



# STATE OF THE SERVICE REPORT 2002-03

STATE OF THE SERVICE SERIES 2002-03



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One of the APS Values provides that the APS should have the highest ethical standards. This Value reflects the public's proper expectation that the authority vested in the public service will be exercised in the most ethical way. Such standards are fundamental to maintaining public confidence in the integrity of the APS as an institution. The APS Code of Conduct, established in s. 13 of the PS Act, sets out standards of behaviour that employees are required to meet, and is also a measure against which an employee's behaviour can be tested.

This chapter examines aspects of personal behaviour in the APS. It presents information provided by agencies about investigations into suspected breaches of the Code of Conduct commenced during 2002–03, including those commenced as a result of a whistleblowing report. It examines data from the Merit Protection Commissioner on reviews of decisions in relation to breaches of the Code of Conduct, and on whistleblowing reports received by the Merit Protection and Public Service Commissioners. It also examines two important aspects of the personal behaviour of employees—conflict of interest obligations, and the requirement, when acting in the course of APS employment, to treat everyone with respect and courtesy, and without harassment.

### BREACHES OF THE CODE OF CONDUCT

The agency survey sought information from agencies about the number of formal investigations commenced into suspected breaches of the Code of Conduct in 2002–03.<sup>1</sup> This is the first year that agencies have been asked for this information. Responses indicated that there is wide variation amongst agencies in the number of investigations into suspected breaches of the Code of Conduct, which is not explained by agency size. During 2002–03, 46 agencies commenced 926 formal investigations into suspected breaches of the Code. No investigations were commenced in 43 agencies. Investigations were commenced in 22% of small agencies, 62% of medium agencies and 95% of large agencies.

Sixty per cent of all investigations were commenced in just three large agencies (Centrelink, Defence and CSA), and 32% of all investigations were conducted by Centrelink (298). Amongst large agencies, seven reported less than three formal investigations for every 1000 employees (DOTARS, ASIC, ABS, Health, DEH, DAFF and BOM) and three agencies reported more than 15 formal investigations for every 1000 employees (DVA, Protective Service and CSA).

It should be noted that there is likely to be a range of factors affecting the rate of formal investigations in agencies, including:

- the nature of an agency's business, including its sensitivity to inappropriate behaviour and the capacity of that behaviour to undermine an agency's operations
- the approach taken by agencies to the overall management of breaches of the Code of Conduct and the degree to which they systematically apply and monitor its adherence
- the incidence of inappropriate behaviour.

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<sup>1</sup> The formal investigations into suspected breaches of the Code discussed in this section include those commenced as the result of a whistleblower report by an employee under s. 16 of the PS Act. Those investigations are also examined separately in the section on whistleblowing at the end of this chapter.

Agencies indicated that suspected breaches of the Code in 2002–03, including those that did not result in a formal investigation, were identified in a variety of ways. The two most common were that the conduct was identified by the supervisor/manager or by work colleagues (suspected breaches were identified by each of these means in 35% of all agencies). Twenty-one per cent of all agencies indicated that breaches were identified through the agency’s compliance/monitoring systems (e.g. audit) and 19% of all agencies indicated that suspected breaches were identified from a complaint from the public or other stakeholder. Twelve per cent of agencies identified suspected breaches as a result of a whistleblower report under s. 16 of the PS Act. A small number of investigations arose through other means, including notification of a suspected breach from another APS agency, a complaint from an ex-employee, and referral by the Australian Federal Police (AFP).

Table 7.1 sets out the frequency with which particular elements of the Code were suspected of being breached in the investigations commenced during 2002–03, and the number of agencies that reported undertaking an investigation that involved a suspected breach of that element of the Code.

**Table 7.1: Elements of the Code of Conduct suspected of being breached in investigations commenced during 2002–03 (a)**

<b>Element of the Code</b>	<b>No. of times element was suspected of being breached</b>	<b>No. of agencies commencing investigations</b>
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	293 (b)	33
use Commonwealth resources in a proper manner	255 (b)	33
behave honestly and with integrity in the course of APS employment	233 (b)	30
when acting in the course of APS employment, treat everyone with respect and courtesy, and without harassment	232	31
comply with any lawful and reasonable direction given by someone in the employee’s agency who has authority to give the direction	219	20
when acting in the course of APS employment, comply with all applicable Australian laws	187	19
act with care and diligence in the course of APS employment	130 (b)	21
disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with APS employment	123	16

