

Senate Finance and Public Administration Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
BUDGET ESTIMATES 2011-2012

Prime Minister and Cabinet Portfolio

Department/Agency: Australian Public Service Commission

Outcome/Program:

Topic: Termination of employment of Ms Wolfe

Senator: Senator Ronaldson

Question reference number: Question Number 95

Type of question: Hansard, F&PA, p27, 24 May

Date set by the committee for the return of answer: 8 July 2011

Number of pages: 2

Question: Can you provide me please with a copy of the correspondence between Dr Gumley and the Public Service Commissioner and a copy of your predecessor's decision which has been forwarded back to Dr Gumley?

Answer:

According to Australian Public Service Commission (the Commission) files, Dr Stephen Gumley, the delegate of the Secretary of the Department of Defence, and the then Public Service Commissioner (the Commissioner) corresponded on five separate occasions between October 2008 and March 2009 regarding Ms Jane Wolfe.

On 20 October 2008 Dr Gumley wrote to the Commissioner seeking her assistance in finding an alternative placement for Ms Wolfe outside of the Defence Materiel Organisation (DMO). On 21 November 2008 the Commissioner replied to Dr Gumley advising that she had no statutory role in facilitating a move for Ms Wolfe to another agency.

The Minister declines to provide some of this correspondence. Copies of the October and November 2008 correspondence are attached with redactions of particular material. The redacted material contains personal and sensitive information relating to Ms Wolfe which is not in the public domain. It would be contrary to the public interest to disclose this material as it would be an unreasonable interference with her privacy.

On 18 December 2008 Dr Gumley wrote to the Commissioner requesting she consider issuing a certificate under section 38 of the *Public Service Act 1999* (the Act) in relation to his proposal to terminate the employment of Ms Wolfe on the ground of unsatisfactory performance of duties as specified in section 29(3)(c) of the Act.

On 13 January 2009 the Commissioner received an email from Dr Gumley providing detail of aspects of performance arrangements in DMO.

The Minister declines to provide the entirety of this correspondence. Copies of this correspondence have not been provided as the material is considered to be personal and sensitive information relating to Ms Wolfe and others which is not in the public domain. Its disclosure

would be contrary to the public interest as it would unreasonably interfere with their privacy. In addition disclosure of these documents would be contrary to the public interest because disclosure could prejudice the future performance of agencies' functions in relation to the effective management of their senior staff and the development of their leadership group. The correspondence contains sensitive appraisal information relating to senior staff provided on a confidential basis, disclosure of which could affect the willingness of senior managers to provide clear and frank appraisal information in the future.

The correspondence cannot be meaningfully redacted.

On 13 March 2009 the Commissioner wrote to Dr Gumley issuing a certificate under section 38 of the Act. A copy of this letter is also attached.

STAFF IN CONFIDENCE



Australian Government
Department of Defence
Defence Materiel Organisation

Minute
Office of CEO DMO
R2-5-Executive Suite

CEO/2008/OUT/243

Ms Lynelle Briggs
Public Service Commissioner
Australian Public Service Commission
16 Furzer St
PHILLIP ACT 2600

Dear Ms Briggs,

MS JANE WOLFE

As you are aware, through our discussions, Ms Jane Wolfe is an SES Band 3 in the Defence Materiel Organisation (DMO). I have had serious concerns with Ms Wolfe's performance since September 2007 and have raised these with her both at counselling meetings and in writing.

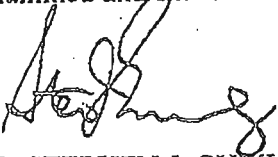
Ms Wolfe has been on a performance management regime in an attempt to assist her to become an effective member of the DMO Senior Leadership Group.

[REDACTED]

[REDACTED]

Ms Wolfe is currently on secondment to Infrastructure Australia (IA) for three months and is expected to return on 29 December 2008, but this may now be brought forward to 3 November 2008. Ms Wolfe contacted my Chief of Staff and advised that she may be returning to the DMO earlier as deadlines associated with IA's work schedule have been brought forward by Government.

The performance management regime that Ms Wolfe is being assessed against has stalled and consequently I seek your assistance in finding an alternative placement for Ms Wolfe outside the DMO. I understand that all avenues of reassignment, either within Defence or in the broader APS, are to be examined and exhausted before termination of employment is considered.


