

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

Answers to Questions on Notice

Parliamentary departments, Department of Parliamentary Services

Topic: **Conflicts of interest with DPS staff**

Question: **178**

Written: **Senator Bernardi**

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

With reference to the DPS staff member who used to work with CPM Reviews, the Department's answer to my question on notice (#31) from the October 2015 Estimates indicates that:

“The Department has a written assurance from the staff member that he has not undertaken any work with CPM Reviews since being employed by DPS.”

This was also reiterated by Ms Croke at the 8 February 2016 Estimates hearing:

“I also had a written undertaking from the individual that he had had no work through the company.”

1. Is this ‘written assurance’/‘written undertaking’ in the form of a formal conflict of interest declaration?
 - a. If so, what date is on the declaration? If not, what type of document is this ‘written assurance’? Please provide details.
2. Was this ‘written assurance’ offered up/volunteered by the individual, or was it a result of someone from DPS asking the individual to submit the written assurance?

Ms Croke stated that “There is an obligation on DPS employees to declare any potential conflict of interest, perceived or otherwise” but that “It did not happen in that case, and it should have.” (8 February 2016 Committee Estimates Hansard)

3. What action has been taken against this individual, given that he did not meet this obligation?
4. Did the individual offer any reason as to why he had not initially declared the conflict of interest?
5. Does this in any way breach the DPS or Parliamentary Service Code of Conduct, given that section 13(7) of the Parliamentary Service Act 1999 states that “A Parliamentary Service employee must disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with Parliamentary Service employment”?
6. Does a declaration have to be submitted for any perceived conflict of interest, in addition to any actual conflict of interest?
7. For the last two years, who within DPS HR Services has taken on the position (in a temporary or permanent capacity) in charge of conflict of interest declarations?

Ms Croke stated that this individual “does have a role where he works on conduct issues, but he does not have the delegation or the authority to take the final decision.” (8 February 2016 Committee Estimates Hansard)

8. During all his time at DPS, has the individual ever acted in a position where he would have had the authority to make the final decision?
9. Has the individual ever acted in the position of Director of HR Services?
 - a. If so, please provide the dates when this occurred.
10. Please list the positions within DPS (temporary or otherwise) that this individual has held during their time with DPS.
11. Has the individual's position, classification or title changed or been updated since the October 2015 F&PA Estimates hearings?

The individual commenced non-ongoing employment with DPS on 3 February 2014 (Answer to Question on notice 62, October 2015 Estimates).

12. What was the duration of this contract?
13. If this contract concluded, please provide the date the contract concluded and any details as to when another contract was signed (relevant dates etc).
14. Are the terms of the individual's contract compliant with current DPS guidelines?

Answer to Question on Notice 31 (October 2015 Estimates) contains a letter from Mr John Baker of CPM Reviews. In the letter, Mr Baker states that:

“...the number of contracts awarded to CPM Reviews over the period 2014 to 2015 does not show that the number increased materially during [X]’s time with the Department, relative to the corresponding period 2008 to 2013 prior to that.”

15. How many referrals and/or contracts were awarded to CPM Reviews since the individual started working at DPS?
16. Given that Ms Croke admits that the employee’s obligation was not met (see quote in earlier question), will DPS be reviewing any of the decisions to refer work to CPM Reviews, or indeed the decisions made by CPM Reviews in those DPS cases referred to it during the time in which the individual had failed to declare his conflict of interest or during the individual’s entire time working at DPS?
17. Please list the responsibilities and duties of the DPS position currently held by this individual.

At the hearing on 8 February 2016, Ms Croke stated that, in terms of the obligations DPS staff have in declaring conflicts of interest, “That is something we can reinforce with staff, and I am happy to say we will put something out and remind staff of those obligations”.

18. Since that 8 February hearing, what has DPS done to remind staff of their obligations in this respect? Please provide details re dates, method of communication, who the communications were sent to.

