

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates

16 February 2012

Question No: AET 25 - 27

Topic: Internal procedures - harassment

Hansard Page: Written

Senator Fifield asked:

25. Please outline the ATO's internal procedures for handling allegations by staff of bullying, racism or harassment in the workplace.
26. Have any ATO staff alleged that they have experienced racially-motivated or religiously-based bullying or harassment in the workplace in the past 24 months?
 - a. If so, and without identifying individuals, what were the steps taken to address the allegations and what were the timeframes involved?
27. Have any ATO staff been disciplined or dismissed for bullying or harassment in the workplace in the past 24 months?

Answer:

25. As a general principle, and where appropriate to do so, matters of this nature are resolved informally and as close to the source as possible. In such cases, the relevant director/manager is approached to intervene and assist in resolving the issue. A matter can also be reported by contacting *ATO Concern* (a confidential, independent ATO service) who will work with the employee to identify ways to find an informal resolution.

If it is not appropriate for the person experiencing the alleged bullying, racism or harassment to discuss their concerns with the person(s) or their manager, they can report and escalate their concerns via an *Incident Notification Report*, an online *Employee Complaints form* or by calling the People Helpline (a dedicated phone line for all ATO staff which provides support and advice on people matters).

The notification of bullying, discrimination or harassment is then referred to an ATO People Issues Resolution team where an assessment is made on the seriousness of the allegations and what process is the most appropriate way to deal with the matter.

In some instances (where appropriate), Alternative Dispute Resolution, ie mediation or conflict resolution is explored. In other instances, the allegations may be formally investigated.

When an allegation is substantiated following an investigation, the matter is considered for referral to either the Commonwealth Director of Public Prosecutions for consideration, or to the ATO's Health and People Management team for consideration of formal Code of Conduct or misconduct proceedings.

The ATO has the following policies, procedures and guides for handling allegations by staff of bullying, racism or harassment in the workplace:

- Workplace harassment, discrimination and bullying Corporate Management Practice Statement (CMPS 2004/09)
- Workplace harassment, discrimination and bullying Corporate Management Procedure & Instructions (CMPI 2004/09/01)
- Employee Reporting of Suspected Misconduct (Whistleblowing) Corporate Management Practice Statement (CMPS 2006/08)
- Employee Reporting of Suspected Misconduct (Whistleblowing) Corporate Management Procedure & Instructions (CMPI 2006/08/01)
- Resolving workplace allegations and complaints guide.

Racism is not specifically referred to in the ATO's Corporate Management Practice Statements, however it is covered by the term 'discrimination' which is defined in the ATO's Practice Statements as occurring 'when someone, or a group of people, is treated less favourably than another person or group because of their race, colour, national or ethnic origin, family responsibilities, sex, pregnancy including breastfeeding or marital status; age; disability; religion; sexual preference; trade union activity; or some other characteristic specified under anti-discrimination or human rights legislation.'

26. In the period 1 March 2010 to 1 March 2012, two ATO staff have formally alleged that they have experienced racially-motivated or religiously-based bullying or harassment in the workplace.
- a. (i) In one instance, legal advice was sought from the ATO's legal area and from the (then) Human Rights and Equal Opportunity Commission. This advice determined that the behaviour of concern to the complainant did not constitute racially-motivated or religiously-based bullying or harassment in the workplace. The matter was then resolved informally by explaining this advice to the complainant. The timeframe involved was two weeks.
- a. (ii) In the second instance, the matter was formally investigated twice. The first investigation found no evidence of racially-motivated or religiously-based bullying or harassment. The complainant requested a review of this finding and a second investigation was conducted. This (second) investigation concluded that there was some evidence of racially-motivated or religiously-based bullying or harassment. As the person responsible for the harassment had left the organisation prior to the completion of the second investigation, no disciplinary action was taken. In order to ensure such behaviour did not occur again, harassment training was conducted for staff in the relevant work area. The timeframe from receipt of the initial complaint to the completion of the second investigation was one year.

In addition to the above, there have been six staff approaches to Harassment Contact Officers involving complaints of racial discrimination/harassment. The approaches included direct racial slurs, indirect racial references about other team members, alleged discrimination for higher duties allowance due to cultural and racial background, and offense at an overheard conversation about racial matters in the media. In each of these approaches, the Harassment Contact Officer advised the staff member of their options. No formal complaint was lodged through the Harassment Contact Officer at that time.

27. In the period 1 March 2010 to 1 March 2012, 17 ATO staff have been disciplined for bullying and harassment in the workplace.

The sanctions applied as a result of these discipline processes were:

- nine instances of formal counselling
- five monetary fines (ranging from 1.5% to 5% of annual salary)
- one formal reprimand
- one demotion
- one resignation prior to a sanction being applied.

No employees have been dismissed for bullying or harassment in the workplace during this period.

Note: The section of the Public Service Act's Code of Conduct used in these cases is s.13(3), ie "An APS employee, when acting in the course of APS employment, must treat everyone with respect and courtesy, and without harassment."