



Procedures for determining suspected breaches of the APS Code of Conduct and the imposition of sanctions

I, Leonie McGregor, Chief Executive Officer of the Parliamentary Workplace Support Service (the Agency), have established these procedures in accordance with subsection 15(3) of the *Public Service Act 1999* (the Act).

These procedures supersede the previous procedures of the same title made for the agency under subsection 15(3) of the Act.

Leonie McGregor
Chief Executive Officer
Parliamentary Workplace Support Service

20 February 2025

1. Agency Commitment

- 1.1 The Agency is committed to enabling a safe and respectful working environment, characterised by a workforce that upholds the highest standards of ethical and accountable conduct. Where allegations of wrongdoing are considered under these procedures, the principles of natural justice and procedural fairness are fundamental to the process.

2. Application of Procedures

- 2.1 These procedures apply in determining :
- whether an Australian Public Service (APS) employee in the Agency, or a former APS employee who was employed in the Agency at the time of the suspected misconduct, has breached the APS Code of Conduct (the Code) in section 13 of the Act.
 - any sanction to be imposed on an APS employee in the Agency, in accordance with subsection 15(1), who has been found under these procedures to have breached the code.
- 2.2 In these procedures, a reference to a breach of the Code includes a reference to a current or former employee who has engaged in conduct set out in subsection 15(2A) of the Act in connection with their engagement as an APS employee.

Note: Not all suspected breaches of the Code need to be dealt with by way of a determination under these procedures. In particular circumstances, dealing with a suspected breach of the Code in accordance with the agency's performance management processes or an alternative approach may be more appropriate.

3. Availability of procedures

- 3.1 These procedures are made publicly available on the Agency's website in accordance with subsection 15(7) of the Act.

4. Contact and Support

- 4.1 The Corporate Team is available to provide further guidance on these procedures as required.
- 4.2 The Employee Assistance Program (EAP) provides confidential, free counselling and coaching on a wide range of topics to Agency employees, managers, and their family members.

5 Breach decision-maker

- 5.1 As soon as practicable after a suspected breach of the Code has been identified, one of the following:

- CEO
- A person authorised by the CEO
- An SES officer within PWSS

will consider if it is appropriate for a preliminary assessment to be conducted to assess whether the suspected breach of the Code should be formally investigated under these procedures. Once a decision is made to formally investigate the suspected breach under these procedures, the CEO or that employee will appoint a decision-maker ('the breach decision-maker') to make a determination under these procedures.

- 5.2 These procedures do not prevent the CEO, or a person listed at subclause 5.1, from appointing themselves as the breach decision-maker.
- 5.3 The role of the breach decision-maker is to determine in writing whether a breach of the Code has occurred.
- 5.4 The breach decision-maker may undertake the investigation or seek the assistance of an investigator who may be external to the Agency. The investigator may investigate the alleged breach, gather evidence and make a report of recommended findings of fact to the breach decision-maker.

6 Sanction delegate

- 6.1 The delegate determining whether a sanction should be imposed for any breach of the Code is referred to in these procedures as the sanction delegate and will hold a delegation of the power under subsection 15(1) of the Act.
- 6.2 These procedures do not prevent the breach decision-maker from being the sanction delegate in the same matter.

7 Suspension delegate

- 7.1 The delegate determining whether an employee should be suspended from duties is referred to in these procedures as the suspension delegate and will hold a delegation of the powers and functions under section 28 of the Act and section 14 of the *Public Service Regulations 2023* (PS Regulations).
- 7.2 Where suspension from duties is being considered, appointing a separate decision-maker is desirable.

8 Breach decision-maker and sanction delegate to be independent and unbiased

- 8.1 The Agency will take reasonable steps to ensure the breach decision-maker and the sanction delegate are, and appear to be, independent and unbiased.

