

Senate Finance and Public Administration Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Budget Estimates Hearing 25-29 May 2015

Prime Minister and Cabinet Portfolio

Department/Agency: Aboriginal Hostels Limited

Outcome/Program: Outcome 2: Indigenous

Topic: Departmental Dispute Resolution

Senator: Senator the Hon Joe Ludwig

Question reference number: 229

Type of question: Written

Date set by the committee for the return of answer: 10 July 2015

Number of pages: 2

Question:

1. How are disputes between departmental and/or agency staff mediated?
2. Are any outside firms contracted to assist with this process? If yes: please list them, please include:
 1. The structure of payments made to each firm (e.g. retainers, fees for each consultation etc).
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3. How are code of conduct violations by departmental and/or agency staff mediated?
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 5. Why the firm was selected to provide the service.

Please provide a list of disputes referred to the firm, including a brief description of the dispute.

Answer:

1. AHL has adopted a strategic approach to managing and resolving disputes in the workplace. Dependent on the circumstance, AHL may engage professional mediation, workplace conferencing, conciliation and/or arbitration.

2. Outside firms are contracted to assist with mediation or resolution as required.

No contractual arrangement has been entered into.

3. If appropriate, AHL would seek outside expertise and operate in accordance with the APS Guidelines for Handling Misconduct.

4. Outside firms are contracted to assist with code of conduct violations as required.

No contractual arrangement has been entered into.

Senate Finance and Public Administration Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
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Prime Minister and Cabinet Portfolio

Department/Agency: Anindilyakwa Land Council
Outcome/Program: Outcome 2: Indigenous
Topic: Departmental Dispute Resolution

Senator: Senator the Hon Joe Ludwig

Question reference number: 229

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Please provide a list of disputes referred to the firm, including a brief description of the dispute.

Answer:

1. No disputes have been recorded between the Department and the Agency
2. No
3. By formal internal investigation and assessment process
4. No

Senate Finance and Public Administration Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
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Prime Minister and Cabinet Portfolio

Department/Agency: Central Land Council
Outcome/Program: Outcome 2: Indigenous
Topic: Departmental Dispute Resolution

Senator: Senator the Hon Joe Ludwig

Question reference number: 229

Type of question: Written

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Answers:

1. In accordance with the policy detailed in the Central Land Council's Enterprise Agreement (EA) 2012-2015.

2. Although it is possible that an external expert/firm might be engaged to mediate no such engagements have occurred during the period of the EA. The current term of the EA commenced prior to the last budget.

3. In accordance with the policy detailed in the Central Land Council's Enterprise Agreement 2012-2015.

4. Although it is possible that an external expert/firm might be engaged to mediate no such engagements have occurred during the period of the EA. The current term of the EA commenced prior to the last budget.

Senate Finance and Public Administration Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
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Prime Minister and Cabinet Portfolio

Department/Agency: Indigenous Business Australia
Outcome/Program: Outcome 2: Indigenous
Topic: Departmental Dispute Resolution

Senator: Senator the Hon Joe Ludwig

Question reference number: 229

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Please provide a list of disputes referred to the firm, including a brief description of the dispute.

Answer:

1. In accordance with the IBA Enterprise Agreement 2012-2014, IBA works cooperatively with its employees to resolve disputes. Where the dispute is unable to be resolved at this level and with both parties' agreement, an external mediator may be appointed. Either party to the dispute may also refer the matter to the Fair Work Commission for resolution.

2. No outside firm is contracted on an ongoing basis to assist with the resolution of disputes between staff. Firms are engaged on an as needs basis.

1. Fees for service and travel expenses, where necessary
2. Dupont & Associates - \$14,799 (4 mediations, 2 involving travel expenses)
3. N/A no ongoing contract
4. N/A no ongoing contract
5. Qualifications, experience and references
6. 4 disputes involved the engagement of a mediator to address interpersonal conflict between staff.

3. IBA has procedures in place for dealing with possible breaches of its Code of Conduct. There is provision in these procedures to engage external investigators where necessary.

4. No outside firm is contracted on an ongoing basis to investigate suspected Code of Conduct breaches. Firms are engaged on an as needs basis.

1. Fees for service and travel expenses, where necessary
2. Quality Management Solutions - \$20,077 (2 Code of Conduct investigations, 1 involving travel expenses)
3. N/A no ongoing contract
4. N/A no ongoing contract
5. Qualifications experience and references
6. The 2 Code of Conduct investigations by an outside firm; each involved the alleged conduct of an employee toward another.

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Prime Minister and Cabinet Portfolio

Department/Agency: Indigenous Land Corporation

Outcome/Program: Outcome 2: Indigenous

Topic: Departmental Dispute Resolution

Senator: Senator the Hon Joe Ludwig

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Answer:

1. Disputes between ILC staff are generally mediated by their Manager in the first instance. Human Resources staff are involved to assist with the mediation process. If it is not appropriate for the Manager to mediate the ILC may engage an outside firm as mediator.
2. Outside firms are contracted when external mediation is required. None has been contracted for this purpose this year.