DR STEPHEN J. GUMLEY
CEO DMO

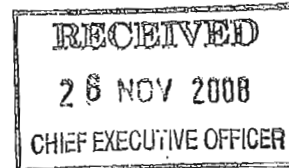
20 October 2008

STAFF IN CONFIDENCE



AUSTRALIAN PUBLIC SERVICE COMMISSIONER
LYNELLE BRIGGS

Dr Stephen Gumley
CEO Defence Materiel Organisation
Russell Offices
Department of Defence
Canberra ACT 2600



Steve
Dear Dr Gumley

I refer to your letter to me dated 20 October 2008 regarding Ms Jane Wolfe, an SES Band 3 within the Defence Materiel Organisation (DMO), and the subsequent conversation between Ms Annwyn Godwin, A/g Deputy Public Service Commissioner and your Mr John Peters on 7 November 2008, re the same.

I accept your assessment that it would not be in either Ms Wolfe or the DMO's best interests that Ms Wolfe return to the DMO, following the period of her secondment with Infrastructure Australia (IA).

In that context, I note that you have sought my assistance to find an alternative placement for Ms Wolfe outside the DMO. I have no statutory role in facilitating a move for Ms Wolfe to another agency in these circumstances. However, I would encourage you to explore options, in particular with IA, for Ms Wolfe to be retained in that organisation for a further period or on a permanent basis.

You have indicated that, prior to being seconded to IA, Ms Wolfe had been on a performance management regime, a potential outcome of which was the termination of her employment, should there be no significant improvement in her performance over the relevant period.

It is appropriate that Ms Wolfe continue on that performance management regime, in the event that she returns to the DMO. She should be advised of the continuation of that process, even if she does not engage with it, upon her return. However, as a part of that process, feedback should be sought from IA, as to Ms Wolfe's performance during the secondment period and that feedback factored into any subsequent decision in respect of Ms Wolfe's employment.

I am happy to discuss the above in more detail with you. I can be contacted on 6202 3501.

Yours sincerely

Lynelle Briggs
Public Service Commissioner


24 November 2008



Australian Government
Australian Public Service Commission

AUSTRALIAN PUBLIC SERVICE COMMISSIONER
LYNELLE BRIGGS

Dr Stephen J Gumley
Chief Executive Officer
Defence Materiel Organisation
Department of Defence
R2-5-C074 - Russell Offices
CANBERRA ACT 2600


Dear Dr Gumley

Thank you for your letter of 18 December 2008 regarding the proposed termination of employment, under section 29 of the *Public Service Act 1999* (the Act), of Ms Jane Wolfe, a Senior Executive Band 3 employee in your agency, the Defence Materiel Organisation (DMO).

I have discussed this matter with you and, separately, with Ms Wolfe, and you have both submitted a range of supplementary documentation on this matter to assist me in my consideration of your request that I issue the required certificate under section 38 of the Act.

Having examined the range of information before me, I am satisfied that all relevant requirements the Public Service Commissioner's Directions 1999 (the Directions) under section 36 of the Act have been satisfied. I consider that DMO has made an assessment, having due regard to procedural fairness, that the termination is justified on the basis of the ground specified in section 29(3)(c) of the Act, namely non-performance, or unsatisfactory performance, of duties. I further note your advice that you do not consider there to be any appropriate duties, either at Ms Wolfe's substantive classification, or at a lower classification, to which she could be assigned. I consider that you have demonstrated that the minimum requirements specified in clause 6.8 of the Directions have been satisfied.

In the circumstances, I am of the opinion that the termination of Ms Wolfe's employment will be in the public interest. Accordingly, I have executed the attached certificate under section 38 of the Act.

You may now proceed with the termination process under section 29 of the Act, which allows an Agency Head to terminate an employee. In this regard, I understand that you have been delegated all relevant Agency Head powers by the Secretary of the Department of Defence. You must provide Ms Wolfe with a notice in writing terminating her employment.

Yours sincerely


Lynelle Briggs

13 March 2009

COMMONWEALTH OF AUSTRALIA

Public Service Act 1999

CERTIFICATE UNDER SECTION 38

I, Lynelle Briggs, Public Service Commissioner, pursuant to section 38 of the *Public Service Act 1999* (the Act), certify that:

- all relevant requirements of the Commissioner's Directions under section 36 of the Act have been satisfied in respect of the proposed termination of employment of Jane Wolfe, an APS employee at Senior Executive Band 3 level in the Defence Materiel Organisation, Department of Defence; and
- I am of the opinion that the termination of employment is in the public interest.

Dated thirteen March 2009


Lynelle Briggs
Public Service Commissioner