**Table 7.1:** Elements of the Code of Conduct suspected of being breached in investigations commenced during 2002–03 (a) (continued)

<b>Element of the Code</b>	<b>No. of times element was suspected of being breached</b>	<b>No. of agencies commencing investigations</b>
not make improper use of: inside information, or the employee’s duties, status, power or authority; in order to gain, or seek to gain, a benefit or advantage for the employee or for any other person	49	17
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	28	10
except in the course of his or her duties as an APS employee or with the agency head’s express authority, not give or disclose, directly or indirectly, any information about public business or anything of which the employee has official knowledge	11	4
while on duty overseas, at all times behave in a way that upholds the good reputation of Australia	8	3
maintain appropriate confidentiality about dealings that the employee has with any Minister or Minister’s member of staff	3	2

Note: (a) An investigation may involve more than one employee, and/or a suspected breach of more than one element of the Code. An employee may also be suspected of breaching an element of the Code more than one time as part of a single investigation. Some agencies may have provided information on elements of the Code that were suspected of being breached in both formal and informal investigations. (b) One agency did not provide the actual number of times that those elements of the Code indicated had been breached, but reported only that each had been breached ‘several’ times; hence the number of times the various elements were breached should be viewed as indicative only.

Source: Agency survey

The element of the Code that was suspected of being breached the greatest number of times overall was s. 13(11) of the PS Act—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. Investigations into possible breaches of s. 13(11) were commenced in 15% of small agencies, 42% of medium agencies and 73% of large agencies. Discussions with some of the agencies that reported a suspected breach of this element indicated that the types of behaviours that were considered to breach this element of the Code included inappropriate or unauthorised use of the internet or email, inappropriate behaviour towards clients, a breach of customer privacy, inappropriate disclosure of information, unprofessional and unethical behaviour, theft of office equipment, inappropriate use of resources and inappropriate behaviour outside the workplace which could damage the reputation of the agency. It appears that when agencies conduct investigations into suspected breaches of the Code of Conduct, this element is often cited in conjunction with other elements of the Code.

Table 7.2 shows the outcomes of investigations commenced during 2002–03 into suspected breaches of the Code of Conduct by agencies.

**Table 7.2: Outcomes of investigations into suspected breaches of the Code of Conduct (a)**

<b>Outcome</b>	<b>No. of times</b>	<b>No. of agencies</b>
Termination of employment	70	13
Reduction in classification	28	10
Reduction in salary	359	9
Deduction from salary by way of a fine	113	15
Reassignment of duties	24	9
Reprimand	176	26
Counselling	75	29
Other (b)	94	19
Investigation discontinued	30	8
Investigation still in progress	218	26
No breach found	122	16

Note: (a) More than one sanction may be imposed on each employee as a result of an investigation; hence there may be multiple outcomes from one investigation. Some agencies may have provided information on the outcomes of both formal and informal investigations. (b) A number of the responses under ‘Other’ were that the employee under investigation resigned.

Source: Agency survey

The employment of 70 employees from 13 agencies was terminated as a consequence of misconduct during 2002–03. Two small agencies each terminated the employment of one employee. The remaining terminations occurred in 11 large agencies with Defence and Centrelink accounting for 67% of terminations. Reductions in classification occurred in ten large agencies only, with 50% of reductions occurring in Centrelink. Nine agencies reduced the salary of 359 employees. One large agency, Centrelink, accounted for 94% of salary reductions.

While sanctions need to take into account the context of the breach, and similar breaches in different agencies may well have different levels of importance, the data provided by large agencies suggest significant differences in the imposition of sanctions. The sanctions that have the greatest impact on employees—termination of employment, reduction in classification and reduction in salary—were calculated as a proportion of the total number of sanctions imposed by each of the 22 large agencies. The imposition of the high-impact sanctions varied between 0% and 73% amongst large agencies. High impact sanctions were not used at all in seven large agencies and were between 10% and one third of total sanctions in 13 large agencies and were greater than a third of total sanctions in two large agencies. Calculation of the number of times that no breach was found as a percentage of the number of investigations undertaken in

each of the large agencies also shows a wide range of results, varying between 0% at one extreme and 75% at the other.

