



ACT
Government

Chief Minister, Treasury and
Economic Development

Investigation Report

Environment, Planning and Sustainable Development Directorate

Case Reference: 2017/15

Prepared by: Phil Haarbarger
Investigator
Professional Standards Unit

24 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] was receiving [REDACTED] Allowance [REDACTED]

A preliminary assessment was conducted by Ms Myfanwy Greenwood, Assistant Manager HR and it was found that [REDACTED] had been receiving [REDACTED] Allowance [REDACTED]

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 claims for [REDACTED] Allowance [REDACTED] for which you are 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 30/3/2017	5
		Statement dated 6/4/2017	6
		Statement dated 6/4/2017	7
		Statement dated 11/4/2017	8
		Statement dated 11/4/2017	9
		Statement dated 28/4/2017	10
		Respondent interview 27/4/2017	11
		Respondent interview 9/5/2017	12

Other Documents/Evidence

Description	Attachment
Allowance Claim forms -	13
CHRIS 21 Allowance Spreadsheet -	14
CHRIS 21 Position Table	15
CHRIS 21 Leave taken printout	16
E-mails	17
ACTPS Administrative and Related Classifications Enterprise Agreement 2013-2017	18
E-mails and diary notes	19

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

1. From approximately [REDACTED] you claimed [REDACTED] Allowance [REDACTED] In doing so you may have gained a financial benefit you were not entitled to.
2. On [REDACTED] you claimed [REDACTED] Allowance [REDACTED] when you were on approved leave for the full days. In doing so you may have gained a financial benefit you were not entitled to.

[REDACTED] was interviewed on 27 April 2017 and was provided with a transcript of the recording. [REDACTED] provided Investigators with a verified copy of the transcript including additional information on 3 May 2017.

Allegation 1:

From approximately [REDACTED] you claimed [REDACTED]
Allowance [REDACTED]
In doing so you may have gained a financial benefit you were 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]















Other Evidence

█ claim forms (**Attachment 13**) indicate █ claimed █ for the period in question.

At the bottom of the █ claim form (**Attachment 13**), it states;



The Chris21 allowance spreadsheet (**Attachment 14**) also indicates that █ claimed █ for the period in question.

The Chris21 position table (**Attachment 15**) indicates that █ between █
█ The associated pay run details are listed on the Chris21 allowance spreadsheet (**Attachment 14**).


█ *ACTPS Administrative and Related Classifications Enterprise Agreement 2013-2017* (**Attachment 18**) states:

[REDACTED]


[REDACTED]

[REDACTED] admitted that [REDACTED] did claim the [REDACTED] for the period in question and confirmed that [REDACTED] did sign the [REDACTED] claim forms.

[REDACTED]



Analysis





admitted claimed for the period in question. The allowance spreadsheet from Chris 21 and claim forms confirm this. also confirmed that approved claims for the period in question.

assumed that had the authority to approve such an arrangement. also claimed that *"...never thought I was getting away with anything, I always thought it was an agreement that I was allowed to do."*



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

[REDACTED] from the *ACTPS Administrative and Related Classifications Enterprise Agreement 2013-2017* states:

Conclusion

On the basis of the information provided, there is sufficient evidence to conclude, on the balance of probabilities that from approximately [REDACTED] claimed [REDACTED] Allowance [REDACTED] In doing so [REDACTED] may have gained a financial benefit [REDACTED] was not entitled to.

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 therefore be considered

Allegation 2:

On [redacted] you claimed [redacted] Allowance [redacted] when you were on approved leave for the full days. In doing so you may have gained a financial benefit you were 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 all witnesses in relation to [redacted] claiming the [redacted] is set out in Allegation 1.

[redacted]

Other Evidence

[redacted] claim forms (**Attachment 13**) and Chris21 leave taken printout (**Attachment 16**) indicate [redacted] was on [redacted] leave and claimed [redacted] on the days in question.

[redacted]

[redacted] provided full admissions to this allegation and confirmed [redacted] had signed the [redacted] claim forms in question. [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]

[REDACTED]

Analysis

[REDACTED] provided full admissions to this allegation and the [REDACTED] claim forms and Chris21 leave taken data confirm that [REDACTED] was on [REDACTED] leave and did claim [REDACTED] on the days in question.

[REDACTED] claimed it was simply an oversight and the fact that [REDACTED]

[REDACTED]

[REDACTED] appeared to be truthful during [REDACTED] respondent interview in stating that [REDACTED] claims for [REDACTED] on the dates in question were a "pure mistake". The Delegate may wish to consider whether these claims were a deliberate attempt to gain a benefit that [REDACTED] was not entitled to or simply an administrative oversight. A more stringent checking and approval regime may have avoided this type of oversight.

Conclusion

On the basis of the information provided, there is sufficient evidence to conclude, on the balance of probabilities that on [REDACTED] claimed [REDACTED] Allowance [REDACTED] was on approved leave for the full days. In doing so [REDACTED] may have gained a financial benefit [REDACTED] was not entitled to.

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.

The Chris21 allowance spreadsheet (**Attachment 14**) indicates that [redacted] claimed [redacted] up to an amount of \$6842.73 between [redacted]. This spreadsheet includes the periods of time in which [redacted] during which [redacted] may have been entitled to claim the [redacted]. The allowances for the period that [redacted] total \$531.48.

[redacted] 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]. 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]
.....
Phil Haarburger
Investigator
Professional Standards Unit

24 May 2017

[redacted]
Clare Brookes
Investigations Manager
Professional Standards Unit

24 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. Signed statement [REDACTED]
9. Signed statement [REDACTED]
10. Signed statement [REDACTED]
11. Respondent interview transcript – [REDACTED]
12. Respondent interview transcript – [REDACTED]
13. [REDACTED] Claim Forms – [REDACTED]
14. Chris 21 Allowance spreadsheet – [REDACTED]
15. Chris 21 Position Table – [REDACTED]
16. Chris 21 Leave taken printout – [REDACTED]
17. E-mails [REDACTED]
18. [REDACTED] EA 2013 – 2017
19. E-mails and diary notes [REDACTED]
20. Letter to [REDACTED] re final allegations and opportunity to respond, dated 20 April 2017.