3. Alleged code of conduct violations by ILC staff are initially investigated and/or mediated by the immediate Manager. Human Resources are involved to assist with the process. If the alleged code of conduct violations continue or are serious, the ILC nominates a Grievance Handler (usually a trained internal staff member) and using the ILC's Grievance Resolution Procedure and the Grievance Handling Step by Step Procedure as a guide, formally investigates the matter. No outside firm has not been contracted to mediate code of conduct violations by ILC staff during the current reporting period.

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Prime Minister and Cabinet Portfolio

Department/Agency: Northern Land Council
Outcome/Program: Outcome 2: Indigenous
Topic: Departmental Dispute Resolution

Senator: Senator the Hon Joe Ludwig

Question reference number: 229

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Answers:

1. The NLC has an internal complaint policy that deals with internal disputes and if necessary it will involve mediation.

Regarding departmental disputes these are handled by the CEO with the relevant organisation.

2. There are no outside companies that are currently engaged or contracted to assist NLC staff in mediation or dispute resolution.
3. Code of Conduct violations are dealt with the internal complaint mechanism triggered within the existing policy.
4. No outside company is engaged to assist with this process.

Senate Finance and Public Administration Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
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Prime Minister and Cabinet Portfolio

Department/Agency: Office of the Registrar of Indigenous Corporations
Outcome/Program: Outcome 2: Indigenous
Topic: Departmental Dispute Resolution

Senator: Senator the Hon Joe Ludwig

Question reference number: 229

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 5. Why the firm was selected to provide the service.

Please provide a list of disputes referred to the firm, including a brief description of the dispute.

Answer:

1. All of the staff of the Office of the Registrar of Indigenous Corporations (ORIC) are departmental staff of the Department of Prime Minister & Cabinet (the Department). Human resource matters are therefore dealt with in accordance with the Department's

processes and policies. How disputes are mediated depends on the nature and seriousness of the dispute. Minor disputes can be handled in the workplace with support from the manager where they are not directly involved in the dispute, and from experts in the People Branch of the Department. For more serious disputes, qualified external mediators can be engaged to assist.

2. Yes. The Department's Employee Assistance Programme provider, Optum, can provide mediation services.
 1. The Department does not record spending on, or action arising from, mediation in a way that would readily allow answers to be provided. To attempt to provide this information would require an unreasonable diversion of resources.
 2. Refer to the above answer.
 3. 3 March 2014.
 4. These services are provided under a Memorandum of Understanding with the Department of Human Services. The services agreement provides that arrangements will remain in place until such time as they are replaced by a new agreement or terminated by either party to the agreement.
 5. Optum is a qualified service provider with experience mediating employee disputes.
 6. Managers and employees can engage the provider for these services directly. The Department does not hold a central record of disputes. To attempt to provide this information would require an unreasonable diversion of departmental resources.
3. Employees of the Department do not typically mediate disputes between employees arising from alleged breaches of the code of conduct. The Department would engage a qualified external mediator if and when such a situation arose.
4. ORIC has not engaged an external mediator for this purpose to date.

List of disputes referred to the firm—not applicable.

Senate Finance and Public Administration Legislation Committee
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Prime Minister and Cabinet Portfolio

Department/Agency: Office of Township Leasing
Outcome/Program: Outcome 2: Indigenous
Topic: Departmental Dispute Resolution

Senator: Senator the Hon Joe Ludwig

Question reference number: 229

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Please provide a list of disputes referred to the firm, including a brief description of the dispute.

Answer:

The position of the Executive of Director Township Leasing is an independent statutory officer established by s20B of the *Aboriginal Land Rights (Northern Territory) Act 2007* and falls within the responsibility of the Minister of Indigenous Affairs in the Prime Minister and Cabinet portfolio.

The Office of Township Leasing exists to provide operational support to the Executive Director Township Leasing. The Office of Township Leasing is staffed by public servants engaged under the *Public Service Act 1999* who are employed by the Department of the Prime Minister and Cabinet. The Office is not a separate corporate entity from the Department.

All disputes are resolved in accordance with the policies and processes of the Department of the Prime Minister and Cabinet.

1. How are disputes between departmental and/or agency staff mediated?

As per the Department of the Prime Minister and Cabinet's policies and processes

2. Are any outside firms contracted to assist with this process? If yes: please list them, please include:
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 - iii. When the contract with the firm commenced.
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 - v. Why the firm was selected to provide the service.
 - vi. Please provide a list of disputes referred to the firm, including a brief description of the dispute.

This question should be directed to the Department of the Prime Minister and Cabinet.

3. How are code of conduct violations by departmental and/or agency staff mediated?

As per the Department of the Prime Minister and Cabinet's policies and processes

4. Are any outside firms contracted to assist with this process? If yes: please list them, please include:
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As per the Department of the Prime Minister and Cabinet's policies and processes

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Prime Minister and Cabinet Portfolio

Department/Agency: Outback Stores Pty Ltd
Outcome/Program: Outcome 2: Indigenous
Topic: Departmental Dispute Resolution

Senator: Senator the Hon Joe Ludwig

Question reference number: 229

Type of question: Written

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Please provide a list of disputes referred to the firm, including a brief description of the dispute.

