

PMO by
PM
25.5.21
C8



OFFICE OF THE PRIME MINISTER
CHIEF OF STAFF

25 May 2021

The Hon Scott Morrison MP
Prime Minister
Parliament House
Canberra ACT 2600

Dear Prime Minister

On 15 February 2021, serious and disturbing information regarding the alleged sexual assault of Ms Brittany Higgins in Parliament House in March 2019 was published in the media. These allegations are currently the subject of a criminal investigation.

On 25 March 2021, following your interview on ABC radio (AM program), I was contacted by a member of the press gallery in relation to allegations that members of the media team in the Prime Minister's Office (PMO) had engaged in negative background briefings against the partner of Ms Higgins, Mr David Sharaz.

That same day I received a letter from Ms Higgins that also addressed these allegations in the following terms:

In the days following my interview with 'The Project' regarding my experience in Parliament House, I was made aware by numerous journalists about the backgrounding that was happening against my partner.

To my knowledge, this was being done by staff within the Prime Minister's media team.

This was reported to me personally by various sources at News.com.au, the Daily Telegraph and Channel 10. It was even referenced on air by Peter Van Onselen on the ABC which was then reported by the Guardian on the 18th February 2020.¹

In Question Time on 25 March, you addressed this matter as follows:

I have seen and received that correspondence and I will be responding to Brittany Higgins in the course of today. But separate to that, following my interview this morning on ABC AM, my Chief of Staff received confidential information, not the matter the member is referring to, but confidential information from a primary and direct source regarding these matters. In response to and based on that information, I have asked my Chief of Staff to commence a process with advice from the Department of Finance to deal with complaints against staff members. We will follow that process in dealing with that matter.

¹ Note that the reference to Dr van Onselen's comments and the subsequent Guardian article relates to 18 February 2021.

Process

You have asked me to inquire into the veracity of allegations that members of the PMO media team provided negative briefing against Mr Sharaz to journalists. These are serious allegations that go to the professionalism and integrity of the media team and to the conduct of staff in what constitute very distressing circumstances for Ms Higgins and for Mr Sharaz.

The Department of Finance provided guidance on the conduct of administrative investigations, including steps to be followed in responding to such allegations and considerations that should be afforded to all affected parties.

Based on this guidance from the Department of Finance, and in order to provide for a process that was fair to those involved and in line with standard principles, I have had regard to the following considerations in relation to relevant staff members:

- That staff be invited to a meeting about the matter (with advance notice), and allowed to have a support person present if requested
- Confidentiality expectations be set out and undertakings sought to treat these matters confidentially to ensure the integrity of the process
- A record be sent that summarises the matters discussed in the meeting
- Allegations to the staff member(s) be provided in enough detail to allow a response.

As part of this process, I undertook the following steps:

- Interviewed all senior members of the PMO media team
- Endeavoured to speak with journalists and/or editors at relevant media outlets mentioned in connection with this allegation, taking account of those referred to in the letter sent to me by Ms Higgins on 25 March 2021
- Interviewed members of the press gallery based on these approaches
- Interviewed Ms Brittany Higgins
- Held additional discussions with the media team following my interview with Ms Higgins.

In summary, I have sought to provide every opportunity for the relevant allegations to be thoroughly investigated in line with guidance from the Department of Finance regarding due process.

Responses

PMO media team

All senior members of the media team rejected the allegation of backgrounding with the purpose of undermining the reputation of Mr Sharaz. They stressed that the bulk of inquiries received and responded to following media reports of 15 February 2021 concerned knowledge of, and actions taken by, (then) members of your staff following the alleged sexual assault of Ms Higgins in March 2019, in particular in response to materials distributed within the press gallery (and referred to in subsequent media reports).

Members of the PMO media team recalled that Mr Sharaz's work history was raised by certain journalists. They stated that matters pertaining to his employment at the Department of the Prime Minister and Cabinet were referred to that Department. It was noted further that Mr Sharaz was known to members of the press gallery based on his past employment, as a journalist and in other roles.

Ms Higgins

When interviewed, Ms Higgins referred to journalists telling her that Mr Sharaz had been portrayed as disgruntled following his tenure at the Department of the Prime Minister and Cabinet and at Sky News, and that his alleged 'grudge' was behind Ms Higgins' decision to come forward to the media with her rape allegation. While restating that she believed the PMO media team was involved in alleged backgrounding against Mr Sharaz, Ms Higgins indicated that she was not comfortable naming any journalist(s) as the source of such information beyond what was contained in her letter of 25 March.

