

Code of Conduct Procedure

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1. Purpose

NOPSEMA's Agency Head has established this Procedure for determining whether a current or former NOPSEMA employee has breached the Australian Public Service (APS) Code of Conduct (Code of Conduct) in accordance with subsection 15(3) of the *Public Service Act 1999* (Cth) (the PS Act). Specifically, this procedure provides for:

- reporting alleged breaches of the Code of Conduct;
- considering reports of alleged breaches of the Code of Conduct;
- investigating alleged breaches of the Code of Conduct;
- determining whether an employee or former employee has breached the Code of Conduct; and
- taking action following a determination about whether an employee or former employee has breached the Code of Conduct, including determining the sanction/s to be imposed on an employee where applicable.

NOPSEMA will follow these procedures expeditiously and with as little formality as a proper consideration of the matter allows.

This Procedure should be read in conjunction with NOPSEMA's N-12000-PL0339 Code of Conduct Policy.

2. Reporting suspected misconduct

2.1. Identification of suspected misconduct

Employees, including managers, may observe and/or discover behaviour and/or misconduct by other NOPSEMA employees in connection with their employment that may breach the Code of Conduct. This includes circumstances where employees make discoveries through internal monitoring mechanisms (e.g. monitoring of internet usage) or other internal processes (e.g. workplace audit or another workplace investigation).

Employees can discuss and raise misconduct issues with their supervisor, manager, Executive Director, Executive General Manager, Deputy Chief Executive Officer, Workplace Contact Officer or a member of the Human Resources and Safety team. They can also access the APS ethics advisory service or similar services provided by professional associations, e.g. law society, during ordinary work hours.

The term 'in connection with employment' is not confined to the performance of job-related tasks or other conduct in the course of employment. Employees are required to abide by the Code of Conduct when engaged in activities outside work hours and away from the workplace where there is reasonable

connection with their APS employment. This includes, for example, on work-related travel, during training or at work social events such as Christmas parties.

2.2. Making a report of suspected misconduct

The Australian Public Service Commissioner's Directions 2022 (Directions) require all APS employees, having regard to their duties and responsibilities, to report and address misconduct and other unacceptable behaviour by APS employees in a fair, timely and effective way. Failure to report suspected misconduct may itself warrant consideration as a potential breach of the Code of Conduct.

Suspected instance/s of misconduct under the Code of Conduct should be reported to the Director People, Culture and Safety (DPCS) or the Assistant Director Human Resources and Safety (ADHRS) as soon as practicable and preferably in writing (including via email). Any written reports should be marked as "Sensitive: Personal" and provide as much as information as possible, including:

- the name/s of the employee/s suspected of misconduct;
- the date/s of the incident/s;
- the name/s of any witness/es to the incidents; and
- any other relevant information.

Reporting of suspected misconduct to line managers, Authorised Officers or the Agency Head may also be a disclosure under the *Public Interest Disclosure Act 2013* (Cth) (PID Act). Managers, Authorised Officers and Agency Head will work with DPCS and/or ADHRS to obtain advice and guidance on appropriate handling of such reports either under NOPSEMA's N-12100-SOP1331 Public Interest Disclosure Procedure or this Procedure.

In some circumstances, the nature of the suspected misconduct may require urgent action. In these circumstances, it may be appropriate for the employee to:

- verbally report any suspected misconduct to the DPCS, ADHRS, their line manager, their Executive Director, Executive General Manager or their Deputy Chief Executive Officer; and
- provide a written report afterwards as soon as practicable.

While a complainant may choose to remain anonymous when reporting suspected instance/s of misconduct under the Code of Conduct, this may impose limitations on the extent to which NOPSEMA can investigate and address any issues raised in the complaint. For example, it may be reasonable in some cases for NOPSEMA to decide that no further action will be taken.

NOPSEMA will maintain the privacy of employees' personal information to the extent required by law but, in some circumstances, may be permitted by law to disclose identifying information during the course of an investigation and/or a decision-making process (see also items 2.3 and 8.1 below).