The large differences amongst agencies in the types of sanctions imposed and in the proportion of cases where no breach was found may reflect in part the nature of the work of different organisations and the varying importance placed on particular APS Values, elements of the Code of Conduct, or agency values, principles or behaviours. Variations may also indicate that some agencies take a stronger line in relation to sanctions, or that other agencies are relatively lenient. The recently released good-practice guide, *Embedding the APS Values*, highlights the importance of employees knowing the consequences of breaching the Code of Conduct, and being confident their agency will address suspected breaches in a timely, rigorous and systematic way, and in a manner consistent with relevant legal principles. The agency survey data seems, prima facie, to suggest some agencies are less rigorous and systematic in their processes than they should be.

## APPROPRIATE AND CONSISTENT INVESTIGATIONS AND IMPOSITION OF SANCTIONS

In response to the agency survey, 99% of agencies indicated that they either have (91%) or are developing (8%) measures to ensure that the processes used to investigate suspected breaches of the Code are appropriate and consistent across the agency. The response rate did not vary greatly on the basis of agency size.

The most commonly used measure is the provision of guidance and support by Human Resources (HR)/Employee Relations to people conducting investigations (89%). The next most commonly used measure is making detailed procedural guidance (explanatory material) available to people conducting investigations (62%). Other measures used include the conduct of all investigations by a central unit (36%) and the provision of training to people conducting investigations (29%). Some agencies also indicated that they use experienced external consultants and/or experienced staff.

A majority of agencies (81%) use measures to ensure that sanctions imposed as a result of breaches of the Code are applied appropriately and consistently across the agency, and 10% of agencies are currently developing measures. A higher proportion of medium agencies uses such measures (92%) than small and large agencies (76% and 77% respectively).

The most commonly used measures to support an appropriate and consistent approach across the agency are that the delegation for applying sanctions is strictly limited (82%) and that a central HR and/or legal area is consulted when the sanction is decided (81%). A higher proportion of medium agencies (92%) have measures in place that strictly limit the delegation for applying the sanction than small and large agencies (76% and 82% respectively). Other measures used include decision making by a central unit responsible for all investigations (35%), guidelines setting out considerations to be taken into account when deciding sanctions (30%) and referral to a database of sanctions as part of the process for deciding sanctions (17%). A higher proportion of large agencies maintain a database of sanctions (41%) than small and medium agencies (seven per cent and 12% respectively).

Given the variability in the sanctions imposed amongst agencies, the issue of appropriate and consistent sanctions to apply to breaches of the Code of Conduct needs to be given more attention by many agencies.

## REVIEWS OF BREACHES OF THE CODE OF CONDUCT

The Public Service Regulations provide non-SES APS employees with a specific review right in relation to a determination that they breached the Code and/or the sanction imposed for a breach. Applications for review of this nature are required to be lodged directly with the Merit Protection Commissioner.

During 2002–03, the Merit Protection Commissioner received 43 requests for review, which was similar to the number received last year (44). It would appear that employees seek external review of decisions in about five per cent of cases.

**Table 7.3:** Reviews related to breaches of the Code of Conduct

	1997–98	1998–99	1999–00	2000–01	2001–02	2002–03
No. received	39	28	36	34	44	43
No. reviewed	25	20	19	33	26	29

Note: The data for 2001–02 includes one matter dealt with under the *Public Employment (Consequential and Transitional) Amendment Act 1999*. The data for years prior to this also include a number of applications dealt with under that Act or the *Merit Protection (Australian Government Employees) Act 1984*.

Source: APS Commission

During 2002–03, the Merit Protection Commissioner made a formal recommendation to an agency head in 29 cases. In 10 of those the Merit Protection Commissioner recommended that the decision of the agency head be confirmed. In five other cases, the Merit Protection Commissioner recommended that the agency head set aside the decision that a breach had occurred, and in a further 14 cases he recommended that either the sanction or breach, or both, be varied. No systemic issues emerged from an analysis of these cases.

## WHISTLEBLOWING

One means of agencies becoming aware that the Code of Conduct may have been breached is whistleblowing. The PS Act and Regulations provide for APS employees to make whistleblowing reports alleging breaches of the Code of Conduct. The scheme also provides protection from victimisation and discrimination for employees who make such reports.

Generally, whistleblowing disclosures are made to, and investigated by, the agency concerned. However, in specific circumstances an employee may make a disclosure to the Public Service or the Merit Protection Commissioner. Also, where a whistleblower is not satisfied with the findings of an agency-based investigation, they may raise the matter with the Public Service or the Merit Protection Commissioner.

Public Service Regulation 2.4 requires agency heads to establish procedures for dealing with whistleblowing reports. The Public Service Commissioner’s Direction 2.5 (1)(d) provides that an agency head must put in place measures in the agency directed at ensuring that APS employees are aware of the procedures for dealing with whistleblowing disclosures, and are encouraged to make such disclosures in appropriate circumstances.

