

Senate Finance and Public Administration Legislation Committee —Additional Estimates Hearing—February 2016

Answers to Questions on Notice

Parliamentary departments, Department of Parliamentary Services

Topic: **Code of conduct investigations**

Question: **176**

Written: **Senator Bernardi**

Date set by the committee for the return of answer: 1 April 2016

These questions refer to the answer to Question on Notice 63 from the October 2015 Estimates.

In the answer, DPS states that the figures in the tables do not include preliminary investigations.

1. What are preliminary investigations?
2. Who is involved in these preliminary investigations? (e.g. DPS managers, Dept of Senate or House of Representatives, external reviewers?)
3. What is the general process of preliminary investigations?
4. Are records kept of the results of these preliminary investigations?
5. In the last two years, were there any findings, recommendations or criticisms of DPS found in the preliminary investigations?
6. When, for example the Department of Senate or the House of Representatives have been involved in conducting preliminary investigations, have there been any criticisms by them of the processes carried out by DPS?

Court/FWC cases

The DPS answer states that one case was referred to the Federal Court, and four cases were reviewed by the Fair Work Commission.

7. What were the outcomes of these five cases after their referrals to the Federal Court and Fair Work Commission? (i.e. ruled in favour of DPS or not?)
8. What branch or branches of DPS were involved in each of these cases?
9. In terms of the people under investigation in each of these cases, which branch or branches of DPS were they from?
10. Was CPM Reviews involved in any of these five cases in any way?
 - a. If so, in what ways were they involved?
11. Who was the contact officer in DPS HR Services for these five cases? Who within the DPS HR Services was overseeing these five cases?
12. What is the chain of command within HR Services for code of conduct issues?
13. For these five cases, which DPS employees within HR Services were involved?
14. For these five cases, which staff member/s in HR Services sent the notification to the individual or individuals that a code of conduct investigation or preliminary investigation would be instigated by DPS into their conduct? Please provide copies of these notifications if possible.
15. For the 26 code of conduct investigations that took place between 2012-13 and 2014-15, please provide details of which staff member/s in HR Services sent the notification to the individual or individuals that a code of conduct investigation would be instigated by DPS into their conduct.
16. For any preliminary investigations taking place within DPS from 2012-13 to 2014-15, please provide details of which staff member/s in HR Services sent the notification to the individual or individuals that a preliminary investigation would be instigated by DPS into their conduct.

Answer

1. Preliminary investigations are used to uncover any available evidence which may assist in determining appropriate management actions and/or whether an employee may have a case to answer under the Parliamentary Service Code of Conduct.
2. Preliminary investigations may be conducted internally by DPS employees with the appropriate skills, external providers or employees of other Commonwealth or APS agencies.
3. The gathering of available evidence which may include interviews being conducted.
4. Yes – they are a corporate record of action taken.
5. There were some recommendations noted including the following:
 - continuing to ensure employees have a clear understanding of expected behaviours towards each other and members of the public
 - continuing to improve team relationships and communications
 - improved performance guidance material
 - review the Smoking Policy
 - possible review of the impact that familial relationships can have in the workplace, particularly when working together in small teams.
6. The Department of the Senate has carried out one preliminary investigation where it was noted that the handling of a concern of an employee could have been treated with more care whilst also noting that DPS actions were taken in the best interest of the employee and were done to meet various obligations including work, health and safety obligations.
7.
 - (i) Federal Court – settlement reached with the individual employee
 - (ii) Fair Work 1 – matter withdrawn.
 - (iii) Fair Work 2 – proceeded to a conciliation conference with all parties being legally represented. With the assistance of the Fair Work Commission, and with no admission of liability, the parties agreed to a settlement. No reinstatement of employee.
 - (iv) Fair Work 3 – proceeded to a conciliation conference with all parties being legally represented. With the assistance of the Fair Work Commission, and with no admission of liability, the parties agreed to a settlement. No reinstatement of employee.
 - (v) Fair Work 4 – proceeded to a conciliation conference with all parties being legally represented. With the assistance of the Fair Work Commission, and with no admission of liability, the parties agreed to a settlement. Employee reinstated and subsequently resigned.
8. People, Strategy and Governance Branch (formerly Corporate Branch) was responsible for overseeing the cases.
9. Security Branch, Information and Computing Technology Branch, Content Management Branch.
10. Yes.
 - Conducted 1 Code of Conduct investigation.
11. During the code process the Director and Assistant Director in HR Services oversaw the code process.
12. Assistant Director Conduct, Conduct and Performance reports to Director HR Services and Strategy.
13. The Director and Assistant Director HR Services were involved during the code process.

14. Notification to employees for the five cases was provided by:
 - Federal Court: Chief Operating Officer
 - Fair Work 1: Assistant Director HR
 - Fair Work 2: Investigator
 - Fair Work 3: Assistant Director HR
 - Fair Work 4: Director HR
15. Notification to employees for investigations instigated between 2012-13 to 2014-15 were provided by:
 - Director HR (12 cases)
 - Assistant Director HR (10 cases)
 - External Investigator (2 cases)
 - Legal Services Section (1 case)
 - Chief Operating Officer (1 case)
16. The Director and Assistant Director HR Services were responsible for providing notification to employees for preliminary investigations.