Employees may also have to report certain conduct under NOPSEMA's fraud and corruption control guidelines. Employees should refer to the N-07400-PL1476 Fraud and Corruption Control Plan for further information. This includes making a voluntary referral of a corruption issue to the National Anti-Corruption Commission (NACC).

The reporting of suspected misconduct is vital to the integrity of the APS. Employees who do not report misconduct may, in certain circumstances, be in breach of the Code of Conduct for failing to uphold the APS Values.

2.3. Protection for employees reporting or witnessing misconduct

Employees who report certain wrongdoing (disclosable conduct) under the PID Act are protected from reprisal action. The PID Act also provides protection from disclosing the identity of 'disclosers'. For more information, refer to NOPSEMA's N-12100-PL1901 Public Interest Disclosure Policy and N-12100-SOP1331 Public Interest Disclosure Procedure.

Employees who report suspected misconduct in good faith that falls outside the PID Act are also protected from reprisal. Retaliatory or reprisal action taken against someone who reports misconduct could be a potential breach of a number of elements of the Code of Conduct, including the requirements to:

- behave with integrity in connection with employment;
- comply with all applicable Australian laws; and
- treat everyone with respect, courtesy and without harassment.

These protections also apply to witnesses in misconduct investigations.

Employees who make a voluntary referral to the NACC will be protected from:

- civil, criminal and administrative liability, including disciplinary action; and
- enforcement of contractual or other remedies or rights on the basis of disclosure, except where the disclosure breaches another law, is made to avoid liability for conduct or who knowingly makes a false or misleading disclosure.

To mitigate any risks of reprisal action, some actions that NOPSEMA may decide to take include:

- issuing directions to employees to not discuss matters during an investigation;
- arranging for an employee under investigation, a complainant and/or witness to be temporarily re-assigned to alternative duties or location; or
- developing a specially tailored protection plan where there are real physical security risks to employees, families or property.

3. Considering reports of suspected misconduct

3.1. Preliminary examination of the report

The DPCS or ADHRS will conduct a preliminary examination of the report of suspected misconduct and make recommendations in writing to the Agency Head. They will:

- discuss the matter with the employee whose conduct is in question where appropriate;
- consider the personal, interpersonal and/or institutional factors that may have underpinned the alleged behaviour;

- consider the seriousness of the alleged behaviour having regard to factors such as the seniority and role of the employee and the nature and extent of the alleged behaviour;
- for more serious matters, consider a change in role, duties, suspension and any measures to protect the safety of other employees or security of evidence required in any investigation; and
- take into account the impact of unconscious bias.

The DPSC or ADHRS will diagnose the issue/s and provide tailored findings and recommendations for action to address the behaviour/s proportionately and in context in accordance with this Procedure.

The DPSC or ADHRS may gather further evidence to inform their decision on how to proceed. This will be undertaken only to the extent necessary to make a sound decision and will not be used for establishing whether the alleged conduct occurred.

3.2. Deciding how to proceed

3.2.1. Suspected Misconduct

Following receipt of the misconduct information, the Agency Head may decide to:

- take no further action where the report of suspected misconduct is determined to be frivolous, vexatious, false, malicious or lacking in substance;
- initiate a management action to address and resolve the issues raised, e.g. counselling, performance management, learning and development, coaching, mentoring, alternative dispute resolution options, warnings, directions or a change to an employee's roles or duties; or
- initiate an investigation into the alleged breaches of the Code of Conduct.

If the suspected misconduct involves unlawful or criminal conduct, the Agency Head may defer proceeding with the Code of Conduct process pending information and/or outcomes from the law enforcement authority investigating this conduct.

- If the suspected misconduct involves corrupt conduct under the NACC Act, the Agency Head must refer the conduct to the NACC as soon as reasonably practicable. Note that a referral to the NACC does not prevent the Agency Head from taking action, such as proceeding with an investigation into alleged breaches of the Code of Conduct, except where the NACC Commissioner issues NOPSEMA with a stop action direction.

If the suspected misconduct involves a SES employee, the Agency Head will consult with the APS Commissioner on the process for determining whether the employee has breached the APS Code of Conduct.

All material documenting the decision on how the matter is to proceed must be recorded on the relevant file.

