

OFFICE OF ABORIGINAL HEALTH, MR EDWARD SHANE HOUSTON

1882. Mrs C.L. Edwardes to the Minister for Health

I refer the Minister to the answer to question on notice No. 1194 of 11 March 2003 and ask -

- (a) will the Minister now table the report of the independent investigator;
- (b) if not, why not; and
- (c) has legal advice been requested or received in relation to any findings of the report?

Mr J.A. McGINTY replied:

- (a) No.
- (b) Pursuant to 86(4)(a) of the Public Sector Management Act 1994, the Director General, Department of Health directed Robert Laing to hold a disciplinary inquiry into charges of breaches of discipline concerning Shane Houston.

The disciplinary inquiry is a private and confidential mechanism by which employing authorities can act to ensure that the Codes of Conduct relevant to Public Service officers are complied with in the public interest.

The findings of disciplinary proceedings are not determinative in the same way as the outcome of judicial proceedings are. There is no statutory protection given to the outcome of disciplinary proceedings or to persons who provide evidence to them. Persons may provide points of view and evidence which they do not wish to obtain public currency or currency within the work place. Reports may contain allegations that persons, other than the one who is the subject of enquiry, themselves have acted improperly in the course of their employment. The unfairness of that sort of allegation obtaining currency through circulation of a report is obvious.

In the explanatory note to the Discipline Standard of the Public Sector Standards and Human Resource Management under the heading "Confidentiality", it is stated:

"Information produced during the discipline process is kept in trust and divulged only to those with a need to know, with due regard to the requirements of the Freedom of Information Act 1992".

This plainly recognises the very narrow field of persons who have a legitimate interest in the disciplinary process and the need for confidentiality. Public circulation of the report is clearly not indicated.

That the report in this instance may be favourable to the employee and publication suit his purposes is irrelevant. The point is that the disciplinary process is a confidential one, which is not intended to determine issues once and for all.

Mr Houston was advised in unequivocal terms that the charges were not substantiated.

- (c) No.