

HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON ECONOMICS

REVIEW OF THE FOUR MAJOR BANKS

CBA

CBA26QW: Terminations for misconduct:

- (a) How many employees does the bank have?
- (b) How do you define employee misconduct?
- (c) How many employees have been cautioned for misconduct over the past five years?
- (d) How many employees have had a penalty (such as, but not limited to, loss of bonus) for misconduct over the past five years?
- (e) How many employees have been terminated for misconduct over the past five years?
- (f) How many employees have been cautioned for misconduct over the past five years, as a share of all employees over that timeframe?
- (g) How many employees have had a penalty (such as, but not limited to, loss of bonus) for misconduct over the past five years, as a share of all employees over that timeframe?
- (h) How many employees have been terminated for misconduct over the past five years, as a share of all employees over that timeframe?
- (i) What are the processes available for whistle-blowers into misconduct within the bank?

Answer: (a) As at 31/12/2019, the headcount for permanent employees was 36,531.

(b) The CBA Group does not have a single definition of employee misconduct.

Employee misconduct may or may not be serious misconduct.

In cases of serious misconduct, the CBA Group applies the ordinary common law meaning, as expanded by the non-exhaustive conduct prescribed by regulation 1.07 of the Fair Work Regulations 2009 (Cth) (Regs), namely:

- wilful or deliberate behaviour by an employee that is inconsistent with the continuation of the contract of employment;
- conduct that causes serious and imminent risk to the health or safety of a person or the reputation, viability or profitability of the employer's business;
- the employee, in the course of the employee's employment:
 - engaging in theft, fraud or assault;
 - being intoxicated at work;

- refusing to carry out a lawful and reasonable instruction that is consistent with the employee’s contract of employment.

Where employee misconduct is not serious misconduct, this is generally considered a breach of, or inconsistent with, the employee’s obligations to the CBA Group under their contract of employment or common law. This includes conduct in breach of:

- lawful and reasonable directions, including directions in policies and procedures;
- express contractual terms of employment, including with respect to confidential information; and
- conduct in breach of the employee’s common law duty of good faith and fidelity.

Depending upon the seriousness, certain conduct, such as breach of CBA Group policies, may constitute either employee misconduct generally or serious misconduct.

(c) 5,158 unique employees from 01/07/2014 – 30/06/2019.

(d) 819 employees.^{1,2}

(e) The following reflects terminations and resignations that occurred during or at the end of an investigation into misconduct:

Outcome	Total Count
Resignation	122
Resignation while under investigation	87
Termination	776
Total	985

(f) We have used the average number of employees in respect of whom there was a finding of substantiated misconduct over the 5 year period 01/07/2014 – 30/06/2019 (1,031) and the average headcount for the same period (37,450) to determine the answer for this question, which equates to 2.8% of employees.

(g) 0.44%.³

(h) Same methodology as (f), using average headcount for the same 5 year period (37,450):

Outcome	Total Count	Average	Share of employee population (average = 37,450)
Resignation	122	24	0.06%
Resignation while under investigation	87	17	0.05%
Termination	776	155	0.4%

¹ Note that this may include individuals whose employment was terminated through the period, as reflected in (e).

² Penalty is interpreted as being partial or full loss of performance bonus.

³ Penalty is interpreted as being partial or full loss of performance bonus.

(i) Avenues for reporting matters for whistle-blowers include the following:

- The “SpeakUP” hotline outsourced to Deloitte for confidentiality. This allows individuals to report any concerns 24/7 (these matters will be kept confidential to the extent possible), and if they so wish, anonymously. The hotline service can be contacted by telephone or via email.
- Online platform “SpeakUP Online” which enables whistle-blowers to report matters to the SpeakUP team within the Bank (these matters will be kept confidential to the extent possible), and with the ability to remain anonymous.
- Matters can be reported directly to a Senior Leader within the Group or a non-executive Director. Applicable senior leaders are defined within the Group’s Whistleblower Policy.

In addition, CBA’s updated Whistleblower Policy was approved by the Board in February 2020. The update widened the scope of individuals within the Group to whom a Whistleblower can raise a matter, to now also include:

- Directors of Key Operating Subsidiaries;
- A member of Group Audit involved in completing audit activities;
- An actuary or person performing actuarial activities; and
- The Whistleblower Protection Officer.