Answer:

1. All disputes are mediated through management; however we have not had any in the last 2 years to report.

2. No

3. We mediate different levels of conduct violations respectively and our staff performance is managed in accordance with Outback Stores' Code of Conduct. We will issue a verbal warning in the first instance, written warning for any violations thereafter and then a final warning will be delegated before termination. Serious matters may result in being issued with a first and final warning and very serious matters may eventuate in immediate termination.

4. No.

Senate Finance and Public Administration Legislation Committee
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Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet
Outcome/Program: Outcome 2: Indigenous
Topic: Departmental Dispute Resolution

Senator: Senator the Hon Joe Ludwig

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Please provide a list of disputes referred to the firm, including a brief description of the dispute.

Answer:

1. The Tiwi Land Council draws upon its policies and procedures, and the principles of alternative dispute resolution and model litigant when dealing with disputes.

Policies and Procedures of the Land Council dealing with disputes include the Code of Conduct, Personnel Security Policy, Physical Security Policy, Verbal warning and written warning documents.

The Land Council attempts to follow the guidance provided when dealing with disputes;

Always consider alternatives to litigation: steps to resolve disputes, including using ADR processes, should be taken as early as possible and both before and throughout any court or tribunal proceedings

Proactively manage disputes: effective use of ADR includes seeking independent legal advice early on, to identify when decisions should be elevated to senior levels, what issues and potential settlement terms could be discussed in ADR and when pre-approval of possible settlement terms should be sought

Build an evidence base about how disputes are managed and resolved: this will help inform consistent adoption of best practice

The Land Council is aware of the principles of being a model litigant and the requirements of to deal with disputes in an orderly manner by:

- a) not commence legal proceedings unless satisfied that litigation is the most suitable method of dispute resolution after considering other methods of dispute resolution. This obligation requires agencies to actively consider the most appropriate process for resolving a particular dispute, which may include ADR processes.
 - b) try to avoid, prevent and limit the scope of legal proceedings wherever possible, including consideration of and participation in ADR before commencing legal proceedings and participating in ADR where.
 - c) monitor the progress of litigation and use appropriate methods to resolve the litigation, including settlement offers, payments into court or ADR.
 - d) ensure that representatives of the Commonwealth and its agencies participate fully and effectively in ADR and have authority to settle the dispute.
2. Not Applicable
 3. Tiwi Land Council's Code of Conduct sets out the process and manner in which violations of its contents and spirit are to be dealt with. An extract is below:

COMPLIANCE WITH THE CODE OF CONDUCT:

By Members: Compliance with these standards of conduct is the responsibility of individual members. Alleged breaches or failure to comply with this Code of Conduct shall be dealt with by the Land Council. Where an alleged breach of the Code is considered and found to be of substance the Chairman may require the Managers to prepare a report on the matter for the consideration of the Tiwi Land Council.

By Managers and Staff, Advisors and Contractors: Compliance with these standards is the responsibility of the Chairman of the Tiwi Land Council who may seek the advice of other Managers and report to the Tiwi Land Council.

4. Nil

Senate Finance and Public Administration Legislation Committee
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Prime Minister and Cabinet Portfolio

Department/Agency: Torres Strait Regional Authority
Outcome/Program: Outcome 2: Indigenous
Topic: Departmental Dispute Resolution

Senator: Senator the Hon Joe Ludwig

Question reference number: 229

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Please provide a list of disputes referred to the firm, including a brief description of the dispute.

Answer:

1. Via mediation with the consent of the involved parties to the dispute.

2. Yes.

Ritchie & Associates, Cairns, Queensland

1. Fees for consultation

2. Nil

3. No contract is in place as the TSRA uses them as required.

4. N/A

5. Expertise in undertaking mediation with Indigenous clients in an Indigenous context and willingness to travel to the remote locality of Thursday Island.

6.

(1) No disputes since last budget

3. The TSRA Procedures for determining breaches of the Code of Conduct and for determining sanction are followed. Action falling out of this process may include mediation where it is appropriate to the circumstances.

4. Yes

Ritchie & Associates, Cairns, Queensland

1. Fees for consultation based on quote provided

2. Nil

3. No contract is in place as the TSRA makes a direct approach

4. N/A

5. Expertise in undertaking mediation with Indigenous clients in an Indigenous context and willingness to travel to the remote locality of Thursday Island.

Senate Finance and Public Administration Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Budget Estimates Hearing 25-29 May 2015

Prime Minister and Cabinet Portfolio

Department/Agency: Wreck Bay Aboriginal Community Council
Outcome/Program: Outcome 2: Indigenous
Topic: Departmental Dispute Resolution

Senator: Senator the Hon Joe Ludwig

Question reference number: 229

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Answer:

1. First step is between Supervisor and the staff member involved. If the staff member is a supervisor then the matter is referred to the General Manager. If the dispute is not resolved at that stage then the matter is referred to me as the CEO. In the event that I am not able to resolve the dispute then the matter is taken to the Board of Directors of the Council for final determination.
2. No outside firms have been contracted to assist with this process to date.
3. Same as for 1. Above.
4. Same as for answer to 2. above.