

**Question:** 9

**Topic:** Departmental Dispute Resolution

**Written:** 17 June 2015

**Senator LUDWIG asked:**

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:
  - a) The structure of payments made to each firm (e.g. retainers, fees for each consultation etc). Amount paid to each firm since the last budget.
  - b) When the contract with the firm commenced.
  - c) When the contract with the firm will expire.
  - d) Why the firm was selected to provide the service.
  - e) Please provide a list of disputes referred to the firm, including a brief description of the dispute.
3. How are code of conduct violations by departmental and/or agency staff mediated?
4. Are any outside firms contracted to assist with this process? If yes: please list them, please include:
  - a) The structure of payments made to each firm (e.g. retainers, fees for each consultation etc).
  - b) Amount paid to each firm since the last budget.
  - c) When the contract with the firm commenced.
  - d) When the contract with the firm will expire.
  - e) Why the firm was selected to provide the service.
  - f) Please provide a list of disputes referred to the firm, including a brief description of the dispute.

**Answer**

Disputes between employees in the department are dealt with informally and/or formally depending on the circumstances.

Informal disputes may be dealt with directly by those involved by discussing the issues and/or seeking support from a more senior manager or from a senior Human Resource Management officer.

Informal and formal disputes may also be dealt with in accordance with legislative mechanisms, and in accordance with departmental procedures and guidelines which support these mechanisms. These include, but are not limited to: disputes under the Fair Work Act being dealt with by the Fair Work Commission; disputes under the enterprise agreements being dealt within by an appropriately skilled person or by the Fair Work Commission; Parliamentary Service Code of Conduct matters being dealt with in accordance with the department's Procedures for Determining Suspected Breaches of the Parliamentary Service Code of Conduct; public interest disclosures being dealt with in accordance with the *Public Interest Disclosure Act 2013* and its associated departmental guidelines.

The department's employee assistant program provider is also contracted to provide mediation services if required however this service has not been used for this purpose to date.

The department has used Michele Kane HR Consulting and the Australian Government Solicitor to support the resolution of a staffing dispute. A single purpose contract was established with Michele Kane HR Consulting. Legal advice was provided by the Australian Government Solicitor in

accordance with the Legal Service Multi-Use List arrangement. Legal fees were charged on a time and materials basis (i.e. hourly rate).

The cost of services delivered by Michele Kane HR Consulting was \$11,132.00. The cost of the legal advice was \$1,122.00.

The department's contract with Michele Kane HR Consulting goes from 23 February 2015 to 30 June 2015.

Michele Kane HR Consulting was selected in line with the Commonwealth Procurement Rules.

One dispute was considered by Michele Kane HR Consulting. It dealt with allegations of bullying and harassment.

Suspected breaches of the Parliamentary Service Code of Conduct are dealt with in accordance with section 15 of the *Parliamentary Service Act 1999* and the department's Procedures for Determining Suspected Breaches of the Parliamentary Service Code of Conduct which are established under subsection 15(3) of the *Parliamentary Service Act 1999*. These procedures allow for informal action to be taken by the department to address certain staffing matters if the department considers it appropriate to do so. Alternatively, the formal mechanisms within the procedures can be used. Suspected breaches of the Parliamentary Services Code of Conduct can also be dealt with, in certain circumstances, under the *Public Interest Disclosure Act 2013* and its associated departmental guidelines.

The department establishes support arrangements with appropriate organisations in support of determining suspected breaches of the Parliamentary Service Code of Conduct on a case by case basis and depending on the circumstances. The department selects an organisation when needed using the Commonwealth Procurement Rules to determine the organisation.

Legal advice on Parliamentary Service Code of Conduct matters is requested from organisations on the Legal Service Multi-Use List.

No allegations of suspected breaches of the Parliamentary Service Code of Conduct by employees have been investigated by the department under section 15 of the *Parliamentary Service Act 1999* in the last budget (i.e. the 2014-2015 financial year). As such, no costs have been incurred.