

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates

2014 - 2015

Department/Agency: ATO

Question: SBT 1947-1948

Topic: Departmental Staff Misconduct

Reference: written - 31 October 2014

Senator: Ludwig

Question:

Since Budget Estimates in June, 2014:

1947. Please provide a copy of the departmental staff code of conduct.
1948. Have there been any identified breaches of this code of conduct by departmental staff?
- a. If yes, list the breaches identified, broken by staffing classification level.
 - b. If yes, what remedy was put in place to manage the breach? If no remedy has been put in place, why not?
 - c. If yes, when was the breach identified? By whom? When was the Minister made aware?
 - d. If yes, were there any legal ramifications for the department or staff member? Please detail.

Answer:

1947. 1. APS Code of Conduct (Section 13 of the *Public Service Act 1999*)
http://www.austlii.edu.au/au/legis/cth/consol_act/psa1999152/s13.html
2. Practitioners guide to managing suspected misconduct in the ATO is at attachment A.

1948. Yes.

Key to table:

APS Code of Conduct	http://www.austlii.edu.au/au/legis/cth/consol_act/psa1999152/s13.html The Code of Conduct requires that an employee must:
13(1)	behave with honesty and with integrity in connection with APS employment
13(2)	act with care and diligence in connection with APS employment
13(3)	when acting in connection with APS employment, treat everyone with respect and courtesy, and without harassment
13(4)	when acting in connection with APS employment, comply with all applicable Australian laws
13(5)	comply with any lawful and reasonable direction given by someone in the employee's Agency who has authority to give the direction
13(6)	maintain appropriate confidentiality about dealings that the employee has with any Minister or Minister's member of staff
13(7)	(a) take reasonable steps to avoid any conflict of interest (real or apparent) in connection with the employee's APS employment; and (b) disclose details of any material personal interest of the employee in connection with the employee's APS employment
13(8)	use Commonwealth resources in a proper manner and for a proper purpose
13(9)	not provide false or misleading information in response to a request for information that is made for official purposes in connection with the employee's APS employment
13(10)	not improperly use inside information or the employee's duties, status, power or authority: (a) to gain, or seek to gain, a benefit or an advantage for the employee or any other person; or (b) to cause, or seek to cause, detriment to the employee's Agency, the Commonwealth or any other person
13(11)	at all times behave in a way that upholds: (a) the APS Values and APS Employment Principles, and (b) the integrity and good reputation of the employee's Agency and the APS.
13(12)	while on duty overseas, at all times behave in a way that upholds the good reputation of Australia
13(13)	comply with any other conduct requirement that is prescribed by the regulations

Sanctions	http://www.austlii.edu.au/au/legis/cth/consol_act/psa1999152/s15.html An Agency Head may impose the following sanctions:
15(a)	termination of employment
15(b)	reduction in classification
15(c)	re-assignment of duties
15(d)	reduction in salary
15(e)	deductions from salary, by way of fine
15(f)	a reprimand

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a - c.

Identified breaches of this code of conduct by departmental staff - 1 June 2014 to 31 October 2014															
Classification Level	a. Code of conduct breaches identified – Section 13 Public Service Act 1999								b. Remedy (sanctions) in place to manage the breach – Section 15 Public Service Act 1999					c. When and by whom was the breach identified	
	13(1)	13(2)	13(3)	13(5)	13(7)	13(8)	13(9)	13(11)	15(a)	15(d)	15(e)	15(f)	*No sanction	Date Breach Identified	By Whom
APS2				1							1	1		5/8/2014	Case Consultant, Conduct Performance and Probation Support (CPPS)
APS2			1	2							1	1		8/8/2014	Senior Consultant, CPPS
APS3	1			1			1		1					19/6/2014	Senior Consultant, CPPS
APS3	1						1						1	16/9/2014	Senior Consultant, CPPS
APS3			1	1							1	1		22/9/2014	Senior Consultant, CPPS
APS3	1						1		1					1/10/2014	Case Consultant, CPPS
APS3	1							1	1					10/10/2014	Senior Consultant, Issues Resolution
APS4	1	1										1		13/6/2014	Senior Consultant, CPPS
APS5				1	1	1			1					4/8/2014	Case Consultant, CPPS
APS6			1	1							1	1		14/7/2014	Senior Consultant, CPPS
APS6			1	1									1	7/8/2014	Senior Consultant, CPPS
EL1			1	2						1		1		16/7/2014	Senior Consultant, CPPS
EL1			1	1									1	30/10/2014	Senior Consultant, CPPS
TOTAL	5	1	6	11	1	1	3	1	4	1	4	6	3		

Please note that column * no sanction refers to 3 employees that left the ATO prior to sanction being imposed.

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c. No. It is not normal practice to notify the Minister if an employee has breached the Code of Conduct.

d. Yes, one employee was prosecuted for non-lodgement of income tax return.

No matters listed above proceeded to the Fair Work Commission.