

From: Ian Robertson
Sent: Monday, 20 October 2014 5:16 PM
To: COOK Simone
Cc: CROSSAN Paul; DUNCAN Peter
Subject: Re: Paul Crossan - BCC letter dated 29 September

Why not?

Ian Robertson
Sent from my iPhone

On 20 Oct 2014, at 16:44, COOK Simone <simone.cook@bankstown.nsw.gov.au> wrote:

Good afternoon Ian,

Following on from your request last week for a copy of the report in relation to this matter, this report will not be made available.

Regards,
Simone

Simone Cook - Manager People Learning and Culture
Bankstown City Council

From: Ian Robertson [<mailto:ian@depa.net.au>]
Sent: Friday, 17 October 2014 11:31 AM
To: COOK Simone
Cc: CROSSAN Paul; DUNCAN Peter
Subject: RE: Paul Crossan - BCC letter dated 29 September

Simone

Noted. I can wait until Monday but no later, thanks.

Ian Robertson Secretary
depa

Ph: 9712 5255
www.depa.net.au

From: COOK Simone [<mailto:simone.cook@bankstown.nsw.gov.au>]
Sent: Friday, 17 October 2014 11:07 AM
To: Ian Robertson
Subject: RE: Paul Crossan - BCC letter dated 29 September

Hi Ian

I haven't had a chance to fully review your email from yesterday, and will get back to you later today or early Monday regarding this matter.

Thanks
Simone

Simone Cook - Manager People Learning and Culture
Bankstown City Council



From: Ian Robertson [<mailto:ian@depa.net.au>]
Sent: Thursday, 16 October 2014 2:35 PM
To: COOK Simone
Cc: CROSSAN Paul; DUNCAN Peter
Subject: FW: Paul Crossan - BCC letter dated 29 September

Simone

I've now had the chance to talk to Paul about this who, obviously enough, is very disappointed. He has never had an issue before about his tone or style and, when you think of it, a supervisor doing "fact-finding" as you might like to call it, can be criticised for being too formal and authoritarian, and intimidating an employee or criticised for being too informal and relaxed, and entrapping an employee. . It's a difficult position to be in.

But, of course, he was only in the position of being there alone because he had sought assistance from HR and it was denied. This is the first thing wrong with what you have done.

The second thing is that the Council gave him a letter demanding that he apologise but you now describe that as arising "from a misapprehension about what the report found." The "misapprehension" was clearly from people other than Paul because Paul hasn't seen the report. Someone drafted the letter and Darren signed the letter demanding that he issue an apology. You make it sound like it was Paul's misapprehension. I think as a supervisor he deserves better support than this.

Paul is not even in the position of being able to misapprehend the report because he hasn't seen it. He knows that there were significant inaccuracies in the notes typed by the investigator during the course of their interview with him which he corrected. He needs to see the report and I ask that you agree to provide it to him as soon as possible. Please advise me by 10 AM tomorrow that you agree to provide the report so we can understand, and potentially challenge, the observations and findings made. Otherwise there are significant procedural fairness problems.

I'd hate to get caught up in some argument about whether the word "innocent" is appropriate or whether you would be more comfortable with "not guilty", or "not substantiated" or whatever, but we are not prepared to let the Council continue with this approach in the circumstances listed above.

I suggest you advise me as soon as possible that you will provide him with the report and it will probably be necessary, arising from that, for us to meet. I assume if we are to meet that you will need to involve another layer or two within the organisation and, after a few years of no issues at Bankstown, I'm not sure whether I should be copying anyone else into this email or, if I should, who I should add.

There is a further complication here, Your HR Partner is encouraging Paul to provide advice on the complainant's performance generally to allow the toughening up of the approach recommended by the relevant team leader. He is reluctant at the moment because he isn't confident that he will be supported. This focusses our attention on resolving this soon.

Regards

Ian Robertson Secretary
depa

Ph: 9712 5255
www.depa.net.au

From: COOK Simone [<mailto:simone.cook@bankstown.nsw.gov.au>]
Sent: Tuesday, 14 October 2014 2:27 PM
To: Ian Robertson
Subject: RE: Paul Crossan - BCC letter dated 29 September

Good afternoon Ian

Thank you for your correspondence regarding the outcome to the investigation into the grievance that was lodged against Paul Crossan. I have just returned from leave and am making my way through my emails.

Council rejects the submission that Mr Crossan requires an apology. That submission stems from a misapprehension about what the report found.

The report found, unequivocally, that:

1. Mr Crossan acted in an authoritarian and formal manner in a meeting that required no such approach.
2. Mr Crossan made the decision himself as to how he was to conduct the meeting.
3. The outcome of the meeting was that Mr [REDACTED] felt intimidated and threatened by Mr Crossan's approach.

While some matters were not sustained, that does not mean Mr Crossan is "innocent", a term used in the criminal jurisdiction. While Mr Crossan did not act so as to breach Council policy, Mr Crossan's conduct is serious enough to warrant some remedial action.

An apology will not be pursued by Council. We would have anticipated that Mr Crossan would have recognised the effect his behaviour had on a junior officer, and apologised in any event.

The report clearly finds that Mr Crossan acted in an authoritarian manner in the interview in a situation that did not require it. Mr Crossan has demonstrated conduct

that has fallen short of the people management skills expected of Coordinators. To that end, Mr Crossan is directed to attend a series of one on one coaching sessions that will assist his understanding of human resources processes and help him to improve his people management skills. Mr Crossan will be directed to undertake the coaching as soon as it can be arranged.