The agency and employee surveys indicate that more than 30% of agencies do not use measures to make employees aware of whistleblowing provisions, and only 65% of employees indicated that they had been made aware by their current agency that they could report a serious breach of the Code to an authorised person in the agency. These issues are explored further in Chapter 3, which looks at the ways in which agencies are integrating the APS Values and the Code.

During 2002–03, around two per cent of formal investigations commenced by agencies into suspected breaches of the Code were instigated as a result of a report under the whistleblowing provisions (20 out of 936 investigations). Six of these investigations occurred in medium agencies, and 14 in large agencies. No investigations were commenced as a result of a whistleblowing report in small agencies.

Table 7.4 sets out the frequency with which particular elements of the Code were suspected of being breached in the whistleblowing reports made during 2002–03, and the number of agencies that reported undertaking a formal investigation that involved a suspected breach of that element of the Code.

**Table 7.4:** Elements of the Code of Conduct suspected of being breached in investigations commenced during 2002–03 as a result of a whistleblowing report (a)

<b>Element of the Code</b>	<b>No. of times element was suspected of being breached</b>	<b>No. of agencies commencing investigations</b>
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	11	7
behave honestly and with integrity in the course of APS employment	9	8
use Commonwealth resources in a proper manner	5	5
when acting in the course of APS employment, treat everyone with respect and courtesy, and without harassment	5	4
when acting in the course of APS employment, comply with all applicable Australian laws	4	4
not make improper use of: inside information, or the employee’s duties, status, power or authority; in order to gain, or seek to gain, a benefit or advantage for the employee or for any other person	3	3
disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with APS employment	3	3

**Table 7.4:** Elements of the Code of Conduct suspected of being breached in investigations commenced during 2002–03 as a result of a whistleblowing report (a) (continued)

<b>Element of the Code</b>	<b>No. of times element was suspected of being breached</b>	<b>No. of agencies commencing investigations</b>
except in the course of his or her duties as an APS employee or with the agency head’s express authority, not give or disclose, directly or indirectly, any information about public business or anything of which the employee has official knowledge	1	1
act with care and diligence in the course of APS employment	1	1
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	0	0
comply with any lawful and reasonable direction given by someone in the employee’s agency who has authority to give the direction	0	0
while on duty overseas, at all times behave in a way that upholds the good reputation of Australia	0	0
maintain appropriate confidentiality about dealings that the employee has with any Minister or Minister’s member of staff	0	0

Note: (a) An investigation may involve more than one employee, and/or a suspected breach of more than one element of the Code. An employee may also be suspected of breaching an element of the Code more than one time as part of a single investigation.

Source: Agency survey

The element of the Code that was suspected of being breached the greatest number of times overall was s. 13(11) of the PS Act—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. Investigations into possible breaches of s. 13(11) were commenced in 15% of all medium agencies and 14% of all large agencies. The element of the Code that was next most frequently suspected of being breached was s. 13(1)—an APS employee must behave honestly and with integrity in the course of APS employment. Investigations into possible breaches of s. 13(1) were commenced in eight per cent of all medium agencies and 27% of all large agencies. Table 7.5 shows the outcomes of those investigations.

**Table 7.5: Outcomes of investigations into suspected breaches of the Code of Conduct commenced as a result of whistleblowing reports (a)**

<b>Outcome</b>	<b>No. of times</b>	<b>No. of agencies</b>
Termination of employment	1	1
Reduction in classification	0	0
Reduction in salary	1	1
Deduction from salary by way of a fine	1	1
Reassignment of duties	1	1
Reprimand	2	2
Counselling	2	2
Other (b)	1	1
Investigation discontinued	0	0
Investigation still in progress	8	6
No breach found	5	4

Note: (a) More than one sanction may be imposed on each employee as a result of an investigation; hence there may be multiple outcomes from one investigation. (b) ‘Other’ was resignation prior to formal finding of breach.

Source: Agency survey

Four agencies reported receiving one report each from an employee in 2002–03 in relation to victimisation/discrimination as a result of their having made a report under the whistleblowing provisions. All reports were made in large agencies. They dealt with attempts to identify the whistleblower, the whistleblower being able to be identified, and the whistleblower being disadvantaged.

