



Parliamentary Service Commissioner's Direction 2000/1

I, HELEN WILLIAMS, Parliamentary Service Commissioner, make this Direction under subsection 15 (4) of the *Parliamentary Service Act 1999*.

Dated 2000.

Parliamentary Service Commissioner

Basic requirements for procedures for determining breaches of the Code of Conduct

1.1 Purpose of this Direction

The purpose of this Direction is to set out the basic procedural requirements that must be complied with by the procedures established by a Secretary under subsection 15 (3) of the Act for determining whether a Parliamentary Service employee in a Department has breached the Code of Conduct.

Note The requirements set out in this Chapter and the procedures established under subsection 15 (3) of the Act apply only in relation to a suspected breach of the Code of Conduct by a Parliamentary Service employee in respect of which a determination is to be made. Not all suspected breaches of the Code of Conduct may need to be dealt with by way of a determination. In particular circumstances, another way of dealing with a suspected breach of the Code may be more appropriate.

1.2 Information to be given to employee before determination is made

Before any determination is made in relation to a suspected breach of the Code of Conduct by a Parliamentary Service employee, the employee must:

- (a) be informed of:
 - (i) the details of the suspected breach of the Code of Conduct (including any variation of those details); and
 - (ii) the sanctions that may be imposed on the employee under subsection 15 (1) of the Act (including any limitations on that power contained in regulations made for the purposes of subsection 15 (2) of the Act); and
- (b) be given reasonable opportunity to make a statement in relation to the suspected breach.

1.3 Determination process to be informal

The process for determining whether a Parliamentary Service employee has breached the Code of Conduct must be carried out with as little formality and as much expedition as a proper consideration of the matter allows.

1.4 Person making determination to be independent and unbiased

A Secretary must take reasonable steps to ensure that the person who determines whether a Parliamentary Service employee has breached the Code of Conduct is, and appears to be, independent and unbiased.

1.5 Record of determination

After a determination in relation to a suspected breach of the Code of Conduct by a Parliamentary Service employee is made, a written record stating whether the employee has been found to have breached the Code of Conduct must be prepared. These records must be treated with appropriate confidentiality.

Note The *Archives Act 1983* applies to a record made under this clause.

1.6 Appropriate procedures if basis of Parliamentary Service employee's engagement in a Department changes or employee moves to a different Department

- (1) This clause applies if:
- (a) a Parliamentary Service employee in a Department is suspected of having breached the Code of Conduct; and
 - (b) before any determination is made in relation to the suspected breach:
 - (i) the basis of the employee's engagement in the Department changes; or
 - (ii) the employee moves to a different Department.

Note Examples of a change in the basis of a Parliamentary Service employee's engagement in a Department are as follows:

- (a) a change from engagement for a specified term, or for the duration of a specified task, to engagement as an ongoing Parliamentary Service employee;
 - (b) a change from engagement for duties that are irregular or intermittent to engagement as an ongoing Parliamentary Service employee.
- (2) A determination (if any) in relation to the suspected breach must be made:
- (a) if the basis of the employee's engagement in the Department has changed — in accordance with the procedures applicable to the basis of the employee's engagement in the Department at the time the process for determining whether the employee has breached the Code of Conduct is commenced; and
 - (b) if the employee has moved to a different Department — in accordance with the procedures applicable in the Department to which the employee has moved at the time the process for determining whether the employee has breached the Code of Conduct is commenced.