Regards
Simone

Simone Cook - Manager People Learning and Culture Bankstown City Council

From: Ian Robertson [<mailto:ian@depa.net.au>]
Sent: Thursday, 2 October 2014 3:25 PM
To: COOK Simone; CELLE Annette
Cc: CROSSAN Paul; DUNCAN Peter
Subject: Paul Crossan - BCC letter dated 29 September

Hi Simone/Annette

I'm not sure how much of this grievance/investigation you are familiar with but, in a nutshell, a grievance was lodged against Paul by an employee he supervises and the allegations have not been substantiated.

But, notwithstanding his innocence, the Council has written a clumsy and imprecise letter to Paul, signed by Darryl Atkins as the Manager Environmental Services as he rushed out the door to go on holidays, demanding that he "apologise unreservedly to [REDACTED] in writing for the manner in which you conducted of the meeting 1 August 2014, within seven days of receipt of this letter."

I have been on leave for a week and returned to the office this morning, so it's only now that Paul has been able to obtain advice from me.

There are so many things wrong with this that I don't know where to start. Before I do start, my view is that the letter be withdrawn and someone there needs to apologise to Paul for this fiasco.

Now I will start:

1. Paul supervises [REDACTED], and [REDACTED] is an employee currently being performance managed.
2. On 31 July, a Linda Downey sent an email complaint to Darryl Atkins alleging that an abandoned car had been outside 6 Malvern Street Panania for more than ten months.
3. I have an email trail that shows this going to [REDACTED], a Ranger and, almost instantly, "[REDACTED]" replies to Darryl an hour and a quarter later that "on the 19 July 2014 Ranger [REDACTED] attended the area and stated the vehicle no longer in this location."
4. This is then brought to Paul Crossan's attention who, in anticipation of interviewing [REDACTED], emails your Kelly Figueira "I m suggesting someone in the rm with me when this occurs, especially now we are near decision time. Thoughts???" And Kelly responds "just do

it yourself as his supervisor and that your questioning what took place. Your really just fact gathering at the moment."

5. Please note point 4 - this is significant here because if anyone is responsible for something going wrong at the subsequent interview, because the interview was conducted without a third party, its Kelly.
6. Paul conducts an interview and types a file note as he meets with [REDACTED] from 9:05 AM to 10:08 AM 1 August.
7. It eventuates that [REDACTED] had misread the form and says "shit o/s No. 6 ... Oh shit".
8. He admits, over and over again, he "stuffed up".
9. Paul's file note is concluded with "Q and A's read back to [REDACTED] at the conclusion"
10. [REDACTED] subsequently makes a complaint about Paul's manner at the interview your people suggested he attend alone.
11. The Council has the complaint investigated by Kath Roach and Claire Brogan from SINC Solutions.
12. In the process, Paul is interviewed and is then given a purported transcript of observations which requires significant changes, all agreed to by the investigators, to accurately reflect his responses.
13. The investigation concludes that the allegations "has not been substantiated."

Then he gets the letter dated 29 September, which is about the worst letter I've seen conveying the "Outcome of Investigation". There are a few things wrong with the letter:

Firstly, there are allegations of breaching "section 36 (iv)" of the State Award in a number of places but there is no such section. There is a section 36A(iv), 36B(iv) and 36C(iv) - so it's a bit hard to know what he is alleged to have breached.

Secondly, you will note from the letter there is a bold paragraph containing the allegation which is headed "Allegation One: **Beach** of section 36 (vi) ...". Why it was headed "Allegation One" beats me, because there were really two allegations, both of which were joined together.

Thirdly, there follow six dotpoints and the final dot point says "You stated you did not deem the meeting with [REDACTED] 1 August, 2014 as a disciplinary meeting" and, you will note from point 4 above that this was on Kelly's advice.

Fourthly, there is reference as part of this "Allegation One" to having also beached (sic) "section 2.0 of Bankstown Council's Counselling, Discipline and Termination of Employment Policy", but consistent with the inaccurate reference to 36 (iv) there is no specific allegation made here either.

Fifthly, while finding that the allegations have not been substantiated, it is then put "whilst there are no findings of any breach of the Bankstown City Council Code of Conduct". But this was not ever listed as an allegation.

Sixthly, notwithstanding the absence of breaches of anything, the "Council has deemed the manner in which you conducted the meeting with [REDACTED] on 1 August 2014 to be excessively authoritarian, direct and formal, and this approach was not required in the circumstances." There appear to be no findings whatsoever by the Investigators to allow the Council to come to this conclusion and, given that the file note typed up by Paul during the interview was seen by [REDACTED] without fuss or comment, this is a fantasy. If you suggest there are findings that allow the Council to reach this conclusion, they should be provided to Paul for his response. Otherwise this is procedurally unfair.

Seventhly, the Council requires Paul to "participate in coaching from a party external to Council to assist you in your current role and the issues being encountered in the work unit." When there is no reference to what these "issues" may be and when it is notorious that [REDACTED] is being performance-managed out of the organisation.

My view is that in the absence of any findings which are provided to Paul and where he is given the opportunity of responding, the Council cannot require an apology nor any training.

Given that I am now involved, I'm asking you to waive the seven day requirement until this matter is resolved.

Please give me a call to discuss and, as always, I'm happy to come to Bankstown to straighten this problem out.

Regards

Ian Robertson Secretary
depa

Ph: 9712 5255
www.depa.net.au