



Australian Government

The Treasury

OFFICE OF THE SECRETARY

12 August, 2009

Senator the Hon George Brandis SC
Chair
Committee of Privileges
Australian Senate
Parliament House
CANBERRA ACT 2600

Dear Senator Brandis

**POSSIBLE ADVERSE ACTION AGAINST MR GODWIN GRECH IN CONSEQUENCE
OF EVIDENCE GIVEN BEFORE THE ECONOMICS LEGISLATION COMMITTEE**

I refer to the letter of 25 June 2009 from Senator Collins, Acting Chair – Committee of Privileges, wherein the Committee sought a written submission from me, in my capacity as Secretary to the Treasury, on matters that may be relevant to the terms of reference of the above inquiry.

This letter and attachments are in response to that request and incorporate input from Mr Martine of the Treasury in response to a parallel request made to him.

Our submission is that no adverse action was taken against Mr Grech by Treasury or its staff as a consequence of the evidence he gave to the Economics Legislation Committee on 19 June 2009. On the contrary, Mr Grech was given significant support by his Treasury colleagues in the immediate aftermath of his giving evidence.

Mr Grech's evidence to the Committee on 19 June 2009 did play a part in triggering an investigation of Mr Grech's dealings with a journalist and others. This is because information which emerged before, during and shortly after the Senate Committee hearing raised an issue as to the provenance of an alleged email received by Mr Grech and the source of information that was published in the media on 20 June 2009. This combination of events prompted a broader investigation by Treasury of Mr Grech's email account on 20 June 2009. That further investigation was not, in and of itself, adverse to Mr Grech.

The investigation of Mr Grech's email account uncovered evidence which suggested that Mr Grech may have been involved in breaches of the Australian Public Service Code of Conduct and potentially the Crimes Act and as a consequence of those discoveries appropriate steps were taken by Treasury to deal with the matter in a manner consistent with its public functions and duties. Those actions have not been taken in consequence of his evidence at the Committee hearing and are not in contempt of the Senate.

The further investigation of Mr Grech's email account in turn triggered broader Treasury investigations in parallel and in co-operation with investigations by the Australian Federal Police (AFP) and the Australian National Audit Office (ANAO). As a consequence of the further Treasury

and parallel ANAO investigations a range of further possible breaches of the Public Service Code of Conduct were revealed. In consequence of the discovery of that material, a Code of Conduct process has been instigated and a decision on whether to suspend Mr Grech from duty is pending. These actions are potentially adverse to Mr Grech but, in Treasury's submission, these actions are not in consequence of his evidence to the Senate Committee hearing on 19 June 2009 and they are not in contempt of the Senate.

The Treasury has no in-principle objection to this letter and the attached submission being made public, should the Committee decide to do so. However, I note that the submission contains substantial personal information relating to Mr Grech and some personal information relating to other identified persons. No doubt the Committee will have due regard to personal privacy issues in deciding whether to disclose that information.

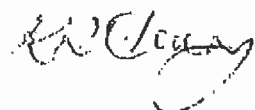
The Treasury will provide the Committee with a substantial body of documentary material in support of the submission. The Treasury is presently collaborating with the AFP to separately identify in that body of material any documents that may have a bearing on continuing criminal investigations by the AFP and which, as a consequence, may need to be treated confidentially by the Committee. I envisage this process will be completed before the end of this week.

Treasury has also annexed copies of the legal advice it has obtained from the Australian Government Solicitor in relation to this matter. This advice is provided on a strictly confidential basis for the information of the Committee only. I ask that neither the advices themselves or the substance of the advice be published by the Committee without the consent of Treasury. This is to ensure that legal professional privilege in the advices is not waived.

I have sent a copy of this letter and attachments to the Treasurer and Prime Minister.

I am at your disposal to appear before the Committee of Privileges, as is Mr Martine or other Treasury officers.

Yours sincerely



Ken Henry
Secretary to the Treasury

TREASURY SUBMISSION TO THE SENATE COMMITTEE OF PRIVILEGES

Reference to the Committee

1. On 24 June 2009 the Senate referred the following matter to the Committee of Privileges for inquiry and report:

Whether any adverse action was taken against Mr Godwin Grech in consequence of his evidence before the Economics Legislation Committee on 19 June 2009, and, if so, whether any contempt of the Senate was committed in this regard.
2. Adverse actions specifically identified by the Senator seeking to have the issue referred to the Committee were:
 - a) 'backgrounding' of the media in a manner prejudicial to Mr Grech;
 - b) the search of Mr Grech's home by the Australian Federal Police on 22 June 2009.
3. In addition the Senator indicated that he was 'concerned that an adequate and identifiable moral, mental and physical support system is provided to [Mr Grech]'.
4. This submission is structured as follows:
 - a) a summary of the submission;
 - b) an account of events relevant to the terms of reference;
 - c) comments on the terms of reference;
 - d) a response on behalf of Treasury employee Mr David Martine, who has been asked personally to provide a submission to the Committee in addition to the request made to the Secretary.

Summary of submission

5. Treasury is not aware of any adverse action taken against Mr Grech as a consequence of the evidence he gave before the Economics Legislation Committee on 19 June 2009. Treasury did not authorise, nor is it aware of, any backgrounding of journalists by its employees on this matter. As a result of information which came to light before, during and after Mr Grech's evidence, the Treasury did (i) undertake certain investigative and other steps in relation to issues raised by that information; (ii) have input into the investigation by the Australian Federal Police (AFP) into possible breaches of the Crimes Act by Mr Grech; and (iii) co-operate with inquiries undertaken by the Auditor-General. However, the investigations Treasury undertook were not in and of themselves adverse to Mr Grech, and were not undertaken to punish him, in any sense, in respect of the evidence he gave. Subsequent actions which were adverse to Mr Grech, such as

commencement of disciplinary action for possible breaches of the Australian Public Service Code of Conduct, were not steps taken by the Treasury on account of the evidence given by Mr Grech to any Senate Committee, but were the direct result of the discovery of evidence suggesting that Mr Grech may have been involved in serious misconduct.

6. Following the Committee hearing, Mr Grech was provided with significant support from his Treasury colleagues who were concerned for his welfare. Mr Grech has also been encouraged to use, and been provided with access to, the services of Treasury's employee assistance provider Davidson Trahaire Corpsych. In addition, the Treasury ensured that ACT Mental Health, which had a role in Mr Grech's care, was informed, as appropriate, of developments which may have been relevant to health-care decisions.

