

Responses to Questions taken on Notice

Public Accountability and Works Committee

Inquiry into the appointment of Appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner

Hearing Date – 31 August 2023

Question (p.30)

The Hon. DAMIEN TUDEHOPE: If the Minister's office had in fact been suggesting who should sit on the assessment panel, would you agree with me that that would be interference by the Minister's office in the selection process?

CHRIS LAMB: I would have to take advice on that question. You're talking a little bit hypothetically and it's a little bit technical, so I'm happy to take advice on that and respond.

Answer

The legal requirements for consultation in relation to the proposed appointment of a person as Secretary are set out in Rule 52 of the Government Sector Employment (General) Rules 2014 (GSE Rules). There are no requirements in the Government Sector Employment (GSE) Act 2013 or GSE Rules as to how an assessment panel for the office of Secretary of a Department is to be formed. It is matter for the Secretary of the Premier's Department to determine who to consult in relation to who should sit on an assessment panel for recruitment to the role of Secretary of a Department. However, the consultation by the Secretary of the Premier's Department (as the Premier's delegate) is required to be consistent with the Ethical Framework in Part 2 of the GSE Act and the Secretary's responsibilities under the Code of Ethics and Conduct for government sector employees.

Question (p.31)

The Hon. NATALIE WARD: I just have one last question. Is it consistent with the merit-based process, as you understand it, under rule 17, for the chief of staff of a Minister's office to interfere in that process or not?

CHRIS LAMB: I would say two things. First of all, I would need to take advice as to whether what you've described classifies as "interference". But, in the event that it does, then it would not be reasonable for the chief of staff to interfere in a process. But I do want to clarify that I'm not clear that the intervention you've described would classify as interference. I'm happy to check that.

The Hon. NATALIE WARD: I can assist. Specifically getting him an interview—

The Hon. Dr SARAH KAINE: Time.

The CHAIR: Order!

The Hon. NATALIE WARD: —bumping him up a level and ensuring that he got to the final two.

CHRIS LAMB: I can take advice on that.

The Hon. MARK LATHAM: Who were his referees, given that they weren't from Laing O'Rourke? We know that on evidence earlier today.

CHRIS LAMB: I have not seen who his referees were. I can take that on notice and see if I can provide that.

...

CHRIS LAMB: As I said in my opening remarks, my involvement in the process concluded at the end of the assessment panel meeting. I don't have details about the referees that were provided, who they were from or their verifications. That was something that the commissioner was involved in, and I'm happy to take on notice and see what we can provide.

Answer

First part

GSE Rule 17 sets out requirements for merit-based employment in the Public Service, but does not apply to the Secretaries of Departments (see Rule 52(4)).

The legal requirements for appointment as the Secretary of a Department are set out in section 23 of the GSE Act and Rule 52 of the GSE Rules.

The Secretary is required to work closely with the Minister to fulfil the Secretary's role and responsibilities under the GSE Act, including ensuring the delivery of the Government's policies and programs and collaborating with other agencies across the government sector to achieve the Government's stated outcomes (section 25(3)(b)). Consistent with this, Rule 52 sets out legal requirements for consultation with the senior responsible Minister in relation to the proposed appointment of a person as Secretary. How the Secretary, Premier's Department consults with the senior responsible Minister to whom the relevant Department is responsible in relation to the recruitment and appointment of a Secretary of a Department is a matter for the Secretary, Premier's Department. However, the decision by the Secretary of the Premier's Department (as the Premier's delegate) to appoint a person as Secretary of a Department is required to be consistent with the Ethical Framework in Part 2 of the GSE Act and the Secretary's responsibilities under the Code of Ethics and Conduct for government sector employees.

Second Part – referees

The Public Service Commission is advised that this information has been produced by the Government to the Legislative Council in response to the Standing Order 52 resolution of

2 August 2023, and that a claim of privilege has been made on the basis the information contains personal information and that public interest immunity has been asserted.

Question (p. 32)

The Hon. MARK LATHAM: Who were his referees, given that they weren't from Laing O'Rourke? We know that on evidence earlier today.

CHRIS LAMB: I have not seen who his referees were. I can take that on notice and see if I can provide that.

