

16 September 2021

Senator the Hon Michaelia Cash
Attorney-General,
Minister for Industrial Relations,
Deputy Leader of the Government in the
Senate
PO Box 6100
Senate
Parliament House
Canberra ACT 2600

Cc: Mark Dreyfus, Shadow Attorney-General

Dear Attorney-General,

RE: Appointment of the New Human Rights Commissioner to the Australian Human Rights Commission

We write regarding the recent appointment by the Commonwealth Government of the new Human Rights Commissioner to the Australian Human Rights Commission. We are calling on the Government to commit to public, independent merit-based selection processes for senior Australian Human Rights Commission appointments.

As we understand it, this appointment was not the result of an open and competitive process but was an internal hand-picked appointment by the Government. Such a process undermines and threatens the independence of the role and the Australian Human Rights Commission (the Commission) itself.

The internationally recognised Paris Principles are the test for the credibility and legitimacy of national human rights institutions around the world.¹ The Principles require that human rights commissions are independent of government and highlight the importance of a clear, transparent and participatory process for appointments that provides for representation from broader society.

Australia is currently classified as an 'A' status institution, but in its last review in 2016, it was criticised by the international coordinating body of global national human rights institutions - Global Alliance of National Human Rights Institutions (GANHRI) for the appointment in 2013 of the then Human Rights Commissioner (Tim Wilson) for not "following the merit-based selection process". It was noted that such an "appointment has the potential to bring into question the legitimacy of the appointees and the independence of the NHRI".²

The fundamental lack of basic process with these recent appointments threatens to undermine the legitimacy and independence of the Commission. The Commission is now in the process of embarking on its international re-accreditation review process under the Paris Principles. The review will be conducted in early 2022 and the maintenance of the Commission's 'A' status is now in jeopardy. In 2016, when GANHRI criticised Australia, it expressly called for future selection processes to be transparent and competitive.

¹ <https://www.ohchr.org/en/professionalinterest/pages/statusofnationalinstitutions.aspx>

² <https://www.ohchr.org/Documents/Countries/NHRI/GANHRI/SCA%20Final%20Report%20-%20Nov%202016%20-%20English.pdf>

This process should involve publicising vacancies to maximise the number of potential candidates, promoting broad consultation externally from the community and subject matter experts, and internally from the senior leadership of the institution. Candidates should be assessed on the basis of pre-determined, objective and publicly available criteria, and selected candidates should serve in their individual capacity and not be representative of any other organisations.

On the international stage, Australia has long been a leader in promoting the Paris Principles affirming the importance of strong, independent human rights institutions around the globe. This appointment process undermines the legitimacy of the institution.

We call on the Australian Government to mandate a legislated appointment process for all senior leadership Commissioner roles within the Commission, that guarantees both independence and public confidence.

Yours faithfully,

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