Initial steps taken by the Treasury concerning Mr Grech

7. On Saturday 20 June 2009, Treasury undertook an examination of Mr Grech's Treasury email. This examination was undertaken at the request of the Secretary. The initiation of this examination was prompted by:
 - a) information supplied by Mr Grech early on 19 June 2009 (prior to the evidence he gave to the Senate Committee) to the effect that he had spoken to journalist Steve Lewis about the Ozcar scheme;
 - b) statements made by Mr Grech during the Senate Committee hearing including admissions to the Senate Committee that he had spoken to Steve Lewis on four occasions the previous day; and
 - c) the publication of an article in the *Daily Telegraph*, authored by Steve Lewis, on the morning of 20 June 2009, which set out details of an email alleged to have been sent by Dr Andrew Charlton of the Prime Minister's Office to Mr Grech.
8. Before that time, the Treasury and the Department of the Prime Minister and Cabinet had undertaken searches of their email systems in order to determine whether Mr Grech had received an email from Dr Charlton and no evidence of such an email had been found. Given these searches, the above events of 19 and 20 June 2009 raised a real issue as to the provenance of the alleged email and the source of the material published by Steve Lewis.
9. The further examination of Mr Grech's email revealed emails of concern. Treasury then contacted the Australian Federal Police (AFP) and on 21 June 2009 provided them with access to a copy of Mr Grech's email.
10. Later on 21 June 2009, further examination of Mr Grech's email revealed evidence that Mr Grech may have forged an email from Dr Charlton to himself. This evidence was also provided to the AFP.

11. On the evening of 22 June 2009, Mr Grech, who had been on personal leave that day, made an unsolicited call to the Secretary and made statements which indicated he was responsible for the preparation of the forged email.
12. Since then Mr Grech has remained on personal leave following the provision of medical certificates.
13. As a result of the material obtained from the search of Mr Grech's email and his computer, and statements made by Mr Grech to the Secretary, Treasury has formally initiated action in relation to apparent breaches of the Australian Public Service Code of Conduct.
14. None of the action taken, or proposed, in relation to Mr Grech is as a consequence of the evidence he gave on 19 June 2009. The most which can be said is that Mr Grech's testimony to the Senate Committee, combined with other information, prompted Treasury to undertake an investigation of its IT system. Subsequent action in relation to Mr Grech was only undertaken when those investigations revealed evidence of possible significant misconduct by Mr Grech, whereupon it was incumbent upon Treasury to take the action which it did in discharge of its public functions and duties. In Treasury's submission there is no basis for any finding of contempt in relation to any of its actions.

Events relevant to the terms of reference

Events leading up to and immediately following Mr Grech's evidence

15. In December 2008, the Prime Minister and the Treasurer announced that the Commonwealth would establish a special purpose trust (otherwise known as 'OzCar') to provide transitional liquidity support to car dealerships that had been financed by GE Money Motor Solutions and GMAC, following the announced departure of these financiers from the Australian market. OzCar will raise finance from the four major domestic banks by issuing debt securities, and the Government has agreed to guarantee the repayment of the non-AAA rated debt securities issued by the trust.
16. Mr Grech was the Treasury official responsible for co-ordination of the implementation of OzCar under the supervision of Mr Martine and Mr Jim Murphy.
17. On 4 June 2009, Mr Grech gave evidence to the Senate Economics Legislation Committee Estimates hearing about the OzCar program. In evidence Mr Grech advised that he had received:

....representations from the Prime Minister's office and from the Treasurer's office ... alerting me to a situation confronting particular car dealers...

18. When pressed, Mr Grech confirmed that there had been one representation from the Prime Minister's Office (which was subsequently confirmed by the Prime Minister in the House of Representatives as being a representation in respect of Hunter Holden).
19. Specific questions were directed to Mr Grech concerning one particular dealer, John Grant Motors.
20. On 10 June 2009, Treasury received a request dated 5 June under the *Freedom of Information Act* from Senator Abetz. The request sought access to all documents, including emails between Treasury and any of:
 - a) the Prime Minister's office;
 - b) the Treasurer's office;
 - c) the Assistant Treasurer's office; or
 - d) the Department of Prime Minister and Cabinetregarding car dealer John Grant (and related parties).
21. Searches of Treasury documents, including emails, which may fall under that FOI request, were undertaken primarily by Mr Grech. No email from the Prime Minister's office to Mr Grech was located in respect of John Grant Motors, and Mr Grech signed cover notes (on 11 and 15 June) attached to the bundle of relevant documents confirming that he had only located emails on John Grant concerning a referral from the Treasurer's Office. (Documents falling under this FOI request were released to Senator Abetz on 7 August 2009).
22. Following an encounter between opposition leader Mr Malcolm Turnbull and Dr Charlton on 17 June 2009, which received significant press coverage, and after discussions between Treasury and the Treasurer's Office, searches of Treasury email logs were conducted by Treasury IT commencing on the evening of 18 June 2009 for any email from Dr Charlton to Mr Grech relating to John Grant. No such email was found.
23. On the morning of 18 June 2009, Mr Grech sent an email to Mr Chris Barrett (cc Dr Henry, Mr Murphy, and Mr Martine) indicating that he had been taking calls from Steve Lewis, seeking a response to various questions relating to any instructions that he had been given by the Treasurer's Office about John Grant. Mr Grech indicated that he advised Steve Lewis that he would respond to the Senate Committee not the press.
24. Late on 18 June 2009, Mr David Martine, General Manager, Financial System Division in Treasury, advised Mr Grech that it is normal practice to refer media calls on sensitive issues to the Treasurer's Office. Mr Murphy,

Mr Martine and Mr Grech also met on the evening of 18 June 2009 to discuss Treasury's appearance before the Committee the following day.

25. Very early on 19 June 2009 (at 5.46am) Mr Grech sent an email to the Secretary to the Treasury, Dr Henry, and a number of other staff, in relation to a news item by journalist Steve Lewis which appeared in the News Ltd press that morning. Mr Grech disclosed that he had spoken to the journalist on four occasions on the previous day, and had made a number of statements to him. In particular Mr Grech advised in the email that he had told the journalist (on three occasions in the course of two of the telephone conversations) that there was no 'correspondence' and 'communication' between the Prime Minister's office and Treasury in relation to car dealer John Grant. Mr Grech further stated in the email:

At estimates today, I plan on playing with a straight bat and saying it as I understand the true facts to be.

26. At around 2.00pm that same day (i.e. 19 June 2009) Mr Grech and Mr Martine gave evidence before the Senate Economics Legislation Committee in relation to the *Car Dealership Financing Guarantee Appropriation Bill 2009* (OzCar Bill).
27. At this point in time, no adverse action of any kind had been taken or was contemplated in relation to Mr Grech.
28. Mr Grech gave evidence at the Senate Committee. His evidence included evidence to the effect that:

.....my recollection may well be totally false or faulty, but my recollection – and it is a big qualification – but my recollection is that there was a short email from the PMO to me which very simply alerted me to the case of John Grant, but I do not have the email.

and included the following exchange:

Senator Cameron: ...How many times did you speak to Steven Lewis yesterday?