It is notable that, while only four agencies reported receiving reports from employees alleging victimisation/discrimination as a result of having made a whistleblowing report, 21% of employees responding to the employee survey indicated that they would take no action if they observed another, more senior, employee engaging in behaviour that they thought was a serious breach of the Code because they would not be confident of being protected from victimisation and discrimination. Employees were less likely to fear victimisation and discrimination where the person committing the breach was at the same level as the employee (eight per cent) or where the person was more junior (five per cent). This issue is explored further in Chapter 3, Embedding the Values and Code of Conduct.

During 2002–03, the Merit Protection Commissioner received two whistleblowing reports, the same number as last year. The two reports raised issues relating to inappropriate use of taxpayers’ money, lack of probity in selections, and inequities in access to training and development opportunities. The Merit Protection Commissioner concluded in both cases that there was insufficient evidence to support the allegations.

During the year the Public Service Commissioner received 13 whistleblowing reports, one more than last year. Six were from current APS employees, three from former employees and four from private citizens.

Only one of the disclosures proceeded to investigation by the Commissioner. The report alleged breaches of the Code in relation to a selection process and is currently being investigated.

The other 12 disclosures did not meet the requirements for investigation by the Public Service Commissioner. Four were from private citizens who were provided with information on other mechanisms to pursue their concerns. Three were from former APS employees, who alleged nepotism in a selection process and raised issues about termination of employment, and were advised that the matters they raised were more appropriately dealt with by the relevant agency heads and in one case the Ombudsman.

The remaining five disclosures included three anonymous reports relating to a range of employment actions and selection processes, which were referred to the relevant agency heads for consideration. Of the final two cases, in one it was determined that no inquiry was warranted, and in the other the agency head had commenced consideration of the matter.

The Public Service Commissioner also finalised two investigations that were carried over from the previous year. One disclosure related to alleged interference in a tendering and contracting exercise and the other to alleged breaches of the Privacy Principles. In both cases the Public Service Commissioner concluded that there was insufficient information to support the allegations, though he did recommend to an agency that better guidance be provided to relevant employees in relation to a particular aspect of a tendering and contracting process.

## **CONFLICT OF INTEREST**

The Code of Conduct sets out a number of requirements that are relevant to the need for agencies to avoid and manage conflict of interest. In particular, it requires that an APS employee must disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with APS employment (s. 13(7) of the PS Act) and that an APS employee must not make improper use of: (a) inside information or (b) the employee's duties, status, power or authority, in order to gain, or seek to gain, a benefit or advantage for the employee or for any other person (s. 13(10) of the PS Act). APS employees need to be aware that their private interests, both financial and personal, could conflict with their official duties. Agencies should have procedures in place for managing real and apparent conflicts of interest, and should ensure that employees are aware of these procedures.

In order to explore the measures used by agencies to avoid and manage conflicts of interest, the agency survey asked a number of questions about the measures agencies have taken to help raise awareness of staff obligations in relation to this issue. One area of particular interest, given the increased use of outsourcing arrangements in recent years, is whether agencies use contractual provisions to restrict successful tenderers from employing people who were key decision makers in the tendering process. Just over half of all agencies reported having such a restriction. Conflict of interest as it bears on outsourcing is handled in Chapter 10, which deals with developments in outsourcing services in the APS.

In relation to the general issue of avoiding conflict of interest when an employee takes up employment after leaving the APS, it was reported that relevant policies are in place in only 30% of all agencies. Results vary greatly by agency size, with 15% of small agencies, 23% of medium agencies and 68% of large agencies reporting that they have such policies in place.

As a result of a government decision in 1983, agency heads, members of the SES and those acting in SES jobs for longer than three months are required to make written statements of their private interests. The agency survey indicated that 75% of all agencies currently require SES employees to make a written statement of their interests, and six per cent of agencies are developing relevant measures. Sixty-eight per cent of small agencies, 73% of medium agencies and 91% of large agencies currently have such a requirement.

Most agencies either have (84%) or are developing (8%) policies or procedures on the acceptance of gifts and benefits including hospitality. Just less than half of all agencies (49%) have procedures for alerting employees who sit on boards or committees of the need to declare and manage any conflict of interest. Learning and development activities relating to conflict of interest are provided to particular groups of employees in 38% of agencies. As might be expected, a higher percentage of large agencies have each of these measures in place.

Thirty-three per cent of agencies reported having measures in place in relation to conflict of interest other than the ones discussed above. These included procedures in relation to engaging in concurrent outside employment (seven agencies), induction procedures which cover conflict of interest (seven agencies), and a requirement for all staff to complete a conflict of interest declaration or self-assessment form (four agencies).

