



ACT
Government

Chief Minister, Treasury and
Economic Development

Investigation Report



Environment, Planning and Sustainable Development Directorate

Case Reference: 2017/16

Prepared by: Tegan Jones
Investigator
Professional Standards Unit

23 May 2017



ACT
Government

Chief Minister, Treasury and
Economic Development

Dr Annie Lane
Executive Director, Environment
Environment, Planning and Sustainable Development Directorate

Dear Dr Lane

Investigation Report regarding allegations of possible misconduct by [REDACTED]

Background

This matter was first brought to the attention of Ms Debbie Crowe, Assistant Manager Human Resources (HR) during a meeting with a [REDACTED] employee. Ms Crowe met with the employee on 6 February 2017, to discuss an unrelated matter. During this conversation, the employee made an allegation that [REDACTED] had authorised an agreement allowing [REDACTED] to receive the [REDACTED] Allowance [REDACTED] despite being [REDACTED]

A preliminary assessment was conducted by Ms Myfanwy Greenwood, Assistant Manager HR and it was found that [REDACTED] had been approving [REDACTED] after [REDACTED] at which point [REDACTED] was no longer eligible for this allowance.

On 21 February 2017, [REDACTED] was notified in writing by Dr Annie Lane of the investigation (**Attachment 1**). The preliminary allegations identified and notified to [REDACTED] were:

1. The allegations relate to your actions in approving claims made by [REDACTED] for the [REDACTED] Allowance [REDACTED] for which [REDACTED] is not entitled to.

Investigative process

On 2 March 2017, the matter was referred to the Professional Standards Unit for investigation (**Attachment 2**).

This investigation was conducted in accordance with the provisions of the *ACTPS Administrative and Related Classifications Enterprise Agreement 2013-2017* under which [REDACTED] is employed.

Relevant witnesses were identified and interviewed. Information in relation to this matter was provided by:

| Person | Role | Information source | Attachment |
|--------|------|-----------------------------------|------------|
| | | Statement dated 20/3/2017 | 3 |
| | | Statement dated 22/3/2017 | 4 |
| | | Statement dated 6/4/2017 | 5 |
| | | Statement dated 6/4/2017 | 6 |
| | | Statement dated 28/4/2017 | 7 |
| | | Respondent interview 27/4/2017 | 8 |
| | | Statement dated 30/3/2017 | 9 |
| | | Statement dated 11/4/2017 | 10 |
| | | Statement dated 11/4/2017 | 11 |

Other Documents/Evidence

| Description | Attachment |
|--|------------|
| E-mails | 12 |
| CHRIS 21 Allowance Spreadsheet – | 13 |
| Allowance Claim forms – | 14 |
| ACTPS Administrative and Related Classifications Enterprise Agreement 2013-2017 | 15 |
| CHRIS 21 Leave taken printout - | 16 |
| E-mails and diary notes | 17 |

On 20 April 2017, [redacted] received in writing the following final allegations (**Attachment 18**), particularised with the relevant information obtained, and was offered an opportunity to respond:

1. Prior to [redacted] commencing duties you made an unauthorised agreement with [redacted] that claim [redacted] Allowance [redacted]
2. Between [redacted] you approved [redacted] claims for [redacted] Allowance. In doing so [redacted] may have gained a financial benefit [redacted] was not entitled to.
3. On [redacted] you approved [redacted] claim for [redacted] Allowance [redacted] when [redacted] was on approved leave for the full days. In doing so [redacted] may have gained a financial benefit that [redacted] was not entitled to.

[redacted] was interviewed on 9 May 2017 and was provided with a transcript of the recording (Attachment 19). [redacted] provided Investigators with a verified copy of the transcript including additional information on 22 May 2017.

Allegation 1:

Prior to [redacted] commencing duties at [redacted] [redacted] made an unauthorised agreement with [redacted] that [redacted] claim [redacted] Allowance [redacted]

Summary of Evidence

The following facts are drawn from information contained in signed statements and documents, obtained from relevant parties.