Mr Grech: Yesterday?

Senator Cameron: Yes

Mr Grech: At least four occasions.

Senator Cameron: You spoke to Steven Lewis on four occasions.

Mr Grech: Yes

....

Mr Grech: He approached me. I did follow up on one occasion just to clarify a point that he was making, but he approached me.

Senator Cameron: You indicated earlier in your evidence that you were surprised to see the reporting in relation to Mr Lewis' report. Is that because you had denied the existence of any correspondence between the Prime Minister's department and Mr Lewis to Mr Lewis? Is that the position that you put to Mr Lewis?

Mr Grech: That is correct

Senator Cameron: That is correct. So you denied the existence of any correspondence to Mr Lewis.

Mr Grech: That is correct.

29. At the conclusion of the Committee hearing Mr Grech and Mr Martine were accosted by the media on their walk through Parliament House to the Ministerial Entrance car park. They returned to Treasury without discussing the content of Mr Grech's evidence. Upon his return to Treasury Mr Grech was apparently distressed. Mr Martine and his executive assistant regularly checked on his welfare. At around 5.00pm Treasury employee Mr Di Giorgio spoke with Mr Martine, about organising a counsellor for Mr Grech to speak with. Mr Di Giorgio organised for a counsellor from Treasury's employee assistance provider Davidson Trahaire Corpysch to call Mr Martine at around 6pm. When she called Mr Martine, he persuaded Mr Grech to take her call. Mr Grech spoke to her briefly and took her contact details.
30. The Secretary and Mr Murphy also spoke by telephone to Mr Grech shortly before 6.00pm to offer him support and comfort, and Mr Martine and Ms Deidre Gerathy, Group General Manager Corporate Services Group, checked on his welfare through the course of the evening. Staff from the Treasurer's Office contacted the Secretary and Mr Martine to check that arrangements were in place to ensure Mr Grech's welfare.
31. Both Mr Martine and Ms Gerathy discussed with Mr Grech whether he needed any assistance to drive home, which he declined. They also considered whether the media may have reached Mr Grech's house which is listed in the White Pages. Just after 10pm that evening Mr Martine emailed Mr Grech to check whether he had any difficulties when he arrived home. Mr Grech responded early Saturday morning by email confirming that he was okay. Ms Gerathy spoke briefly to Mr Grech around 10.10pm – he said he was on his way home and that he was okay.
32. As at Friday evening, 19 June 2009, no consideration was being given to taking any adverse action in relation to Mr Grech as a consequence of what he said at the Committee hearing, or for any other reason.
33. Mr Martine called and left a message for Mr Grech around 10.30am on Saturday 20 June 2009. They then spoke for about 5 minutes and Mr Grech indicated that he was okay but that the media was outside his house. Later Mr Martine discussed this issue with Ms Gerathy. He then emailed Mr Grech

at around 1.00pm and indicated that the best course was for him to remain in his house until the media departed that night, and that Treasury would then move him to a hotel or alternative accommodation at the Department's expense. Mr Grech however decided to remain at his house that night. Mr Martine emailed Mr Grech on two further occasions that evening to check whether he needed further assistance from Treasury. He indicated that he did not.

34. On Sunday morning Mr Martine emailed Mr Grech to check on him. He spoke with Mr Grech briefly mid-morning and Mr Grech indicated that the media were no longer present, and he had decided to stay home. They discussed whether Mr Grech would come in to work the next day, and Mr Martine indicated that if he chose to come in, he should call Mr Martine first to determine whether there was any media present at the entrance to the Treasury.
35. At mid-afternoon Sunday, for reasons outlined below, Ms Gerathy then called Mr Martine and advised that she had discussed the issue with the Secretary and they agreed that it would be best for Mr Grech to take the week off. Mr Martine emailed Mr Grech and they spoke briefly at around 3.30pm.

Other events over weekend 20-21 June 2009

36. On Saturday 20 June 2009, an article appeared in the *Daily Telegraph* written by journalist Steve Lewis. The article quoted from an email allegedly sent on 19 February 2009 from Dr Charlton to Mr Grech concerning provision of assistance to John Grant Motors.
37. The previous evening the Secretary had seen a report on the ABC's Lateline concerning Mr Grech's evidence at the Senate Committee hearing. On Saturday, the Secretary spoke to Mr Chris Barrett and Mr Jim Chalmers of the Treasurer's Office and Mr Martine and Mr Di Giorgio of the Treasury. Over the course of Saturday the Secretary began to be concerned (as a result of what Mr Grech had advised Treasury colleagues, what had been said to the Senate Committee, and the publication of an article by Steve Lewis in the *Daily Telegraph*) about the possible provenance of the alleged email and the source of material which had been published by Steve Lewis.
38. At around 1.40pm Dr Henry rang Ms Gerathy. He asked Ms Gerathy to arrange a search of Mr Grech's emails to see if Mr Grech had sent the journalist Steve Lewis any emails in the preceding week.
39. Following receipt of that request, Ms Gerathy arranged for Treasury IT to undertake a search of Mr Grech's email account for emails sent to Steve Lewis. In addition to setting up the search, Treasury IT facilitated access for Ms Gerathy to Mr Grech's email, to enable her to look through Mr Grech's inbox and sent items. In the course of examining Mr Grech's inbox and sent

items Ms Gerathy came across various emails sent by Mr Grech which raised concerns in her mind about the propriety of Mr Grech's dealings with various persons.