4. Determining alleged breaches

4.1. Appointing a Breach Decision Maker (BDM)

The role of the BDM is to determine in writing whether a breach of the Code of Conduct has occurred.

The Agency Head will appoint a BDM as soon as practicable after the suspected breach of the Code of Conduct.

The BDM must be independent and unbiased. For example, the BDM should have no personal interests, work or personal relationships and/or knowledge of the issues which are the subject of the investigation.

The Agency Head may appoint themselves as a BDM.

The Agency Head may also appoint an external workplace investigator as a BDM. In this circumstance, the BDM's main point of contact will be the DPSC or ADHRS.

The BDM appointment should be recorded in writing.

4.2. Conducting the investigation

Investigations into alleged breach/es of the Code of Conduct will be carried out as expeditiously and as informally as possible in the circumstances and in accordance with procedural fairness principles.

The BDM formally examines the allegation/s, collects evidence (including conducting interviews and obtaining statements), makes administrative inquiries and prepares an investigation report. The BDM will generally only consider the conduct or omissions alleged in making a determination. There are, however, some circumstances where it may be appropriate for a BDM to consider the employee's prior conduct. For example, evidence of similar facts or evidence indicating that the employee or former employee has a particular tendency to act in a certain way. In this circumstance, the BDM should advise the employee, or former employee, and provide them with an opportunity to comment on their prior conduct and its relevance to the current investigation.

The BDM must ensure that these activities are performed in accordance with the PS Act, Public Sector Regulations 2023 (Cth) (PS Regulations) and follow the Australian Public Service Commission's "Handling Misconduct: A Human Resource's Manager's Guide". The BDM will determine the specific format and process for the investigation depending on the nature of the alleged breach/es and the particular circumstances of the case.

The BDM is responsible for ensuring that the investigation complies with procedural fairness obligations and there is no requirement for a formal hearing.

If an employee subject to an investigation resigns during the course of the investigation, this does not automatically discontinue the investigation. The Agency Head will determine whether or not to continue with the investigation. The investigator should consult with NOPSEMA before continuing with the investigation.

If an employee subject to an investigation seeks to transfer to another APS agency during the course of the investigation:

- the transfer to the new agency will not take effect until a determination is made;
- the Agency Head and the delegated authority of the new agency agree that the determination will proceed under section 15(3) of the PS Act; or
- the delegated authority of the new agency will determine whether to continue with the investigation where the transfer arises from a machinery of government change under section 72 of the PS Act.

4.3. Notifying the employee or former employee

NOPSEMA will notify an employee or former employee of the commencement of an investigation once a decision has been made to start the misconduct action and a BDM has been appointed. The written notice to the employee will generally include:

- the behaviour and/or conduct the employee is suspected of engaging in;
- the specific provision/s of the Code of Conduct that the employee is suspected of breaching;
- the name of the investigator into the suspected misconduct (if different from the BDM);
- the name of the BDM who will make the determination;
- statement that the employee has a reasonable opportunity to provide a verbal or written statement in response to the suspected breach/es within a reasonable and specified timeframe;
- the full range of sanctions that may be imposed under section 15(1) of the PS Act if breach/es are proved;
- statement informing the employee that personal information about the employee relating to the outcome of the investigation may be disclosed to the complainant and/or other witnesses;
- statement that the employee may have the assistance of a support person and/or legal representative;
- information on support available to employees (e.g. Employee Assistance Program); and
- a copy of NOPSEMA's N-12000-PL0339 Code of Conduct Policy and this Procedure.

If it is not possible to provide complete details of the alleged breach/es of the Code of Conduct at the commencement of the investigation process, the employee or former employee will be afforded a further opportunity to comment and present materials in relation to any allegations at a later date during the course of the investigation.

If the allegation/s vary or new allegations arise during the course of the investigation, NOPSEMA will provide written notice to the employee informing them of the variation and/or new allegations. The employee or former employee will be provided with a reasonable opportunity to provide a statement in response.