Answer

The Public Service Commission is advised that this information has been produced by the Government to the Legislative Council in response to the Standing Order 52 resolution of 2 August 2023, and that a claim of privilege has been made on the basis the information contains personal information and that public interest immunity has been asserted.

Question (p. 32)

The Hon. MARK LATHAM: But you've got no referees or references from Laing O'Rourke; you've got a scathing report about Mr Murray from NGS. What evidence can you provide to this Committee that he has been involved in the design, construction, operational delivery and performance of any major infrastructure projects rather than doing what corporate affairs managers do in all these big organisations? They just stick to communications, lobbying and media management.

CHRIS LAMB: As I said in my opening remarks, my involvement in the process concluded at the end of the assessment panel meeting. I don't have details about the referees that were provided, who they were from or their verifications. That was something that the commissioner was involved in, and I'm happy to take on notice and see what we can provide.

Answer

The Public Service Commission is advised that information concerning Mr Josh Murray's references has been produced by the Government to the Legislative Council in response to the Standing Order 52 resolution of 2 August 2023, and that a claim of privilege has been made on the basis the information contains personal information and that public interest immunity has been asserted.

Question (p. 35)

The Hon. Dr SARAH KAINE: I want to understand a bit more about the PSC approach to this kind of recruitment process and panel when it goes down this path. How many

recruitment processes have the PSC recommended NGS Global be involved with for SES appointments over the last two years?

CHRIS LAMB: I'd have to take that on notice. I don't know.

The Hon. Dr SARAH KAINE: If you could get that back to us, that would be great.

CHRIS LAMB: Sure.

The Hon. Dr SARAH KAINE: Could you also take on notice, perhaps, the cost per each of those recruitments, and could we be given those reports?

CHRIS LAMB: We could certainly provide the costs on notice. Are you asking for the individual candidate reports as well?

The Hon. Dr SARAH KAINE: The reports of those recruitment processes that have been undertaken in the past two years.

The Hon. NATALIE WARD: Point of order: The terms of reference for this inquiry relate to this recruitment process, not other various recruitment processes. I think that it's not appropriate to the terms of this inquiry to muddy the water with other recruitment processes.

...

CHRIS LAMB: I'm happy to provide on notice the times we have used NGS Global and the costs of those. I will have to take advice on what level of detail we can provide about the specific recruitment processes and the reports.

Answer

The PSC has engaged NGS Global to provide talent acquisition services for SES (Public Service senior executive) appointments on one occasion in the past two years, being the engagement concerning the recruitment to the office of Secretary, Transport for NSW which is the subject of the Committee's Inquiry. PSC has also engaged NGS Global for several statutory officer appointments in the past 2 years, but these are not SES appointments.

The total fee paid to NGS for the engagement concerning recruitment to the office of Secretary, Transport for NSW was \$113,767.53 ex GST (including disbursements for travel and advertisements).

The Public Service Commission understands that the NGS Global reports in relation to talent acquisition for the office of Secretary, Transport for NSW have been produced by the Government to the Legislative Council in response to the Standing Order 52 resolution of 2 August 2023, and that a claim of privilege has been made on the basis the information contains personal information and that public interest immunity has been asserted.

Question (p. 37)

The Hon. NATALIE WARD: Can I just clarify one point on that—a final question. Were you aware, during the recruitment process, whether any candidate was informed that the Minister for Transport's view about who she could best work with would play a significant role in the selection?

CHRIS LAMB: I was not aware of that at any point in the process, no.

The Hon. NATALIE WARD: Or candidates being informed that her view would be the final view?

CHRIS LAMB: No, I was not aware that candidates had had any contact with the Minister's office.

The Hon. NATALIE WARD: Or that it was conveyed to them that it was a requirement that they needed to be able to have good communication with her?

CHRIS LAMB: It would not be unreasonable for someone to say, "Your ability to communicate with the relevant Minister is an important part of a secretary's role." But I'm not aware that that was communicated to any candidates individually or that specifically.

The Hon. NATALIE WARD: Or that ultimately she would form that view.

The Hon. Dr SARAH KAINE: Chair, it is the end of our time.

The CHAIR: Okay, we have unfortunately run out of time. If you wanted to take any of that on notice, please do.

Answer

The questions raised above have been answered in evidence.