40. Ms Gerathy then discussed the content of these emails with Dr Henry. That discussion increased and broadened Dr Henry's concerns about possible wrongdoing on the part of Mr Grech. Subsequently a decision was made to discuss the matter with Treasury's internal lawyer the following Monday.
41. At about 7pm Saturday evening, the Secretary learned that the Prime Minister had announced that the AFP had been requested to investigate matters relating to the alleged email from Dr Charlton to Mr Grech.
42. At about 7.20pm the Secretary called AFP Commissioner Mick Keelty and requested that the AFP's investigation include an investigation of emails stored in the Treasury IT system.
43. The Secretary then phoned Ms Gerathy and advised her that he had called the AFP. That evening, Ms Gerathy received a call from a federal agent of the AFP to arrange a meeting for the following day.
44. On Sunday 21 June 2009 at 10am, Ms Gerathy and members of Treasury IT Services met with federal agents of the AFP at Treasury. Ms Gerathy arranged for Treasury IT Services to provide the AFP with a copy of Mr Grech's email. They restored some of Mr Grech's deleted items and provided the AFP with a DVD containing Mr Grech's Treasury email. At 12pm Ms Gerathy and the AFP officers left Treasury. Members of Treasury IT remained at Treasury examining the contents of Mr Grech's email. When examining 'recovered deleted' files on the server, two emails with content indicating an email sent from Dr Charlton to Mr Grech entitled 'Car Dealer Financing' were discovered. One email was dated Thursday February 2009, the other was dated Thursday 19 February 2009. The emails were otherwise identical. One of the emails had been forwarded to his home email.
45. Soon after, Ms Gerathy was rung and advised that it appeared that the email 'everyone was looking for' had been found. Ms Gerathy advised IT Services to contact the AFP, which was done. IT Services then attempted to determine whether the emails had passed from Dr Charlton to Mr Grech through the Treasury gateway. No evidence of them being sent from Dr Charlton to Mr Grech was found.
46. The AFP returned to Treasury at around 12.50pm. Treasury IT conducted a further search of the Treasury gateway to determine if there was evidence of the emails being forwarded to Mr Grech's home email. Treasury IT confirmed that there was a transaction record of the email being sent on Friday 5 June 2009 at 3.06pm.

47. Treasury IT provided the AFP with hard copies of various emails.
48. Treasury stopped Mr Grech's access to his Treasury IT account on Sunday 21 June 2009 and on Monday 22 June Treasury stopped Mr Grech's access to his Treasury Blackberry and decided to limit Mr Grech's access to the Treasury building on an unescorted basis. These actions were taken to prevent possible loss of, or interference with, Treasury records.
49. On Sunday evening, Commissioner Keelty phoned the Secretary and reported that his officers had discovered material sufficient to justify them seeking a warrant to search Mr Grech's home, including a search of material that might be stored on his home computer.

Events subsequent to the search of Mr Grech's email

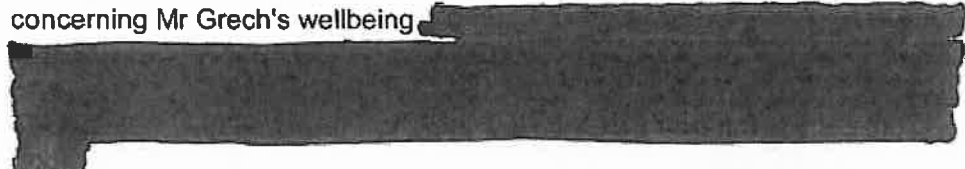
50. On Monday 22 June 2009 the AFP executed warrants on Mr Grech's house. Later that day the AFP issued a Media Release which stated:

....a preliminary forensic investigation of computers located at a premises in Calwell and at the offices of the Department of Treasury has been undertaken.

Preliminary results of those forensic examinations indicate that the e-mail referred to at the centre of this investigation has been created by a person or persons other than the purported author of the e-mail.

A 42-year-old Calwell man has been interviewed by the AFP in relation to this matter and it will be alleged that the interview is consistent with preliminary forensic advice.
51. Later that same evening Mr Grech contacted Dr Henry by telephone. Mr Grech told Dr Henry that following his [Mr Grech's] appearance at Senate Estimates on 4 June 2009, Mr Grech was spoken to by the Treasurer's Chief of Staff and two Treasury DLOs who asked whether he was sure he had received a representation from the Prime Minister's office about John Grant. Mr Grech told Dr Henry that he had advised them that he had and that the representation was from Dr Charlton. Mr Grech told Dr Henry that after this discussion he carried out a search to locate an email he believed he had received from Dr Charlton concerning John Grant Motors. Mr Grech told Dr Henry that he could not find any such email, and thought he or Treasury IT had deleted it. Mr Grech told Dr Henry that he then decided to 'reproduce' the email, and forwarded the reproduced email to his home email address. Mr Grech denied forwarding the reproduced email to anyone other than himself. Mr Grech told Dr Henry that on 16 June 2009, in a telephone discussion with Mr Lewis, he said to Mr Lewis that the email from Dr Charlton 'went something like this', and he (Mr Grech) then proceeded to read out to Mr Lewis the contents of the email he had 'reproduced'.
52. Earlier in the afternoon of 22 June 2009, Ms Pamela Henderson, General Manager, Human Resources, met with Dr Henry who raised a number of

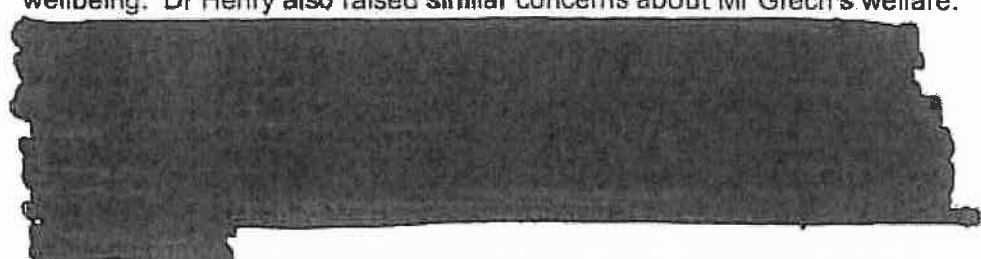
concerns about Mr Grech's wellbeing and asked Ms Henderson to clarify whether leave arrangements had been put in place for Mr Grech. Dr Henry also asked Ms Henderson to contact the AFP to receive an update concerning Mr Grech's wellbeing.



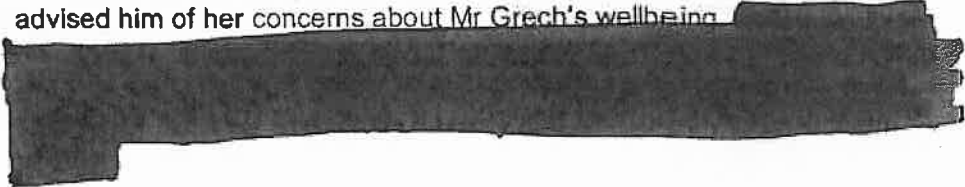
53. Follow-up by Ms Henderson included discussions with (i) Mr Martine to check leave arrangements for Mr Grech, (ii) Ms Gerathy to discuss the provision of employee assistance support, and (iii) Ms Carmel McGregor, Deputy Public Service Commissioner, who had raised concerns for Mr Grech's wellbeing with Dr Henry.

54.