## **REQUIREMENT TO TREAT EVERYONE WITH RESPECT AND COURTESY AND WITHOUT HARASSMENT**

The third element of the Code of Conduct (s. 13(3) of the PS Act) requires employees, when acting in the course of APS employment, to treat everyone with respect and courtesy and without harassment. As reported in Chapter 8 on Diversity, 18% of employees reported that, in 2002–03, they had been subjected to what they considered to be harassment, discrimination or bullying in their workplace.

Two applications for unfair dismissal before the Australian Industrial Relations Commission (AIRC) in 2003 emphasised the importance of this element of the Code. In both cases, APS employees were dismissed for failing to meet these requirements of the Code. While not all breaches of this element of the Code would warrant termination of employment, the relevant decisions of the AIRC articulate how inappropriate behaviour in the workplace is a serious issue with potentially serious consequences. In one decision<sup>2</sup> Commissioner Deegan noted that:

Any failure to treat a person or a fellow employee with ‘courtesy and respect’ could conceivably constitute a breach of the Code. Many such breaches would not incur a sanction of termination of employment. In the applicant’s case there were numerous, in my view serious, failures to comply with the requirement of subsection 13(3) of the *Public Service Act 1999*, to treat people with respect and courtesy; many of those failures also constituted harassment.

In the second case<sup>3</sup> Senior Deputy President Lacy commented that:

It can be reasonably expected that an employee will not create a hostile work environment or upset other staff in the way that the applicant has done in this case. Employees reasonably can be expected to work harmoniously with one another and have regard to the sensitivities of other people within the

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<sup>2</sup> C Deegan, PR 9322560, 5 June 2003

<sup>3</sup> SDP Lacy, PR 927240, 3 February 2003

workplace. This, it seems to me, is a corollary of an employer's duty to provide a safe and healthy work environment free of hostility and harassment.

In this case the Senior Deputy President also concluded that the expression 'with respect and courtesy and without harassment' should be read disjunctively—that is, that an employee would be in breach of the Code if they were disrespectful or discourteous or their conduct was regarded as harassment, rather than having to display all of those behaviours. He also discussed the meaning of the terms 'respect', 'courtesy' and 'harassment'.

## CONCLUSIONS

As this is the first year in which information has been sought on the number of investigations into suspected breaches of the Code, the elements of the Code that were suspected of being breached, and the sanctions applied, it is not possible to provide comment on how the numbers vary this year from previous years. Information on these issues will be sought for future reports to enable comparisons to be made.

The large variation in numbers of investigations will reflect in part the nature of each agency's business and workforce, but it may also reflect a less rigorous and systematic approach in some agencies. The large variation in the imposition of the high-impact sanctions by large agencies also suggests that some agencies are more severe with the imposition of sanctions than others, though again this may reflect, at least in part, the importance of particular APS Values and elements of the Code of Conduct to the work of particular agencies.

A rigorous and systematic approach is important to ensuring APS employees take seriously the Values and Code of Conduct, and agencies need to ensure a reasonable degree of internal consistency if their approach is to gain the respect of employees. Greater effort could be devoted to raising awareness about the application of the Code and procedures for raising suspected breaches including, as noted above, by means of reports as mentioned in s. 16 of the PS Act. The APS Commission is intending to conduct an evaluation of management of breaches of the Code of Conduct in 2003–04, and will consider these and other relevant issues in the context of that evaluation. As well as feeding into next year's report, this evaluation should provide material for a good-practice guide.

As noted in Chapter 3, there is still work to be done to raise awareness of whistleblowing procedures. While the low number of whistleblowing reports made during 2002–03 may reflect a lack of serious breaches of the Code on which to report, it may also reflect the lack of knowledge by employees of the scheme and how it operates or a lack of trust by employees in the scheme, and the protection that it offers from victimisation and discrimination. Increased effort by agencies to raise awareness of procedures for reporting a suspected breach of the Code and of the protection available under s. 16 of the PS Act to persons making reports, and to encourage employees to make disclosures in appropriate circumstances, may go some way towards addressing these issues.

Agencies have put in place a variety of measures to deal with conflict of interest, although there is room for improvement in a number of areas. Nearly a quarter of all agencies do not have in place measures to meet the government requirement for SES employees to make a written statement of their interests. There is also more to do in relation to regulation of post-separation employment, both outside the outsourcing situation and for those who have been involved in a tender process. These issues will be followed up in future reports.