



CODE OF CONDUCT

TABLE OF CONTENTS

Principles	2
References	2
Code of Conduct.....	2
Failure to comply with requirements.....	3
Delegation	3
Other Related Matters.....	3
Conflict of Interest.....	3
Conduct with Industry and Members of the Public	4
Outside Employment	4
Pre-employment	4
Gifts and other benefits.....	4
Fair and equitable decisions	4
Patronage, Favouritism and Unjustified Discrimination	5
Duty of Care	5
Official Information.....	5
Post separation employment	5
Whistleblowing	5
APS Values and Employment Principles	5
Breaches of the Code of Conduct.....	6
Statutory Office Holders (SoH).....	7
Conduct Outside of Employment	7
Inter-Agency Moves	7
Sanctions	8
Right of Review.....	8
Personal Information.....	8
Document administration	9
Change history	9
Consultation.....	9
Approvals	9
Attachment A:	10
References	10

Principles

- Employees will be informed of responsibilities under the department's Code of Conduct through provision of information and induction packages.
- Managers will promote ethical standards of behavior in the workplace including the promotion of APS Values and Code of Conduct.
- Any administrative process should be streamlined and not involve unnecessary steps. If several allegations of breaches are made, these should be dealt with on a collective basis.
- An alleged breach of the Code of Conduct must be dealt with in accordance with due process.
- Appropriate records regarding misconduct must be kept.
- Decisions regarding misconduct will be subject to review.
- The General Manager, People and Planning Branch, should be consulted on all matters relating to misconduct.

References

Refer to Attachment A.

Code of Conduct

The Code of Conduct (the Code) procedure is provided to assist in understanding the Code and steps to be taken for alleged breaches. It also helps to identify and address issues associated with behavioural standards that are often integrally linked to performance problems.

The department has based its Code of Conduct on the Australian Public Service (APS) Code of Conduct and requires all employees to meet the following standards of conduct:

1. An APS employee must behave honestly and with integrity in connection with APS employment.
2. An APS employee must act with care and diligence in connection with APS employment.
3. An APS employee, when acting in connection with APS employment, must treat everyone with respect and courtesy, and without harassment.
4. An APS employee, when acting in connection with APS employment, must comply with all applicable Australian laws. For this purpose, Australian law means:
 - (a) any Act (including this Act), or any instrument made under an Act; or
 - (b) any law of a state or territory, including any instrument made under such a law
5. An APS employee must comply with any lawful and reasonable direction given by someone in the employee's agency who has the authority to give the direction.

6. An APS employee must maintain appropriate confidentiality about dealings with any Minister or Minister's member of staff.
7. An APS employee must:
 - (a) take reasonable steps to avoid a conflict of interest (real or apparent) in connection with the employee's APS employment; and
 - (b) disclose details of any material personal interest of the employee in connection with the employee's APS employment.
8. An APS employee must use Commonwealth resources in a proper manner and for a proper purpose.
9. An APS employee must not provide false or misleading information in response to a request for information that is made for official purposes in connection with the employee's APS employment.
10. An APS employee must not improperly use inside information or the employee's duties, status, power or authority:
 - (a) to gain, or seek to gain, a benefit or an advantage for the employee or any other person; or
 - (b) to cause, or seek to cause, detriment to the employee's Agency, the Commonwealth or any other person.
11. An APS employee must at all times behave in a way that upholds the APS Values and the integrity and good reputation of the APS.
12. An APS employee on duty overseas must at all times behave in a way that upholds the good reputation of Australia.
13. An APS employee must comply with any other conduct requirement that is prescribed by the regulations or by the department.

Failure to comply with requirements

Where an employee is found to have breached the Code, the Secretary (or the Secretary's delegate) may decide to take misconduct action.

Delegation

In relation to "Outside Employment" and "Gifts and other benefits" the Secretary has delegated powers in relation to these issues to Deputy Secretary's, Associate Secretary's, Heads of Divisions, General Managers and State Managers.

In dealing with "Breaches of the Code of Conduct" the Secretary has delegated powers to Deputy Secretary's, Associate Secretary's, Heads of Division and the General Manager, People and Planning Branch.

Other Related Matters

The following paragraphs deal with the application of the Code to some situations which may be of particular relevance to the department. They also mention provisions in the *Crimes Act 1914* which are relevant in some situations.

Conflict of Interest

Employees are required to ensure that their private interests, both financial and personal, do not give rise to any actual or perceived conflict of interest. If any conflict does arise, employees are required to disclose the matter to their supervisor and to take action to avoid the conflict. Employees are required to update their Conflict of

Interest disclosures annually, when changing work areas or when relevant personal circumstances change.