55. At about 8pm on 22 June Ms Henderson met with the Secretary who advised that the Prime Minister had contacted him and was concerned for Mr Grech's wellbeing. Dr Henry also raised similar concerns about Mr Grech's welfare.
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56. At about 9.45pm Ms Henderson had a discussion with Ms Gerathy and was advised that Ms McGregor had spoken with Mr Grech who informed her that he was considering admitting himself to hospital. Ms Gerathy asked Ms Henderson to check with the hospital in the morning.
57. Mr Grech was admitted to hospital on the evening of 22 June 2009.
58. On 23 June Ms Henderson contacted the hospital and confirmed that Mr Grech had been admitted to hospital and provided her contact details to enable Mr Grech to call her.
59. At 6.45pm 23 June Ms Henderson received a call from Mr Grech and asked him whether he was receiving the support he needed. He said that he was but that he was in a poor state.

60. Ms Henderson provided her contact details and informed him that she could be contacted at any time and asked to be kept informed of his wellbeing.
61. At 7pm 23 June Ms Henderson had a meeting with the Secretary and advised him of her concerns about Mr Grech's wellbeing 
62. On 17 July and 22 July Ms Henderson wrote to Mr Grech's lawyers and asked them to remind Mr Grech that he continues to have access to the department's employee assistance provider.
63. On Friday 17 July 2009, Mr Grech's lawyers were advised by Dr Gruen, in his capacity as acting Secretary, that he was intending to consider whether Mr Grech should be suspended from duty on the basis that he may have breached the Code of Conduct in various respects. Mr Grech was advised of the matters which may constitute a breach of the Code of Conduct and he was also provided with the material the acting Secretary was intending to consider. None of the matters raised in relation to possible suspension concerned the content of Mr Grech's evidence to the Senate Committee. Prior to sending the letter of 17 July the Treasury sought and obtained advice from AGS as to whether such a step involved a breach of parliamentary privilege or a contempt of the Parliament.
64. On 17 July Mr Parker called the Director of ACT Mental Health to inform them that Mr Grech would be receiving letters that day from each of the ANAO (a draft of the ANAO audit report into Ozcar) and the Treasury (regarding possible suspension action).
65. On Wednesday 22 July 2009, Mr Grech's solicitor was advised that the acting Secretary had decided, in consequence of a further personal leave application, to delay consideration of the suspension question pending Mr Grech's discharge from hospital (to which he had been re-admitted some time earlier).
66. On 5 and 10 August 2009, Dr Gruen, in his capacity as delegate of the Secretary, wrote to Mr Grech's lawyers indicating that he now intended to proceed with a suspension decision and notified Mr Grech of a further possible breach of the Code of Conduct¹. Mr Grech was notified that, subject to any submission he made, Dr Gruen was considering whether reasonable grounds existed to reach a finding, pursuant to Public Service Regulation

¹ The decision to proceed with the suspension decision was taken in light of Mr Grech's significant submission to the Auditor General's Report No 1 of 2009 and Mr Grech's media interview with the Australian newspaper.

3.10(7), that it would not be appropriate to delay the suspension decision beyond 14 August.

67. On 7 August 2009, Dr Ian Watt, Secretary of the Department of Finance and Deregulation was appointed by the Secretary to the Treasury to determine whether Mr Grech had breached the Code of Conduct. Treasury also appointed an investigator to prepare a report to assist Dr Watt in making his determination.

Possible breaches of the Code of Conduct

68. Since 20 June 2009, Treasury officials have continued to investigate and analyse various emails sent by Mr Grech. The Australian Government Solicitor was engaged to assist Treasury.
69. Following advice received from AGS, Treasury is taking steps to proceed with a determination of whether there have been breaches of the Australian Public Service Code of Conduct by Mr Grech. The following represents a broad description of concerns which have arisen to this point in relation to Mr Grech:
- a. whether, on or about 5 June 2009, Mr Grech may have forged an email purporting to be an email from the Prime Minister's adviser Andrew Charlton and forwarded it to his home email, contrary to section(s) 13(1), 13(5), 13(8), and/or 13(11) of the Code;
 - b. whether on or about 12 June 2009, Mr Grech may have disclosed the contents of a forged email to the leader of the opposition, Mr Malcolm Turnbull, and expressly or impliedly represented the contents to comprise information contained in an official record, contrary to section(s) 13(1), 13(3) and/or 13(11) of the Code;
 - c. whether on or about 12 June 2009, Mr Grech may have used a Treasury Cabcharge to attend a private meeting with Mr Turnbull (and others) during business hours, contrary to section(s) 13(1), 13(8) and/or 13(11) of the Code;
 - d. whether, on or about 16 June 2009 Mr Grech may have disclosed to Steve Lewis, confidential information obtained in connection with his employment, contrary to section(s) 13(1), 13(4), 13(6), (11) and 13(13);
 - e. whether, on or about 16 June 2009, Mr Grech may have disclosed the contents of a forged email (see above) to reporter Steve Lewis, and expressly or impliedly represented the contents to comprise information contained in an official record, contrary to section(s) 13(1), 13(3) and/or 13(11) of the Code;
 - f. whether, between 19 June and 22 June 2009, Mr Grech gave conflicting accounts of his dealings with Mr Steve Lewis to the Secretary to the

Treasury, such that either or both of those accounts may not have been the truth, contrary to section(s) 13(1) and/or 13(11) of the Code;

g. whether, between December 2008 and June 2009, Mr Grech may have dealt with Credit Suisse in a manner inconsistent with his obligations as a public servant by:

- disclosing confidential information to Credit Suisse officials, including on 8 May 2009, giving Credit Suisse advance notice of a tender;
- proposing to enter, or entering, an improper arrangement with Credit Suisse in relation to fees for providing services to the Commonwealth in relation to the Ozcar program; and/or
- inappropriately promoting Credit Suisse and its role in the Ozcar program within Treasury and to the Prime Minister and Treasurer by reason of his personal relationship with a Credit Suisse official,

contrary to section(s) 13(1), 13(7), 13(10) and/or 13(11) of the Code of Conduct and/or Public Service Regulation 2.1;

h. whether, on 13 May 2009, Mr Grech may have dishonestly informed other Treasury staff that an email sent to a Credit Suisse official disclosing the list of invitees to tender to provide services to Treasury had not been received by that official, contrary to section 13(1) of the Code of Conduct;

i. whether, between September 2008 to June 2009, Mr Grech may have disclosed confidential Treasury information and information about his dealings with Ministers to third parties (including to KPMG and Credit Suisse) contrary to Public Service Regulation 2.1 and/or section 13(6) of the Code of Conduct;

j. whether, between September 2008 to June 2009, Mr Grech may have used the Treasury IT system to prepare overtly party political material, contrary to section 13(8) of the Code of Conduct;

k. whether during May 2009, Mr Grech may have provided greater assistance to a Holden car dealer than he provided to other car dealers who sought assistance from, or were referred for assistance to, Treasury; because the principal of the dealership was a significant donor to the Liberal Party, contrary to sections 13(1), (7), (8), (10) or (11) of the Code of Conduct;

l. whether, on 10 November 2008, Mr Grech may have used Treasury letterhead to write a letter to the Western Bulldogs Football Club (a club he apparently supports) in order to assist the club, contrary to section(s) 13(6), 13(7) and/or 13(10) of the Code of Conduct.

