referred it? Such a referral has not been initiated at that level?

Ms Croke: The individual may suggest that a matter be further investigated by an external organisation. Let me take that on notice and double-check whether that individual has ever recommended that CPM be the company to do such work.

CHAIR: I think we established that earlier.

Ms Croke: I am pretty sure we have not done that.

CHAIR: I am pretty sure that we did establish that about CPM Reviews. That was the subject of my question on notice and it was the subject of the discussion on conflict of interest earlier today. You said there was no indication there is or had been a conflict of interest but that you were mindful of how it could look like that.

Ms Croke: I am satisfied there is no conflict of interest, but Senator Ludwig specifically asked whether there had ever been a case where the individual had made a recommendation to somebody else who held final decision-making power—in which case another individual would have taken a final decision.

Senator LUDWIG: This is how subtle it can be, Senator Bernardi.

Ms Croke: I am happy to look into that. I am pretty sure that we are okay, but I am happy to look into that further.

Senator LUDWIG: Is there a policy or a document that sets out how you manage those types of conflicts of interest as they arise?

Ms Croke: There is a policy on conflict of interest. I am happy to provide that to the committee. There is also a policy on how we go about conducting investigations. I am happy to provide that as well.

...

CHAIR: Senator Ludwig got me confused. We were talking about CPM Reviews. Explain to me: the gentleman I have been referring to that used to work for CPM Reviews that was subject to my conflict of interest—you were suggesting that person was not in a position to refer the reviews to an external correspondent directly?

Ms Croke: He would not be the decision maker in those matters.

...

Ms Croke: Whoever the decision maker is has to take their own decision in those matters. You obviously take that advice, but it does not tell you which company you have to go to, and the decision maker takes the final decision on that. So what I wanted to check following Senator Ludwig's question was: on how many occasions

was there anything at all where that individual may have recommended CPM Reviews be the company that we go to? That is what I would like to check.

...

Senator LUDWIG: The answer I am seeking is broader than just CPM. It is also whether they recommended external review. So you can include both.

Ms Croke: Okay.

Answer

During the period 3 February 2014 to 31 January 2016, 18 external investigators were engaged as follows:

- CPM Reviews were engaged to conduct eight investigations utilising four different investigators.
- Two other companies have conducted four investigations each;
- Two investigations were undertaken by another Commonwealth department.

In relation to the use of external investigators, the small size of the department combined with the limited number of qualified investigators means it is difficult to avoid actual or perceived conflicts of interest when conducting internal investigations. For this reason, particularly with serious or complex matters, the Department generally uses experienced and independent external investigators.

While it is not clear from the documents whether the officer made recommendations either to use an external investigator or to employ CPM, the officer concerned was not the decision maker in any of the contracts with CPM. In each case where CPM was retained, the decision makers were experienced officers, with specific knowledge of the industry and able to make independent judgements. DPS will ensure for all future cases there is documented consideration for using an internal or external investigation, and also of the selection of external investigators.

Overall, the Department is confident that there was not any actual conflict of interest in the selection of CPM. CPM was available from the Australian Taxation Office standing offer arrangement and was selected on the basis of their availability and record of high quality services. The decision makers were aware of the officer's former role as an independent contractor with CPM.

However, the Department acknowledges that there may be a perceived conflict of interest given the allocation of investigations to CPM, the officer's role in advising on the handling of investigations and his former role with CPM.

In some instances, it is unclear why:

- an external investigation was chosen in preference to an internal investigation and
- particular firms were chosen from a panel.

DPS has issued revised guidance to officers to address this issue.