

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING : 08 February 2016

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

(AE16/130) - Departmental Staff Misconduct - Internal Product (DIBP)

Senator Ludwig, Joe (L&CA) written:

Since the change of Prime Minister on 14 September, 2015:

1. Please provide a copy of the departmental staff code of conduct.
2. Have there been any identified breaches of this code of conduct by departmental staff?

 1. If yes, list the breaches identified, broken by staffing classification level.
 2. If yes, what remedy was put in place to manage the breach? If no remedy has been put in place, why not?
 3. If yes, when was the breach identified? By whom? When was the Minister made aware?
 4. If yes, were there any legal ramifications for the department or staff member? Please detail.

Answer:

The Department is subject to the *Public Service Act 1999* (PS Act), Code of Conduct. Breaches of the Code of Conduct identified by the Department since 14 September 2015 are detailed below:

PS Act Breach	APS Level	Sanction/remedy	Date breached
13 (3) (11)	APS 3	Formal counselling	11 February 2016
13 (5)	APS 3	Awaiting decision	8 January 2016
13 (5)	APS 3	Awaiting decision	4 January 2016
13 (3) (11)	APS 3	Awaiting decision	14 December 2015
13 (1) (7) (8) (9)	APS 3	Termination	27 October 2015
13 (5)	APS 4	Awaiting decision	14 December 2015
13 (8)	APS 4	Reduction in salary of \$2000	26 October 2015
13 (1) (5) (9)	APS 5	Awaiting decision	30 November 2015
13 (1) (4) (10) (11)	APS 5	Awaiting decision	11 January 2016
13 (1) (2) (9)	APS 5	Staff member resigned prior to sanction being applied	18 November 2015
13 (3) (8) (11)	APS 6	Reprimand	8 January 2016

13 (3) (8) (11)	APS 6	Reprimand	8 January 2016
13 (3) (11)	APS 6	Staff member retired prior to sanction being applied	10 November 2015
13 (3) (11)	EL1	Reduction in classification, re-assignment of duties and reprimand	8 October 2015

The relevant breaches of the Code of Conduct were determined as indicated within the table above. Breach Decision makers are appointed under the PS Act. The Minister is not generally made aware of individual breaches of the Code of Conduct by staff unless the breach is determined by the Secretary to be serious misconduct as defined by the *Australian Border Force Act 2015*. To date, there has not been any such determinations.

Legal ramifications can take the form of a challenge to the Department's decision that the employee has breached the Code of Conduct or the Department's decision to impose a particular sanction as a result of a breach of the Code of Conduct. The challenge is heard by an appropriate external body (usually the Fair Work Commission if the sanction is termination or the Merit Protection Commission or a court, where a lesser sanction is imposed, or a breach has been found). In this regard there have been no challenges of the breaches listed above during the period.