[redacted]

[redacted]

[redacted]

[redacted]



[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]



[Redacted content]

[Redacted content]

[Redacted content]

[Redacted content]

[Redacted content]

[Redacted]

[Redacted]

[Redacted]

E-mails

[Redacted]

(Attachment 12)

[Redacted]

[Redacted]

[Redacted]



Analysis



Conclusion

On the basis of the information provided, there is sufficient evidence to conclude, on the balance of probabilities that prior to [REDACTED] [REDACTED] made an unauthorised agreement with [REDACTED] that [REDACTED] claim the [REDACTED] Allowance [REDACTED]

This finding is based on an analysis by the investigator of the relevant evidence obtained. It is not a determination that misconduct has or has not occurred, which is a decision for you, as the delegate, to make.

In determining whether this behaviour constitutes misconduct (as defined in clause H6.5 of the *ACTPS Administrative and Related Classifications Enterprise Agreement 2013-2017*), you may wish to consider whether [REDACTED] failed in [REDACTED] obligations under Section 9 of the *Public Sector Management Act 1994*, in particular;

Public Sector Management Act - pre 1 September 2016

A public employee shall, in performing his or her duties:

- (a) exercise reasonable care and skill;
- (c) act with probity.

Public Sector Management Act - post 1 September 2016

- (1) A public servant must -
 - (d) do the public servant's job with reasonable care and diligence, impartiality and honesty;
- (2) A public servant must not –
 - (a) behave in a way that (i) is inconsistent with the public sector values.

Note: as the alleged misconduct occurred both prior to and subsequent to the introduction of a new Section 9 on 1 September 2016, both clauses should be considered.

Allegation 2:

Between [REDACTED] approved [REDACTED]
claims for [REDACTED] Allowance [REDACTED]
[REDACTED] In doing so [REDACTED] may have gained a financial
benefit [REDACTED] was not entitled to.

Summary of Evidence

The following facts are drawn from information contained in signed statements and documents, obtained from relevant parties.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]



[REDACTED]

[REDACTED]

Other Evidence

The Chris21 allowance spreadsheet (**Attachment 13**) indicates [REDACTED] claimed [REDACTED] for the period in question.

[REDACTED] claim forms for [REDACTED] (**Attachment 14**) indicate [REDACTED] claimed [REDACTED] for the period in question, and that [REDACTED] approved these claims.

Clause [REDACTED] from the *ACTPS Administrative and Related Classifications Enterprise Agreement 2013-2017* (**Attachment 15**) states:

[REDACTED]

[REDACTED]

[REDACTED] confirmed that [REDACTED] did approve [REDACTED] claims. [REDACTED] stated that [REDACTED] would receive timesheets, claim forms and leave forms from approximately [REDACTED] staff each fortnight and all forms were not checked in detail given the tight deadlines and number of forms that required approval. [REDACTED] stated;

[REDACTED]

[REDACTED] explained this was an administrative process and [REDACTED] was more concerned about the "need to get these out the door". [REDACTED] stated that [REDACTED] did not give a high level of attention to signing [REDACTED] and that [REDACTED] accepted responsibility for the [REDACTED] claiming the incorrect allowance.

[REDACTED] interpretation of the [REDACTED] was that staff could claim the [REDACTED] relevant to the [REDACTED]

thoughts and interpretation of what [redacted] put to [redacted] was as a result of [redacted] would still continue to claim the allowance for [redacted]

[redacted] stated that [redacted] believed [redacted] would have been [redacted]

[redacted] acknowledged that [redacted] should have checked the [redacted] with a lot more attention to detail to ensure that there is rigour to the processes in place. [redacted] reiterated that the process of collating and signing the timesheets is an antiquated system which [redacted] felt did not have sufficient safeguards to allow managers the ability to efficiently exercise their duty.

[redacted] stated that it was a significant administrative oversight on [redacted] behalf in not revisiting an interim arrangement that was put in place with [redacted] and that [redacted] takes full responsibility.

