



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

I, Paul Creech, Acting Chief Operating Officer of Services Australia, establish these procedures under subsection 15(3) of the *Public Service Act 1999* (the Act).

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Dated: 1 February 2020

## 1. Application of procedures

1.1. These Procedures must be complied with in determining:

- a) whether an APS employee, or a former APS employee, in Services Australia has breached the APS Code of Conduct
- b) the sanction/s (if any) to be imposed on an APS employee in Services Australia, in accordance with section 15(1) of the Act, where a breach of the APS Code of Conduct has been determined.

*Note: These procedures apply in relation to a suspected breach of the APS Code of Conduct by an APS employee, a former APS employee or the actions of an APS employee prior to commencing with Services Australia or its predecessor, in respect of which a determination is to be made under subsection 15(2A) of the Act. Not all suspected breaches of the APS 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 of Conduct may be more appropriate.*

## 2. Employee must be informed that a determination is being considered

2.1. A determination may not be made in relation to a suspected breach of the Code of Conduct by an APS employee unless reasonable steps have been taken to:

- a) inform the APS employee of:
  - i. the details of the suspected breach (including any subsequent variation of those details); and
  - ii. the sanctions that may be imposed on the APS employee under subsection 15(1) of the Act; and
- b) give the APS employee a reasonable opportunity to make a statement in relation to the suspected breach.

## 3. Employee must be informed before a sanction is imposed

3.1. If a determination is made that an APS employee has breached the Code of Conduct, a sanction may not be imposed unless reasonable steps have been taken to:

- a) inform the APS employee of:
  - iii. the determination; and
  - iv. the sanction or sanctions that are under consideration; and
  - v. the factors that are under consideration in determining any sanction to be imposed; and
- b) give the APS employee a reasonable opportunity to make a statement in relation to sanctions under consideration.

#### **4. Person making determination to be independent and unbiased**

4.1. Services Australia will take reasonable steps to ensure that:

- a) the person who determines whether an APS employee has breached the Code of Conduct is, and appears to be, independent and unbiased; and
- b) the person who determines any sanction to be imposed is, and appears to be, independent and unbiased.

#### **5. Determination process to be informal**

5.1. The process for determining whether an APS 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.

#### **6. Record of determination and sanctions**

6.1. If a determination is made in relation to a suspected breach of the Code of Conduct by an APS employee, a written record must be made of:

- a) the suspected breach; and
- b) the determination; and
- c) any sanctions imposed as a result of a determination that the APS employee breached the Code of Conduct; and
- d) if a statement of reasons was given to the APS employee—the statement of reasons.

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