4.4. Employee's right of response

An employee or former employee alleged to have breached the Code of Conduct will be provided with a reasonable opportunity to respond to allegation/s. The scope and timeframe for what constitutes a "reasonable opportunity" will depend on the circumstances having regard to:

- the complexity and seriousness of the allegation/s;
- whether the employee has time to access material that might assist with investigating the matter/s;
- whether the employee has time to consult with a support person; and
- whether it is appropriate for the employee to be provided with time away from work duties to prepare a response.

The employee or former employee should provide their response verbally, or in writing, within the specified timeframe. The employee or former employee is not obligated to respond to the allegation/s.

If the employee or former employee requires additional time to provide a response, they should send a written request to the BDM specifying the reasons and timeframe for the extension. The Agency Head will make a decision on this request and provide a written response to the employee.

If the employee or former employee admit to the breach/es in their response, this does not necessarily mean that the investigation will cease. The BDM will determine the impact of the admission on the course of the investigation based on the circumstances of the case.

4.5. Suspension or Temporary Reassignment

Action to reassign duties temporarily or suspend an employee from duty may be made at the same time as the decision to commence a determination process, or at any stage during the process. Although reassignment or suspension may be made before a determination of a breach of the Code of Conduct, the aim is to protect the interests of NOPSEMA, other employees (including complainant or witnesses) and/or the public interest and is not a punitive measure or sanction.

4.5.1. Decision to suspend

The Agency Head has the power to suspend an employee under the PS Regulations, or they may delegate this power to another APS employee as soon as practicable after receiving a report of a suspected breach of the Code of Conduct.

The Agency Head may decide to suspend an employee from duties with or without remuneration if they believe on reasonable grounds that:

- the employee has, or may have, breached the Code of Conduct; and
- the employee's suspension is in interest of NOPSEMA and/or the public.

The Agency Head will notify the employee in writing if they are considering suspending them from duties, with or without remuneration, except where it would not be appropriate to do so (e.g. there is a real risk the employee may destroy evidence or there is an imminent serious threat to the safety of other employees). The notice will outline the proposed reasons for the suspension, the timeframe for the suspension and provide the employee with a reasonable opportunity to comment on the proposed suspension before the suspension is made. There is no obligation for the employee to respond to this notice.

The Agency Head will make a decision about the suspension of an employee, including taking into account any responses received from the employee within the specified timeframe, as well as any other relevant considerations.

The maximum period an employee can be suspended without remuneration is 30 days, unless there are exceptional circumstances to justify a longer period in accordance with the PS Regulations. This decision will have no impact on the determination as to whether the employee has breached the Code of Conduct. The Agency head will notify the employee of their decision in writing.

If the decision is to suspend the employee, the Agency Head will review the suspension at regular intervals. A review of the suspension under the PS Regulations is not a review of the original suspension decision; it is a fresh decision as to whether the employee should be suspended.

The suspension must end immediately where:

- the Agency Head no longer believes on reasonable grounds that the employee may have breached the Code of Conduct;
- the Agency Head no longer believes that the suspension is no longer in the interests of NOPSEMA and/or the public; or
- the employee has been found to have breached the Code of Conduct and a sanction has been imposed.

Employees can make use of a representative during this process, as with all other processes, during the course of the investigation.

In addition to the suspension of internal review under the PS Regulations, employees have the right to seek a review of the original suspension decision under the Review of Action process. Refer to the N-12000-PL0800 Resolving Workplace Issues Policy for further information.

4.5.2. Temporary reassignment of duties

The Agency Head may alternatively decide that it would be more appropriate to temporarily reassign the employee to other duties under section 25 of the PS Act rather than suspend the employee.

The employee will be notified in writing and given an opportunity to comment on any proposed temporary reassignment of duties unless there are exceptional circumstances. The factors taken into account by the decision maker are similar to those for suspension (the public interest and the interests of NOPSEMA), including any relevant matters raised by the employee.

An employee is not entitled to seek a review of the Agency Head's decision to temporarily reassign duties under section 33 of the PS Act unless the reassignment involves relocation to another place, or the employee is re-assigned duties they cannot reasonably be expected to perform.