Conduct with Industry and Members of the Public

Many employees of the department, and particularly those in programme and corporate areas, are involved in decisions which can have a major impact on individual firms and people or even whole industries. It is imperative that the department has a reputation for professionalism, fairness and impartiality in making such decisions. Actions which could call that reputation into question may be breaches of the Code. This could include any action which is perceived to be an improper connection with or disposition against an applicant for a grant, even if no such message was intended. Employees must therefore be professional, fair and impartial in all their dealings with people outside the department.

Outside Employment

Employees must not perform work outside the department if it:

- would conflict or be perceived to conflict with official duties; and/or
- is likely to interfere with the performance of official duties

Employees must have the approval of the Secretary (or the Secretary's delegate) before performing any paid work outside of the department.

Employees do not need approval to perform unpaid voluntary work.

If there is any doubt about a conflict of interest, employees should advise the Secretary (or the Secretary's delegate) of the nature of the work and discuss whether or not the work would give rise to a conflict or a perceived conflict of interest.

Pre-employment

Employees should always behave in a way that upholds the integrity and good reputation of the department as well as the APS. Action may be taken in relation to employees who have, before engagement, provided false or misleading information, failed to provide relevant information or failed to act with integrity or honesty in connection with their engagement.

Gifts and other benefits

Employees must not use their official position to obtain a benefit for themselves or anyone else. Benefits include gifts, sponsored travel, personal benefits under frequent flyer schemes, substantial hospitality and entertainment. Where employees are offered a gift or benefit, it must be declared. Gifts or benefits may be accepted if they have the written approval of the Secretary (or the Secretary's delegate).

Fair and equitable decisions

Employees are required to treat members of the public and other employees equitably, regardless of gender, age, language, ethnicity, cultural background, disability, sexual preference, religion and family responsibility. Employees must also not behave in a way that constitutes workplace harassment or sexual harassment.

For further information refer to [Workplace Diversity](#).

Patronage, Favouritism and Unjustified Discrimination

Decisions made in relation to the engagement, transfer or promotion of a person under the *Public Service Act 1999*, must be free of patronage, favouritism or unjustified discrimination.

Duty of Care

Employees must exercise reasonable skill and diligence in giving information or advice that is accurate and may be relied on.

Official Information

APS employees must not disclose information which the APS employee obtains or generates in connection with the APS employee's employment if it is reasonably foreseeable that the disclosure could be prejudicial to the effective working of government, including the formulation or implementation of policies or programmes. Further, an APS employee must not disclose information which the APS employee obtains or generates in connection with the APS employee's employment if the information:

- (a) was, or is to be, communicated in confidence within the government;
or
- (b) was received in confidence by the government from a person or persons outside of the government;

whether or not the disclosure would be found an action for breach of confidence. Disclosure is however permitted in the course of an employee's duties, or with the Agency Head's express authority, or if a disclosure is required by law.

Post separation employment

Under section 70(2) of the *Crimes Act 1914*, employees must not disclose any official information after leaving employment with the department where it was their duty not to disclose such information.

Whistleblowing

Whistleblowing refers to the reporting, in the public interest, of information that alleges a breach of the Code by one or more employees in the department.

For further information refer to the [Public Interest Disclosure Scheme Overview](#).

APS Values and Employment Principles

The Code operates within a set of Australian Public Service (APS) Values adopted by the department.

The APS Values are as follows:

- **Impartial:** *The APS is apolitical and provides the Government with advice that is frank, honest, timely and based on the best available evidence.*

- **Committed to service:** *The APS is professional, objective, innovative and efficient, and works collaboratively to achieve the best results for the Australian community and the Government.*
- **Accountable:** *The APS is open and accountable to the Australian community under the law and within the framework of Ministerial responsibility.*
- **Respectful:** *The APS respects all the people, including their rights and their heritage.*
- **Ethical:** *The APS demonstrates leadership, is trustworthy, and acts with integrity, in all that it does.*

To assist employees to remember the new values the “I CARE” acronym is encouraged to be used when referring to the APS Values.

Breaches of the Code of Conduct

Misconduct is the breach of the Code. This section addresses the process attached to managing breaches of the Code. Employees may have a support person present during any discussions included in the process.

Suspected breaches of the Code should generally be dealt with as follows. But if the Secretary (or the Secretary’s delegate) decides that one or more steps in the following procedures are impractical or inappropriate in the particular circumstances of the case or that the matter can be resolved informally, that step may be omitted. If a step is considered inappropriate the delegate may omit one or more steps if the employee has conceded, in writing that they did the act complained of and/or that they have breached the Code. In these cases, the employee should be advised in writing of the omission and the reason for the omission.