70. Treasury will shortly be supplying the Committee with the emails and documents obtained from Mr Grech's email and other sources which disclose conduct which could amount to a breach of the Code of Conduct.
71. In addition to the conduct identified above as potentially in breach of the Code of Conduct, Treasury has also identified material which suggests Mr Grech may have engaged in other forms of improper behaviour. However, as that behaviour is closely linked to parliamentary proceedings, Treasury does not intend to pursue Code of Conduct action in relation to it.
72. The conduct identified is as follows.
73. On 25 May 2009, Mr Grech sent Mr Sinodinos an email stating:
- If possible, it would be good if you can send Eric Abetz a very short e mail or SMS etc before Friday this week just to let him know that I am on his side.
- I will explain later - but I need him to know from a highly credible source that I am Lib.
74. This email takes on a very distinctive complexion when it is understood that on 4 June 2009, Mr Grech was questioned extensively by Senator Abetz in Senate Estimates about Ozcar. Further, the questions asked by Senator Abetz bear a striking similarity to a document found on Mr Grech's Treasury computer, which was last modified on 29 May 2009, one week prior to the hearing taking place. This document has been released publicly by the Leader of the Opposition.
75. Accordingly, it would appear both from this material and admissions by the Leader of the Opposition and Senator Abetz, that Mr Grech met with the Leader of the Opposition and Senator Abetz, and provided Senator Abetz with questions to ask him which were designed to damage the Government and/or advance the interests of the Liberal Party.
76. If an inquirer found that such events occurred then Mr Grech is likely to have failed to behave in a way that upholds the APS Value of being apolitical. However, Treasury does not intend pursuing that matter as there are difficulties associated with using much of the evidence supportive of such a conclusion.
77. First, such a conclusion may depend in part upon examination of the Senate Estimates transcript of 4 June 2009 and comparing it with the document apparently prepared by Mr Grech. While such a course might be open to an inquirer into a breach of the Code of Conduct, it would not be a course open to Fair Work Australia if it were ever called upon to review any decision to terminate Mr Grech's employment.

78. The *Parliamentary Privileges Act 1987* (Privileges Act) specifically prohibits the tendering of evidence in a tribunal concerning proceedings in Parliament for the purpose of drawing inferences from anything forming part of those proceedings (section 16(4)). A transcript of the evidence given to a Senate Committee constitutes evidence concerning proceedings in Parliament and accordingly could not be received by Fair Work Australia.
79. Indeed it may be difficult to tender evidence of the fact that Senator Abetz was a member of a Senate Committee before which Mr Grech appeared, and that he asked Mr Grech questions.
80. Once the Parliamentary Privileges Act prevents the tendering of evidence, its restrictions are difficult to overcome.²

2 Senate Resolution 10 (agreed 25 February 1988) provides:

10. Reference to Senate proceedings in court proceedings

(1) That, without derogating from the law relating to the use which may be made of proceedings in Parliament under section 49 of the Constitution, and subject to any law and any order of the Senate relating to the disclosure of proceedings of the Senate or a committee, the Senate declares that leave of the Senate is not required for the admission into evidence, or reference to, records or reports of proceedings in the Senate or in a committee of the Senate, or the admission of evidence relating to such proceedings, in proceedings before any court or tribunal.

It is noteworthy that Resolution 10 is itself subject to any law relating to disclosure of proceedings in the Senate, which means that the Resolution is subject to the Parliamentary Privileges Act, and thus does not have the effect that privileged material can be admitted in proceedings if it is otherwise prohibited by the Parliamentary Privileges Act. Further, in the absence of legislation authorising it, parliamentary privilege cannot be waived by an individual Member of Parliament and perhaps not even by a House of Parliament: *Prebble v Television New Zealand Ltd* [1995] 1 AC 321 at 335 (on the common law); *Hamsher v Swift* (1992) 33 FCR 545 at 564 (on s 16 of the PP Act 1987 (Cth)); see also, Odgers' *Australian Senate Practice* 12th Ed at 74, Barlin (ed.), *House of Representatives Practice*, 5th edn., (2005) at 718-719; Limon and McKay (eds.), *Erskine May's Treatise on The Law, Privilege, Proceedings and Usage of Parliament*, 23rd ed., (1997) at 66-67, 171-172.

Moreover, the Privileges Act only codifies some of the privileges and immunities of Parliament and does not abolish those in force under section 49 of the Constitution (see section 5 of the Privileges Act). The significance of this is adverted to by Odgers' *Australian Senate Practice* 12th Ed at 50:

Just as the wide definition of 'impeached or questioned' does not exhaust the meaning of that phrase, the definition of 'tribunal' does not exhaust the category of bodies before which parliamentary proceedings must not be impeached or questioned. This is because section 16 provides that article 9 has the effect of the provisions of the section 'in addition to any other operation' (emphasis added). This means that it is open to a court to find that other activities, possibly not covered by the Act in itself, before other bodies, not included in the Act's definition of tribunal, are contrary to the law of parliamentary privilege as embodied in article 9. If, for example, a member's participation in parliamentary proceedings is used against the member in some sense before some body which, though not a tribunal within the statutory definition, has the power to impose some detriment on the member, a court could well hold that this is unlawful. The question would be determined by the nature of the body, of its proceedings and of the detriment imposed on the member.

Further, even if the use of particular evidence concerning Parliamentary proceedings in a Code of Conduct inquiry would not be regarded by a court as a breach of parliamentary privilege, the Parliament itself may consider doing so an improper interference with the free exercise of its functions and restrain the use of Parliamentary materials by the inquirer, using its own procedures.

81. In addition to the apparent orchestration of the Senate Estimates hearing with Senator Abetz, a document (later released publicly by the Leader of the Opposition) was found on Mr Grech's Treasury computer which when examined in conjunction with Hansard for the House of Representatives on 15 June 2009 suggests that Mr Grech may have drafted questions on his Treasury computer which were ultimately used by the Leader of the Opposition during question time. Again, for the reasons set out above, Treasury does not propose pursuing these matters.

SUBMISSION

82. On the basis of this chronology, it is clear that Treasury took no adverse action in relation to Mr Grech on account of the evidence he gave to the Senate Committee on 19 June 2009. To the extent that any adverse action has been or will be taken against him, that action is the consequence of discovering evidence which suggests significant breaches of Mr Grech's obligations as a public servant, quite independent of the evidence he gave to the Committee.