5. Making a determination

The process of determining a breach of the Code of Conduct requires the BDM to be satisfied, after weighing the evidence on the "balance of probabilities", that it is more probable than not, that a breach of the Code of Conduct has occurred in order to make a determination that the employee or former employee breached the Code of Conduct. In matters involving allegations of serious misconduct, before reaching a finding establishing a breach, the BDM should keep in mind that the level of satisfaction on the evidence required increases in accordance with the seriousness of the matter. Where a BDM has concerns about recommendations made by an investigator, or the investigatory process, the BDM may act on those concerns to take additional steps to correct procedural flaws or satisfy themselves of particular matters.

If an employee, or former employee, is alleged to have breached multiple aspects of the Code of Conduct but the evidence does not support a finding of multiple breaches, the BDM should only determine that the one aspect of the Code of Conduct has been breached.

If the BDM determines, on the basis of the investigation conducted, that there has been a breach of the Code of Conduct the BDM must make a written record of their decision. A breach decision notice might include:

- a summary of the evidence considered by the decision-maker;
- if the BDM considered a recommendation from an investigator, the BDM's response to the recommendation, including reasons for accepting or not accepting the investigator's recommendation;
- findings of fact about what the person under investigation has done or not done which should be as specific and linked to specific events where possible;
- a decision as to whether the events amount to misconduct and, if so, which element/s of the Code of Conduct were breached; and
- the reasons for the conclusions reached.

The BDM must provide the employee or former employee with a copy of the breach determination before any sanction can be imposed.

6. Taking action following a determination

6.1. Determination that there was no breach of the Code of Conduct

The employee or former employee will be notified in writing of the outcome that there has been no breach of the Code of Conduct.

If the employee was suspended, this suspension will cease immediately once the decision has been made and they can resume their duties. If the employee was suspended without remuneration, they will be remunerated for the period of their suspension.

6.2. Determination that there was a breach of the Code of Conduct

6.2.1. Appointing a Sanction Decision Maker

The Agency Head will appoint a sanction decision maker (SDM) to determine what sanction, if any, is appropriate for an employee who has been found to have breached the Code of Conduct based on any findings made under this Procedure, or any processes undertaken under section 41B(3) or section 50A(2) of the PS Act. Note that a sanction cannot be imposed on former employees who have been found to have breached the Code of Conduct.

The Agency Head will take reasonable steps to ensure that the SDM is independent and unbiased. For example, the SDM should have no personal interests, work or personal relationships and/or involvement in the BDM's investigation process.

The Agency Head will consult with the APS Commissioner if considering imposing a sanction on an SES employee.

The Agency Head can appoint themselves as SDM.

6.2.2. Considering imposing a sanction

The SDM may impose one or more of the sanctions specified in section 15(1) of the PS Act which are:

- a reprimand;
- deductions from salary, by way of a fine (which must not be more than 2% of the employee's annual salary);
- reduction in classification;
- re-assignment of duties;
- reduction in salary; and/or
- termination of employment.

The sanction/s are intended to be proportionate to the nature of the breach, provide a clear message to the employee that their behaviour was not acceptable and to act as a deterrent to other employees.

The SDM will consider the following factors in determining the level of sanction:

- nature and seriousness of the breach;
- degree of relevance to the employee's duties and reputation of NOPSEMA and the APS;
- whether the misconduct was uncharacteristic;
- employee response and likelihood of recurrence; and
- any mitigating factors.

The SDM may also make recommendations for management action, such as counselling, training, mentoring or alternative dispute resolution, instead of imposing a sanction. This decision may be taken in response to the nature and scope of the breach and/or there could be mitigating circumstances.

6.2.3. Recording the proposed sanction decision

The SDM will make record of their decision in writing in order to give notice to the employee. A sanction decision record should include:

- a description of the relevant actions and behaviours and the elements of the Code of Conduct that were breached;
- the SDM's assessment of the seriousness of the breach;
- the SDM's assessment of any aggravating and/or mitigating factors;
- the decision on whether or not a sanction needs to be imposed;
- the sanction to be imposed or, if no sanction is to be imposed, the factors the SDM considered relevant to taking other management action as an alternative.