Answer

1. No.
 - a. The employee provided a written statement on 19 October 2015 confirming he has not undertaken any work with CPM Reviews since being employed by DPS.
2. As a result of the questions raised at October 2015 Senate Estimates the individual offered the written statement as assurance no work with CPM Reviews had been undertaken while employed at DPS.
3. There is no action required as DPS was aware of the employee’s previous employment at CPM Reviews prior to engaging him as a non-ongoing DPS employee 3 February 2014.
4. See response to question 3.
5. No. DPS were aware of the employee’s previous employment with CPM Reviews. It had been disclosed to DPS prior to the employee commencing employment.
6. Under DPS’ conflict of interest policy, a declaration of a conflict of interest is required in writing only in certain circumstances. In this case, while the person in question did not complete a written conflict of interest declaration prior to or since their employment with DPS, the work the individual had previously undertaken with CPM Reviews was known to his DPS managers at the time he was recruited.
7. Employees are responsible for providing advice to their manager where an actual or perceived conflict of interest may occur. HR is responsible for providing advice to managers and ensuring any conflicts of interest provided to HR are placed on the employee’s personnel file.
8. Yes, for the period 24 November 2014 to 30 January 2015. During this period one external investigator was engaged. The provider was HBA Consulting.
9. Yes.
 - a. 24 November 2014 to 30 January 2015
10. Assistant Director, Code and Performance & Director HR Services
11. No
12. 3 February 2014 to 31 July 2014

13.
 - a. 1 August 2014 to 30 November 2014
 - b. 24 November 2014 to 30 January 2015
 - c. 2 February 2015 to 30 June 2015
 - d. 1 July 2015 to 31 December 2015
 - e. 1 January 2016 to 29 January 2016
 - f. 1 February 2016 to 31 January 2017
14. Yes.
15. During the period 3 February 2014 to 31 January 2016, CPM Reviews have been engaged to conduct eight investigations utilising four different investigators. Two other companies have conducted four investigations each and two investigations were undertaken by another Commonwealth department.
16. See response to question 6. DPS considers there is no need to review the decisions to refer cases to CPM or the work undertaken by CPM.
17. Under broad direction, undertake duties in accordance with the agreed standards for a Parliamentary Executive Level 1. The duties may include, but are not limited to, some or all of the following:
 - Lead and manage a small team delivering services relating to code of conduct, disciplinary matters, performance management, redundancy and other employment matters.
 - Provide advice relating to more complex issues to senior managers and employees including undertaking investigations as required.
 - Provide timely regular and ad hoc reports to meet internal and external reporting demands.
 - Liaise with internal and external stakeholders in relation to the management of investigations and other complex employment matters including the departments Consultative Forum.
 - Contribute to human resource policies, procedures and processes to identify key areas for process improvement.
 - Promote and apply the DPS Values, equity and diversity principles and WHS and participative management practices.
18. On 10 March 2016, the Secretary reminded all employees of their obligations under the Conflicts of Interests Policy and Outside Employment Policy (see attached).

Croke, Myra (DPS)

From: DPS Secretary (DPS)
Sent: Thursday, 10 March 2016 2:27 PM
To: DPS-Department
Subject: MESSAGE FROM THE SECRETARY: Obligation to disclose conflicts of interest



Reminder: obligation to disclose conflicts of interest

Dear colleagues

I would like to remind all DPS staff of our obligation to adhere to the Parliamentary Service Values, the Parliamentary Service Code of Conduct and to behave at all times in a way that upholds the values and the integrity and good reputation of the Parliamentary Service. This includes an obligation to disclose and take reasonable steps to avoid any conflict of interest (real or apparent) in connection with your employment (see clause (7) of the [Parliamentary Service Code of Conduct](#)).

As set out in the [DPS Conflicts of Interest policy](#), you must disclose to your manager all private interests or relationships that could influence, or be seen to influence, your work in the department. This includes actual, potential or perceived conflicts of interests.

In addition to the general requirement for all employees to disclose interests and relationships as outlined above, there are other situations where a written declaration is required, including where you are involved in a procurement, in managing a contract or in a recruitment process.

A potential source of a conflict of interest is engaging in employment outside of the department. DPS' [Outside Employment Policy](#) sets out the approval process that is required to engage in outside employment. All DPS staff must seek and obtain their SES manager's written approval before commencing any form of outside employment.

Rob Stefanic
10 March 2016