Analysis

[redacted] confirmed that [redacted] approved [redacted] claims for the period in question and explained that it was an administrative oversight on [redacted] behalf. [redacted] stated that when making the "interim arrangement" with [redacted] thoughts and interpretation of the [redacted] aligned with [redacted] and therefore continuing to claim the allowance for [redacted]

Witnesses had different interpretations of the rules around claiming [redacted]

It is therefore evident that staff are confused by the rules for claiming [redacted] and what [redacted] claimed [redacted] from the ACTPS *Administrative and Related Classifications Enterprise Agreement 2013-2017* states:

[redacted]

The clause does not expand on whether [redacted] means [redacted] [redacted] Investigators were unable to obtain any Directorate policy clarifying the intent of [redacted] It therefore could be considered that the days/weeks when [redacted] was entitled to [redacted]

[redacted] confirmed that [redacted] had periods of [redacted] from [redacted] and during this time [redacted] stated that [redacted] However, it cannot be accurately estimated [redacted]

as well as all said that with the number of allowance claims and timesheets that had to be approved by the it was difficult to thoroughly check all claims in the timeframe required before they need to be submitted to payroll. It could be considered that if a more stringent and streamlined checking process is implemented, this issue may have been avoided.

Conclusion

On the basis of the information provided, there is sufficient evidence to conclude, on the balance of probabilities that between approved for Allowance

This finding is based on an analysis by the investigator of the relevant evidence obtained. It is not a determination that misconduct has or has not occurred, which is a decision for you, as the delegate, to make.

In determining whether this behaviour constitutes misconduct (as defined in clause H6.5 of the *ACTPS Administrative and Related Classifications Enterprise Agreement 2013-2017*), you may wish to consider whether failed in obligations under Section 9 of the *Public Sector Management Act 1994*, in particular:

Public Sector Management Act - pre 1 September 2016

A public employee shall, in performing his or her duties:

- (a) exercise reasonable care and skill;
- (c) act with probity.

Public Sector Management Act - post 1 September 2016

(1) A public servant must -

- (d) do the public servant's job with reasonable care and diligence, impartiality and honesty;

(2) A public servant must not -

- (a) behave in a way that (i) is inconsistent with the public sector values.

Note: as the alleged misconduct occurred both prior to and subsequent to the introduction of a new Section 9 on 1 September 2016, both clauses should be considered.

As the Delegate, you may also wish to consider whether behaviour, on this occasion, constitutes misconduct, as defined in clause H6.5 of the *ACTPS Administrative and Related Classifications Enterprise Agreement 2013-2017*.

Allegation 3:

On [redacted] approved [redacted] claim for [redacted] Allowance when [redacted] was on approved leave for the full days. In doing so [redacted] may have gained a financial benefit that [redacted] was not entitled to.

Summary of Evidence

The following facts are drawn from information contained in signed statements and documents, obtained from relevant parties.

The evidence from [redacted] in relation to the [redacted] and fortnightly pay process is set out in Allegation 2.

[redacted] confirmed [redacted] had signed the [redacted] claim forms for [redacted] stated, "Honestly, I believe that's just pure mistake. I'll own up to them, I did not mean to do that at all." [redacted] admitted it may have been an oversight and further stated:

[redacted]

[redacted]

[redacted]

Other Evidence

[redacted] (Attachment 13) and Chris21 allowance spreadsheet (Attachment 14) indicate [redacted] claimed [redacted] for the period in question.

CHRIS 21 Leave taken printout (Attachment 16) confirms that [redacted] was on Personal leave on [redacted]

[REDACTED]

[REDACTED] again confirmed [REDACTED] approved the [REDACTED] claims for the days in question. [REDACTED] further stated:

[REDACTED]

[REDACTED] again referred to the tight deadlines and number of pay related forms that required [REDACTED] approval before the pay run each fortnight and the issues involving the paper based process in place. [REDACTED] stated;

[REDACTED]

[REDACTED] reiterated that [REDACTED] accepts responsibility as the delegate for signing off the [REDACTED] claim forms while speaking to the difficulties regarding accurately checking all claims in the timeframe required before they need to be submitted to payroll.