Contempt of Parliament and the Senate referral

83. In formulating this submission, Treasury has obtained legal advice in relation to its conduct. Having regard to that legal advice Treasury considers the following represents the appropriate framework for analysing the issue which is the subject of reference to the Privileges Committee.
84. Treasury understands that the Senate regards the protection of witnesses who appear before its Committees as a very important duty.
85. In seeking to protect witnesses the Senate has a choice of referring for prosecution any alleged offender under the *Parliamentary Privileges Act 1987* or proceeding against the alleged offender for contempt of the Senate. In referring the matter to the Privileges Committee, the Senate has determined to investigate whether a contempt of the Senate has occurred and therefore exercise its own jurisdiction rather than initiating a prosecution.

Senate's own jurisdiction

86. In 1988 the Senate passed eleven resolutions setting out, among other things, its position on various questions concerning Parliamentary Privilege. Resolution 6 contains a non-exhaustive list of matters to be treated by the Senate as contempt. Of particular significance here is paragraph 11 of resolution 6 which provides:

Molestation of Witnesses

- (11) A person shall not inflict any penalty or injury upon, or deprive of any benefit another person on account of any evidence given or to be given before the Senate or a committee.

87. This resolution substantially reflects the wording of s 12(2) of the *Parliamentary Privileges Act 1987* (Privileges Act).

Focus of Senate Inquiry

88. The reference to the Privileges Committee does not in terms reflect this wording. It asks whether 'adverse action' was taken against Mr Grech 'in consequence' of his evidence. This formulation is different to the formulation in resolution 6(11) which refers to 'penalty', 'injury' or deprivation 'of any benefit', 'on account of' any evidence given.
89. Based on past Committee practice it is difficult to determine which of the two formulations the Senate should use as the basis of its inquiry. On some occasions the Committee has ignored the terms of the reference and focussed on the formulation in resolution 6(11)³. On others, the Committee has focussed on the terms of the reference exclusively, and determined whether contempt has been committed by reference to the wording in the reference.⁴
90. In this case at least, Treasury submits that whatever formulation is adopted by the Committee for consideration, on either test, there is nothing which Treasury or any of its employees have done which could amount to contempt.
91. Previously, the Committee has looked to see if there is a 'sufficient connection'⁵ between any detriment suffered by a witness and the evidence that they gave to the Senate committee, and if there is it makes a finding of contempt. So, for example, in Senate Committee of Privileges 17th report, the Committee found that a witness who was evicted from her house the day after she gave evidence to a committee had not been penalised as a result of giving that evidence. The Committee was satisfied that the adverse action was taken because of the stress caused to the landlord and co-tenant by the controversy surrounding her and the media interest in her. As there was no intention to inflict harm as a consequence of the evidence given, no contempt was found.
92. In Treasury's submission, the Committee has in the past required, and on this occasion should require, a direct relationship between the evidence given and the adverse action taken to be established before making a finding of contempt. It should not be sufficient that the evidence given merely forms part of a chain of events which ultimately led to an adverse action.⁶

³ The Senate Committee of Privileges 42nd Report May 1993 para 1.11.

⁴ The Senate Committee of Privileges 21st Report December 1989 para 59.

⁵ The Senate Committee of Privileges 55th Report June 1995 para 3.33.

⁶ See 55th report where non-renewal of contract followed from a long history of dispute which included the giving of unfavourable evidence to a Senate Committee.

Accordingly, in a case such as the present, where there is only a remote connection between the evidence given and the action taken, no finding of contempt could be made.

93. The Committee should be guided by Senate Privilege Resolution 3 which provides:

...the Senate's power to adjudge and deal with contempts should be used only *where it is necessary to provide reasonable protection for the Senate and its committees and for Senators against improper acts tending substantially to obstruct them in the performance of their functions*, and should not be used in respect of matters which appear to be of a trivial nature or unworthy of the attention of the Senate.(emphasis added)

94. Resolution 3 refers to a number of very important aspects of the limiting principle recited therein:

- the Senate's power to deal with contempt is a purposive power which is directed to reasonable protection of the Senate;
- it is only improper acts which should attract the exercise of that power; and
- such acts must have a tendency to substantially obstruct the performance of the functions of the Senate, its committees, and its members.

95. Resolution 3 must also be applied in light of the provisions of section 4 of the Parliamentary Privileges Act, which provides:

Conduct (including the use of words) does not constitute an offence against a House unless it amounts, or is intended or likely to amount, to an improper interference with the free exercise by a House or committee of its authority or functions, or with the free performance by a member of the member's duties as a member.

96. The House of Representatives has noted, in relation to section 4 and the power to deal with contempt, as follows:

.....section 4...Imposes a significant qualification...This provision should be taken into account at all stages in the consideration of possible contempts.⁷

97. Significantly, the expression 'improper interference' in section 4 of the Parliamentary Privileges Act contemplates each of two things: first, an *interference* with the free exercise by a House or committee of its authority or functions; and secondly, that such interference be *improper* (as noted above, Resolution 3 also requires that any improper acts must have a tendency to *substantially* obstruct performance of functions).

⁷ House of Representatives Practice, 5th Edition, at pages 726- 727..

98. Finally, it is appropriate that any power to deal with contempt should be exercised with restraint. In this regard, the *House of Representatives Practice*, 5th ed, at page 727 states:

In 1984 the Joint Select Committee on Parliamentary Privilegerecommended the adoption of a policy of restraint in the exercise of the penal jurisdiction, proposing that each House should exercise its powers in this area only when satisfied that to do so was essential in order to provide reasonable protection for the House, its Members, its committees or its officers from such improper obstruction, or attempt at or threat of obstruction such as was causing, or likely to cause, substantial interference with their respective functions. Although no explicit action was taken by the House to implement this recommendation, successive Speakers, in giving decisions on complaints raised, have had regard to the policy of restraint and have indicated support for it.⁸

99. The Treasury submits that the actions it has taken in respect of Mr Grech do not involve any actual or likely interference with the free exercise of the functions of the Senate, its Committees or members – let alone interference of a kind which could properly be described as improper and/or substantial.
100. The Treasury submits that if the Senate were to protect Mr Grech from legitimate inquiries being undertaken into matters arising independent of the evidence he gave to the Senate Committee, the Privileges Committee would be stepping well beyond what is necessary to provide reasonable protection to a witness.
101. Treasury contends that undertaking an investigation of its own IT records to resolve questions which arose, in part, as a consequence of statements made during a Senate Committee, does not constitute an adverse action against Mr Grech.
102. Treasury does accept though that the taking of disciplinary action against a public servant can amount to an adverse action for the purposes of considering whether a contempt has been committed. The Privileges Committee has previously found that such action, regardless of outcome, 'can represent a penalty on a person'.⁹ However, in the present case, the Privileges Committee would need to be satisfied that the action taken by Treasury and under consideration by Treasury was/is 'in consequence of' or 'on account of' Mr Grech's evidence to the Senate Committee.
103. The words 'in consequence of' mean something akin to 'by reason of', 'on account of', or 'because of'. In the past the Privileges Committee has approached the question looking for a reasonably close causal connection between the adverse action taken and the evidence given to the Senate. It

⁸ House of Representatives Practice, 5th Edition, at pages 726- 727.