6.2.4. Notifying the employee of sanctions under consideration

Prior to imposing any sanction, the SDM will promptly notify an employee of a proposed sanction. The written notice will include:

- the decision;
- the proposed sanction/s that are under consideration;

- the reasons and/or factors under consideration for the proposed sanction/s;
- statement that the employee has a reasonable opportunity to provide a verbal or written statement in response to the proposed sanction/s within a reasonable and specified timeframe;
- statement that the employee may have the assistance of a support person (union nominee, friend or relative) and/or legal representative;
- information on support available to employees (e.g. Employee Assistance Program);
- the name and contact details for the SDM, DPCS and ADHRS; and
- a copy of NOPSEMA's N-12000-PL0339 Code of Conduct Policy and this Procedure.

The scope and timeframe for what constitutes a "reasonable opportunity" will depend on the circumstances. The Agency Head will determine what is a "reasonable opportunity" and, in making this determination, will have regard to:

- the complexity and seriousness of the proposed sanction/s;
- whether the employee has time to access material that might assist with responding to the proposed sanction/s;
- whether the employee has time to consult with a support person; and
- whether it is appropriate for the employee to be provided with time away from work duties to prepare a response.

The employee can provide their response verbally or in writing within the specified timeframe. The employee is not obligated to respond to the proposed sanction/s.

If the employee, or former employee, requires additional time to provide a response they should make this request in writing specifying the reasons and timeframe for the extension. The SDM will consider this request and respond to the employee.

6.2.5. Making a sanction decision

Upon receiving the employee's response or, where no response is provided by the expiration of the timeframe to respond, the SDM will impartially consider those comments concerning the sanction to be applied and any information or personal factors relevant to the decision. The SDM will then finalise their decision.

6.2.6. Notifying the employee of a sanction decision

The SDM will notify the employee of the sanction decision in writing, which will include:

- a description of the actions and behaviours and what elements of the Code of Conduct that were breached;
- the SDM's analysis of the evidence;
- the SDM's assessment of the seriousness of the breach;
- if applicable, the SDM's assessment of aggravating and mitigating factors;

- the decision on whether or not a sanction needs to be imposed and, if not, the factors the SDM considered relevant to recommending other management action as an alternative;
- the sanction and effective date; and
- the employee's review rights.

The effective date for a sanction imposed on an employee will depend on the type of sanction as outlined in the table below:

Sanction	Date of Effect
Reprimand	Immediately
Deductions from salary	4 weeks from date of notice
Reduction in classification	4 weeks from date of notice
Reassignment of duties	4 weeks from date of notice
Reduction in salary	4 weeks from date of notice
Termination of employment (serious misconduct)	Immediately
Termination (other than serious misconduct)	Tenure with NOPSEMA of 1 year or less – 1 week from date of notice Tenure with NOPSEMA of 1 to 3 years – 2 weeks from date of notice Tenure with NOPSEMA of 3 to 5 years – 3 weeks from the date of notice Tenure with NOPSEMA of more than 5 years – 4 weeks from the date of notice

7. Information Management

NOPSEMA will keep records of any information covered by this Procedure in accordance with the requirements of the *Archives Act 1983* (Cth) and the *Privacy Act 1988* (Cth) (Privacy Act).

If there is a report of a suspected breach of the Code of Conduct and NOPSEMA decides to take no further action or to take reasonable management action, any information relating to this will be stored in accordance with NOPSEMA's N-15000-PL0215 Information Management Policy.

If there is a report of a suspected breach of the Code of Conduct and NOPSEMA decides to investigate, any information relating to this will be stored on a misconduct investigation file. This file must include:

- the initial report that prompted the investigation;
- copies of all documents pertaining to the investigation (e.g. documents to the employee outlining potential breaches and any written material provided by the employee in response);
- evidence collected by the BDM in the course of the investigation or copies of such evidence;
- the report to the Agency Head from the BDM (if applicable);
- a record of the BDM's determination in respect of the breach; and
- a record of the actions taken, including any sanction or sanctions imposed.