Analysis

[REDACTED] confirmed that [REDACTED] claimed [REDACTED] on [REDACTED] stating that it was a simple oversight. [REDACTED]

[REDACTED] confirmed that [REDACTED] had approved the [REDACTED] claims for the dates in question and that [REDACTED] acknowledged that it was [REDACTED] responsibility as delegate to thoroughly check these times sheets prior to signing them off. [REDACTED] again raised the issues around the 'paper based system' being outdated, as well as the time frames in which all of the times sheets and related forms, including allowances were required to be submitted to payroll.

[REDACTED] who had acted in [REDACTED] role, both agreed that with the number of allowance claims and timesheets that had to be approved by the [REDACTED] it was difficult to accurately check all claims in the timeframe required before they need to be submitted to payroll. Again the delegate may wish to consider, whether a more stringent and streamlined checking process was in place, this issue may have been avoided.

Conclusion

On the basis of the information provided, there is sufficient evidence to conclude, on the balance of probabilities that on [REDACTED] approved [REDACTED] claim for [REDACTED] Allowance [REDACTED] when [REDACTED] was on approved leave for the full days.

This finding is based on an analysis by the investigator of the relevant evidence obtained. It is not a determination that misconduct has or has not occurred, which is a decision for you, as the delegate, to make.

In determining whether this behaviour constitutes misconduct (as defined in clause H6.5 of the *ACTPS Administrative and Related Classifications Enterprise Agreement 2013-2017*), you may wish to consider whether [REDACTED] failed in [REDACTED] obligations under Section 9 of the *Public Sector Management Act 1994*, in particular:

Public Sector Management Act - pre 1 September 2016

A public employee shall, in performing his or her duties:

- (a) exercise reasonable care and skill;
- (c) act with probity.

However, as the Delegate, you may wish to consider whether [REDACTED] behaviour, on this occasion, constitutes misconduct, as defined in clause H6.5 of the *ACTPS Administrative and Related Classifications Enterprise Agreement 2013-2017*.

Other Considerations

The following information is not relevant to determine whether the alleged behaviour occurred and whether the behaviour amounts to misconduct, however it may assist you in determining an appropriate sanction if misconduct is found to have occurred.

[REDACTED] and [REDACTED] who had acted in [REDACTED] role, all mentioned that due to the number of allowance claims and timesheets that had to be approved by the [REDACTED] it was difficult to accurately check all claims within the timeframe required, before they needed to be submitted to payroll. It could be considered that if a more stringent and streamlined checking process is implemented, issues of this type may be avoided in the future.

The investigation also identified that there appears to be some confusion around the rules for claiming [REDACTED]

[REDACTED] A Directorate policy clarifying this could be beneficial.

Recommendations

It is recommended that, as the delegate, you:

- a) review this report, along with the accompanying evidence, to determine on the balance of probabilities whether misconduct has occurred;
- b) if misconduct is found, determine an appropriate sanction in accordance with the *ACTPS Administrative and Related Classifications Enterprise Agreement 2013-2017*. ; and
- c) notify [redacted] of the outcome.

..... [redacted]

Tegan Jones
Investigator
Professional Standards Unit

23 May 2017

..... [redacted]

Clare Brookes
Investigations Manager
Professional Standards Unit

23 May 2017

Attachments to report:

- 1. Letter to [redacted] re notice of investigation, dated 21 February 2017.
- 2. Investigation referral, dated 2 March 2017.
- 3. Signed statement - [redacted]
- 4. Signed statement - [redacted]
- 5. Signed statement - [redacted]
- 6. Signed statement - [redacted]
- 7. Signed statement - [redacted]
- 8. Respondent interview transcript - [redacted]
- 9. Signed statement - [redacted]
- 10. Signed statement - [redacted]
- 11. Signed statement - [redacted]
- 12. E-mails - [redacted]
- 13. Chris 21 Allowance spreadsheet - [redacted]
- 14. [redacted] Claim Forms - [redacted]
- 15. [redacted] EA 2013 - 2017
- 16. Chris 21 Leave taken printout - [redacted]
- 17. E-mails and diary notes - [redacted]
- 18. Letter to [redacted] re final allegations and opportunity to respond, dated 20 April 2017.
- 19. Respondent interview transcript - [redacted]