The Secretary (or the Secretary’s delegate) may at any stage suspend the employee (with or without pay) or assign the employee to other duties, if the Secretary (or the Secretary’s delegate) considers such action to be necessary to protect the interests of the department or other employees. The Secretary (or the Secretary’s delegate) must notify the employee of any such decision and the reasons for that decision.

The following procedures may be suspended if at any stage a police investigation into the matter is commenced. The procedures may be resumed only after the police investigation is complete and any criminal charges are dealt with.

The manager should meet with the employee. The manager should inform the employee of the evidence that there is a suspected breach of the Code. The manager should invite the employee to respond.

If after the considering the employee’s response, the manager considers that there may have been a breach, the manager should inform the employee in writing of this fact, the relevant provisions in the Code, the sanctions that may be imposed on the employee under subsection 15(1) of the *Public Service Act 1999* and the procedures for dealing with breaches of the Code. The employee should be given seven days to respond. The employee may have a representative involved in the process from this point on.

After considering the employee’s written response to the manager’s information, the Secretary (or the Secretary’s delegate) must either decide themselves whether there has been a breach of the Code or appoint an independent and unbiased person to investigate (the investigator may be external to the department) whether there has been a breach of the Code.

An investigator has the right to seek and review all relevant documents and to interview all relevant persons. The investigator must provide the employee with the opportunity to make written and oral representations about the matter before finalising a report for the Secretary (or the Secretary's delegate). The Secretary (or the Secretary's delegate) must consider the investigator's report and decide whether a breach of the Code has occurred.

Once the Secretary (or the Secretary's delegate) has decided whether the employee has breached the Code, the Secretary (or the Secretary's delegate) must write to the employee to set out the decision on whether there has been a breach, the reasons for that decision and the sanctions available for the breach and invite the employee to make written or oral representations in relation to the suspected breach. Determinations can be made in relation to former employees.

After considering those representations, the Secretary (or the Secretary's delegate) must decide if any sanctions are to be applied. The Secretary (or the Secretary's delegate) must decide what, if any, sanctions are to be applied. The Secretary (or the Secretary's delegate) must then write to the employee, setting out the decision on sanctions and the reasons for that decision.

Statutory Office Holders (SoH)

SoHs who are not agency heads are bound by the APS Code of Conduct when they are acting in relation to their direct or indirect supervision of APS employees.

If an employee makes an allegation within the department of misconduct by a SoH, the department will refer the matter to the Commissioner for enquiry.

Conduct Outside of Employment

Employees should at all times behave in such a way that upholds the integrity and good reputation of their agency, as well as the APS.

Inter-Agency Moves

If an employee is selected for a position in another agency or the basis of engagement is proposed to be altered and:

- (a) an APS employee in an Agency is suspected of having breached the Code; and
- (b) the employee has been informed as such; and
- (c) the matter has not been resolved

unless the Secretary (or the Secretary's delegate) agrees otherwise, the movement (including on promotion) or engagement does not take effect until the matter is resolved.

Note: Examples of a change in the basis of an APS employee's engagement in an Agency 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 APS employee;

(b) a change from engagement of duties that are irregular or intermittent to engagement as an ongoing APS employee

Sanctions

The sanctions can be imposed:

- a reprimand;
- deductions from salary, by way of a fine of not more than 2% of the employee's annual salary;
- reduction in classification;
- re-assignment of duties;
- reduction in salary;
- termination of employment.

Right of Review

The employee must be advised of their rights of review.

Termination of employment can only be reviewed under the provisions in the *Workplace Relations Act 1996*.

The employee can seek a review of actions of the decision in relation to a determination that an employee has breached the Code and also in relation to a sanction imposed (other than termination of employment) for a breach of the Code. Under the *Public Service Regulations 1999*, the application for review must be made to the Merit Protection Commissioner.

Personal Information

If an employee:

- becomes the subject of conduct allegations and leaves the department before the matter is resolved; or
- is found to have a breach of the Code and leaves the department before a decision about imposing a sanction is made; or
- is found to have breached the Code and been sanctioned and subsequently leaves the department;

then information about the breach or allegation may be disclosed to any prospective or new employer. It is the usual practice of the department to pass such information to another employer where the department believes that the information might be relevant to employment related decisions which might need to be considered or made by the other employers, including (where relevant):

- recruitment decisions;

- decisions as to whether or not the employee has breached the Code and whether or not the employee should be sanctioned for any breach that is determined; and
- decisions as to whether or not the employee should be sanctioned in relation to a breach of the Code.

Document administration

Change history

Version	Date	Description	Created by

Consultation

Version	Date	Description	Comments by

Approvals

Version	Approved By	Date

Attachment A:

References

- *Public Service Act 1999;*
- *Public Service Regulations 1999;*
- *Workplace Relations Act 1996; and*
- *Public Governance, Performance and Accountability Act 2013*