9 The determination process

- 9.1 The process for determining whether a current or former APS employee in the Agency has breached the Code must be carried out with as little formality, and with as much expedition, as proper consideration of the matter allows.
- 9.2 The process must be consistent with the principles of procedural fairness.
- 9.3 Before a determination is made in relation to a suspected breach of the Code by a current or former APS employee, the Agency must take reasonable steps to:
- a) inform them of:
 - the details of the suspected breach of the Code (including any subsequent variation of those details); and
 - the sanctions that may be imposed on the APS employee under subsection 15(1) of the Act.
 - b) give them a reasonable opportunity to make a statement in relation to the suspected breach.

10 Sanction

- 10.1 The process for imposing a sanction must be consistent with the principles of procedural fairness.
- 10.2 If a determination is made that an APS employee in the Agency has breached the Code, a sanction may not be imposed on the APS employee unless reasonable steps have been taken to:
- a) inform them of:
 - the determination that has been made; and
 - the sanction or sanctions that are under consideration in accordance with subsection 15(1) of the Act; and
 - the factors that are under consideration in determining any sanction to be imposed.
 - b) give them a reasonable opportunity to make a statement in relation to the sanction/s under consideration.
- 10.3 If a determination is made that a current APS employee has breached the Code, the following sanctions may be imposed under subsection 15(1) of the Act:
- a reprimand
 - deduction from salary, by way of a fine
 - reduction in salary
 - re-assignment of duties
 - reduction in classification
 - termination of employment.

11 Support person

- 11.1 A current or former APS employee who is under investigation for a suspected breach of the Code may bring a support person with them to formal meetings. The support person can support and assist the person under investigation but is not permitted to advocate or speak on their behalf. The person under investigation should advise the investigator, or the breach decision-maker, who the support person is before the meeting, and seek permission for them to attend.

- 11.2 The support person should not be involved in the investigation, such as a witness.
- 11.3 Although the investigator should accommodate attendance by a support person, their unavailability will not generally provide a reason to delay the investigation

12 Reassignment of duties or suspension from duty

- 12.1 An employee suspected of breaching the Code may be reassigned to alternative duties pursuant to section 25 of the Act, or may be suspended from duty by the suspension delegate in accordance with section 14 of the PS Regulations.

13 Record of determination and sanction

- 13.1 If a determination is made in relation to a suspected breach of the Code by a current or former APS employee in the Agency a written record must be made of:
- the suspected breach; and
 - the determination; and
 - any sanctions imposed as a result of the determination; and
 - any statements of reasons provided to the employee.

Note: The Archives Act 1983 and the Privacy Act 1988 apply to a record made under this clause.

14 Movement between agencies during an investigation

- 14.1 This clause applies if:
- an APS employee in the Agency is suspected of having breached the Code; and
 - reasonable steps have been taken to formally advise the APS employee of the suspected breach in accordance with clause 9 of these procedures; and
 - a decision is made to promote an APS employee and the matter to which the suspected breach relates has not yet been resolved before the employee moves to take up the promotion; or
 - a decision has been made, apart from these procedures, that would result in the movement of the employee under section 26 of the Act to another agency.
- 14.2 Unless the losing Agency Head and the gaining Agency Head agree otherwise, the movement (including on promotion) does not take effect until the matter is resolved.
- 14.3 For this clause, the matter is taken to be resolved when:
- a determination is made as to whether the APS employee has breached the Code; or
 - it is decided that such a determination is not necessary.


15 SES employees

- 15.1 In accordance with section 64 of the *Australian Public Service Commissioner's Directions 2022*, the delegate will consult with the APS Commissioner on the process for determining whether an SES employee has breached the Code, and before any sanction is imposed.

16 Seeking a review of decision

- 16.1 Where a determination has been made that a current or former non-SES employee has breached the Code, they may be eligible to seek review of the action under section 33 of the Act. A review may also be sought in respect of a sanction decision, unless the sanction was

termination of employment. Applications for review should be made to the Merit Protection Commissioner directly within the statutory timeframe.

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