These files will be kept separate from an employee's personal file except where:

- the allegations of investigations into misconduct are unfounded and the employee requests that the misconduct records be retained; or
- the employee is found to have breached the Code of Conduct and the breach results in disciplinary action.

These files will be established and maintained by the DPCS and/or ADHRS.

8. Privacy and Confidentiality

8.1. Personal Information

NOPSEMA will access, use and disclose personal information covered by this Procedure in accordance with the Privacy Act.

NOPSEMA may collect, use or disclose personal information during the course of the preliminary examination and/or formal investigation where:

- there is reason to suspect that unlawful activity or serious misconduct of a serious nature has been, is being, or may be engaged in;
- there is a reasonable belief that the collection, use or disclosure is necessary for NOPSEMA to take appropriate action;
- in accordance with section 16A(2) of the Privacy Act (in this section, misconduct includes fraud, negligence, default, breach of trust, breach of duty, breach of discipline or any other misconduct in the course of duty in accordance with section 6(1) of the Privacy Act). Other circumstances where it is permissible to disclose or use personal information to another APS agency under the Privacy Act is outlined in the PS Regulations.

For example, NOPSEMA may disclose information to:

- the employee who may have allegedly breached the Code of Conduct to ensure that they are given procedural fairness;
- to a prospective or new APS agency where the employee is the subject of an alleged breach and resigns before the investigation is completed or is found to have breached the Code of Conduct and resigns before a sanction decision is made; and/or
- a third party where appropriate, for example allegations of criminal behaviour may need to be reported to a law enforcement authority.

8.2. Complainants

In deciding what information to provide to a complainant about the outcome of their complaint, NOPSEMA will balance the right to privacy of the person about whom the complaint was made with the complainant's legitimate interest in knowing that the agency has dealt properly with the matter. NOPSEMA will also consider any relevant provisions from related PID proceedings that may preclude disclosure of information regarding the identity of disclosers.

NOPSEMA will endeavour to provide the complainant with sufficient information to provide assurance that the agency:

- does not tolerate behaviour that is inconsistent with the Code of Conduct;
- has taken the allegation seriously;
- has taken the appropriate steps to ensure that the problem does not recur; and
- has imposed an appropriate sanction where a breach has been found.

Complainants should not expect to be provided with all records associated with an investigation and subsequent actions. Requests for access to such documents may be referred to NOPSEMA's Freedom of Information Coordinator and processed under the *Freedom of Information Act 1982* (Cth).

9. National security clearances

Employees who have a national security clearance may need to consider whether they should report their involvement in an APS Code of Conduct investigation to the Australian Government Security Vetting Agency (AGSVA). For further information, employees should contact AGSVA by telephone on 1800 640 450 or by email at securityclearances@defence.gov.au.

10. References

Archives Act 1983 (Cth)

National Anti-Corruption Commission Act 2022 (Cth)

Privacy Act 1988 (Cth)

Public Interest Disclosure Act 2013 (Cth)

Public Service Act 1999 (Cth)

Public Service Regulations 2023 (Cth)

Australian Public Service Commissioner's Directions 2022

Australian Public Service Commission Circular 2008/3: Providing information on Code of Conduct investigation outcomes to complainants

Australian Government "Australian Public Service Bargaining Statement of Conditions" 2023

Australian Public Service Commission Circular 2008/4: Requirements relating to the Lobbying Code of Conduct and post separation contact with Government

Australian Public Service Commission "Handling Misconduct: A Human Resource's Manager's Guide"

National Anti-Corruption Commission "What is Serious or Systemic Corrupt Conduct?"

N-12000-PL0797 Employee Assistance Program

N-07400-PL1476 Fraud and Corruption Control Plan

N-12000-PL0586 Managing Conflicts of Interest Policy

N-15300-PL0545 NOPSEMA's Privacy Policy

N-12000-PL1056 Promoting Respect in the Workplace Policy

N-12100-PL1901 Public Interest Disclosure Policy

N-12000-PL0800 Resolving Workplace Issues Policy

N-15000-PL0215 Information Management Policy

N-12000-SOP1863 Code of Conduct Procedure

N-12100-SOP1331 Public Interest Disclosure Procedure