

Senate Standing Committee on Education Employment and Workplace Relations

QUESTIONS ON NOTICE Budget Estimates 2012-2013

Agency - Comcare

DEEWR Question No. EW0209_13

Senator Abetz asked on 28 May 2012, Hansard page 87

Question

ANSTO, investigation No 4245

Senator ABETZ: Thank you for that. So nothing was refuted in that final report by ANSTO, No. 4245? Mr O'Connor: I would have to go back and refresh myself on that. Senator ABETZ: All right. Thank you.

Answer

Comcare has provided the following response.

On 13 August 2009, Comcare commenced an investigation (No.4245) under the *Occupational Health and Safety Act 1991* (OHS Act), concerning the paid suspension of an employee of the Australian Nuclear Science and Technology Organisation (ANSTO). The employee alleged his suspension was related to raising safety concerns as part of his role as a Health and Safety Representative (HSR). On 17 December 2010, a Comcare investigator provided a report on findings to ANSTO at the conclusion of the investigation.

On 24 January 2011, ANSTO requested that Comcare conduct a review of the investigation sighting procedural errors, denial of procedural fairness, insufficient notice of the intent of the investigation, and misconstrued definitions under the Act.

Comcare finalised the review into the investigation on 27 May 2011. The findings of the review were that:

1. The recommendations of investigation 4245 are sound and reflect the information obtained and analysed during the course of the investigation.
2. There is no evidence to support a denial of procedural fairness to ANSTO in the investigation.

The review confirmed that there was no need for a new or additional investigation and that ANSTO should action remedial measures as requested by the investigator. The review reaffirmed the investigator's findings that there was insufficient evidence to connect the suspension of the employee to the raising of safety issues. The review disagreed to some extent with the investigator in that it concluded there was insufficient evidence to determine the incidents subject to this investigation met the required standard to be considered a dangerous occurrence and therefore may not technically have required reporting.