

## Estimates Committee 2004 Questions Taken On Notice

( 22/06/2004 to 01/10/2004 )

Date: 22/06/2004 Output: 1.0 Public  
Employment  
Sub Output:  
Subject: Release of personnel files

**From:** Ms Jodeen Terese CARNEY to Honourable Syd STIRLING  
Minister for Employment Education and Training

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**Question:** **2-6**  
Minister, the law firm to which I earlier referred was representing the government, receiving instructions from the Department of Justice and/or the Attorney-General. Your commissioner in evidence to the Public Accounts Committee in February 2003 said that in relation to the executive arm of government that if requested to access such records he would be duty bound to refuse to release the personnel files and he commented that to do so would be 'totally inconsistent with the contemporary Freedom of Information and Privacy legislation' and that the commissioner of the third party would be sought.

My questions are: why were the files released to the lawyers? Is there an investigation on foot and does the minister know about it? When will the investigation be finalised? Do you agree that the personnel files were improperly released? What have you done to ensure it will not happen again? Are you aware that you are obliged to keep employee records confidential pursuant to Employment Instruction No. 10? What guarantee do you give to the Territory's public servants that their files will not improperly, and in breach of the act, given to lawyers or provided to third parties for any other purpose?

**Answer:**  
Answered On: 08/07/2004  
Answer: Question 2-6

Answer

Ms Carney comments on evidence given by the Commissioner for Public Employment in relation to access to personal records in the Public Accounts Committee Public Hearings on 13 February 2003.

For the record, the evidence given by the Commissioner was in response to questioning from the Member for Nelson, Gerry Wood, in relation to the release of details of payments made to Executive Contract Officers to the Public Accounts Committee.

In his response, the Commissioner advised that the release of these types of records was governed through the Public Sector Employment and

Management Act, the Code of Conduct and Employment Instruction Number 10. The Commissioner advised that this legislation did not allow him, or agency CEOs, to allow persons outside the public sector, including the Public Accounts Committee and Ministers, access to these records. Particularly in respect to access by members of parliament or executive members such as Ministers, he would be duty bound to refuse.

In respect to addressing the substantive parts of question 2-6, these have been covered in question 2-5. In respect to what guarantee I can give to Territory Public servants that their records will not improperly be released to third parties, I advise that the PSEMA provides extremely robust protection for their personal information and I'm sure the Commissioner for Public Employment, who is charged with the responsibility for administering the Act, will ensure release to third parties will only occur in accordance with the legislation.