⁹ Senate Committee of Privileges 42nd Report para 2.32.

has not been sufficient for the evidence given to merely form part of a chain of events which ultimately resulted in some adverse action being taken. The focus of the inquiry is often on the subjective intentions of those who took the adverse action in order to determine whether it constituted some form of punishment for the person having given evidence to a Senate committee.¹⁰ In cases where the Committee is satisfied that the evidence given was not the motivator behind the adverse action, no contempt has been found. In cases where the giving of evidence directly motivated the taking of adverse action then contempt has been found.

104. The expression 'in consequence of' and 'on account of' are very similar in meaning to the expression 'by reason of'. The latter expression has been the subject of extensive judicial consideration, particularly in the context of anti-discrimination legislation which prohibits adverse action being taken 'by reason of' a person's gender, race, or disability. In *Purvis v New South Wales* (2003) 217 CLR 12 the High Court examined the meaning of the phrase 'by reason of':
 - Gleeson CJ, McHugh and Kirby JJ considered that it directed attention to the true basis for taking action;
 - McHugh and Kirby JJ held that the expression requires consideration of why action was taken: what was the basis that actuated or moved the person to take the action in question?
 - McHugh and Kirby JJ specifically rejected the 'but for' test ie the mere fact that, but for factor A, action B would not have been taken, does not establish that action B was taken by reason of factor A;
 - Gummow, Hayne and Heydon JJ held that the central question will always be - why was the person concerned treated as he or she was? Motive, purpose and effect may all bear on the answer to that question.
105. In Treasury's submission, when this reasoning is applied to the circumstances here, it means that any action taken by Treasury cannot be a contempt of Parliament. In a causal sense, Mr Grech's evidence, when combined with other information, led senior Treasury officials to decide that examination of the Treasury IT system was warranted. This did not constitute adverse action against Mr Grech.
106. When significant evidence suggesting possible serious misconduct on the part of Mr Grech was unearthed, it was this material itself which prompted disciplinary action to be considered and the AFP to be contacted. These actions were not taken on account of Mr Grech's evidence but in order to properly investigate and determine whether criminal conduct, or a breach of

¹⁰ See in particular Senate Committee of Privileges reports numbers 17, 21, 42 and 55.

the Code, had occurred, with a view to enforcing and maintaining proper standards of conduct within the APS.

Mr David Martine

107. Mr Martine, General Manager, Financial System Division, Treasury, has been invited by the Privileges Committee to make a separate submission to the Committee. Mr Martine has elected instead to provide input into Treasury's submission concerning the facts leading up to and following Mr Grech's evidence on 19 June 2009.
108. Mr Martine is Mr Grech's direct supervisor.
109. In the days prior to the hearing of 19 June 2009, Mr Martine worked with Mr Grech to determine whether Treasury had a record of any email from the Prime Minister's office to Mr Grech in relation to John Grant Motors. On the evening of 18 June 2009, Mr Martine asked Treasury IT Services to interrogate email records for the period February 2009. IT Services completed searches for the emails at about 2am on 19 June 2009 and was unable to locate any such email. At 7.47am on 19 June, the search was extended at the request of Mr Martine to also include any emails sent from Dr Charlton to Mr Grech to the end of March 2009.
110. At 5.45 am on Friday 19 June 2009, Mr Martine, along with a number of other recipients, received an email from Mr Grech outlining Mr Grech's interactions with the journalist Steve Lewis. The email stated as follows:

Lewis wanted me to confirm that there had been 'correspondence' and 'communication between the PMO and Treasury on Grant.

I denied that there was any communication. He persisted and asked 'Are you sure?'. I again denied any communication and he said that perjury is a serious offence. I said that there was nothing I could say.
111. Later in the morning of 19 June 2009, a meeting was held in Mr Martine's office. Also present were Ms Gerathy, Mr Grech and Treasury IT staff. The alleged email from Dr Charlton to Mr Grech was discussed along with the results of the examination of the Treasury Gateway servers. Treasury IT advised the meeting of the result of their searches to that point of time, which was that no email had been found and that there was a period of time which was initially estimated as having occurred between Friday 20 February 2009 and Sunday 22 February 2009 where there was a lack of external email logs. At the time of the meeting it was also thought that if an email had been received and deleted on the same day that it would not be captured during daily back-ups.¹¹

¹¹ Subsequently it has been determined that the lack of external email logs was limited to the period between 8.26pm on 20 February 2009 GMT and 2.01pm on 21 February 2009 GMT

112. Mr Martine and Mr Grech attended the Senate Economics Committee on 19 June 2009.
113. Immediately on return from the Senate Committee, the Treasurer's Office called Mr Martine and advised him of the wording of the alleged email and the date it was allegedly sent (19 February). Mr Martine undertook to ask Treasury IT to examine the email logs for all external emails received by Mr Grech on that day. No email was received on that day from either Dr Charlton or anyone else from the Prime Minister's Office. This search was completed at 6.50pm and the results were immediately advised to the Treasurer's Office.
114. Mr Martine's interactions with Mr Grech following that appearance are set out in paragraphs 29 to 35. Mr Martine was not involved in, nor was he aware of, any decision to examine Mr Grech's Treasury email nor the subsequent decision to involve the AFP.
115. When Mr Martine advised Mr Grech on Sunday afternoon that it was best that he take the whole week off, he was not aware of the material discovered on Mr Grech's computer.
116. On Tuesday 23 June 2009, Mr Grech called Mr Martine from hospital. They spoke briefly about his welfare. Mr Martine has not had any contact with Mr Grech since.
117. Mr Martine took no adverse action in consequence of Mr Grech's evidence on 19 June 2009. On the contrary, he provided significant support to Mr Grech following his appearance and took considerable care about his welfare over the following days.

which is 7.26am on Saturday 21 February to 1.01am on Sunday 22 February. The lack of external email logs did not compromise data integrity in relation to emails sent and received during this period. Treasury's IT team also completed a full exchange restore for February and did not find the alleged email.