Members of the press gallery

No member of the press gallery interviewed in this process recounted, or was in a position to substantiate, first-hand experience of such activity by the PMO media team.

The individual who contacted me on 25 March 2021, when contacted subsequently in relation to the process, did not wish to be identified, did not wish to make a complaint, and did not wish to participate in this process.

Journalists interviewed as part of this process made reference to 'corridor conversations' in the press gallery in the days immediately following initial media reports of Ms Higgins' alleged sexual assault. They recounted that these conversations pertained, *inter alia*, to the incident itself, to Ms Higgins, to her partner and to what your staff had, or had not, known about the incident, and at what point in time they had such knowledge.

Interviewed for this process, Journalist 1 cited media commentary on 18 February as establishing public interest in the reporting of alleged activity by the Prime Minister's staff. Journalist 1 formed their own view as to the likelihood of such backgrounding taking place based on their own sources and checks into the matter. They did not wish to divulge their sources.

Journalist 1 stated that they personally had not been the recipient of background briefings from the Prime Minister's office that relayed any negative information about Ms Higgins or Mr Sharaz. This accords with reporting of Journalist 1 on 18 February.

Journalist 2 stated that they had had a 'passing conversation' with a member of the press gallery on 17 February in which it was said that the Prime Minister's office reflected on Mr Sharaz's work history. Journalist 2 declined to detail who the passing conversation was with. They noted that an MP had mentioned something similar, though in their view it was possible that conversation related back to the same source. Journalist 2 stated further that they had received a text message from Mr Sharaz indicating that he was being targeted by the Prime Minister's office, noting that this message likely had a wide distribution.

Journalist 2 observed that they had not been backgrounded personally by the PMO in relation to Mr Sharaz or Ms Higgins and that the Prime Minister's press team had said nothing improper in any conversation with them over this period. They acknowledged that while in one instance the alleged actions of the Prime Minister's press office had been represented by them as fact in some comments, this was, on reflection, framed with 'stronger and more absolutist' language than justified and based on a presumption that 'passing corridor chat is accurate'.

Journalist 3 similarly noted when interviewed that they had not been the recipient of any background briefings from the Prime Minister's office that relayed any negative information about Ms Higgins or Mr Sharaz.

Other editors and journalists from news outlets mentioned in Ms Higgins' letter either did not respond or declined to participate in the process.

Findings

As noted previously, these are serious allegations that go to the professionalism and integrity of the PMO media team. Accordingly, in seeking to arrive at findings of fact, I have been mindful of the importance of making such findings only where the evidence for them is clear and direct.

The first-hand evidence provided to me was uniformly to the effect that there were extensive discussions in the press gallery concerning the distressing allegation of Ms Higgins' sexual assault, the awareness (or lack thereof) of the incident on the part of PMO staff, and the personal circumstances of Ms Higgins and her partner. Members of the PMO media team participated in those discussions in the context of responding to inquiries and in the ordinary course of their interactions with the press gallery.

On first-hand evidence before me, however, and bearing in mind the seriousness of the allegation that you have asked me to investigate, I do not make a finding that negative briefing against Mr Sharaz of the sort alleged has taken place. In the context of my inquiry, such a finding would be based upon hearsay (in some instances, second- or third-hand). The evidence before me falls well short of the standard that would be needed to arrive at such a finding in conformity with due process.

In arriving at that conclusion, I stress that I do not deny that the beliefs of Ms Higgins are sincerely held. Plainly, they are. My conclusion, based upon the evidence presented to me, should in no way be taken as a reflection upon the honesty or sincerity of Ms Higgins.

While I am not in a position to make a finding that the alleged activity took place, the fact that those allegations have been made serves as an important reminder of the need for your staff to hold themselves to the highest standards.

I have accordingly reinforced with the office the paramount importance of maintaining high professional and ethical standards. I further underlined the importance of privacy issues when dealing with highly-sensitive, personal matters.

Yours sincerely

A handwritten signature in black ink, appearing to read "J. M. Kunkel". The signature is fluid and cursive, with a large initial "J" and "M".

DR JOHN KUNKEL
CHIEF OF STAFF