



Australian Government
Australian Public Service Commission



APS VALUES & CODE OF CONDUCT IN PRACTICE

A GUIDE TO OFFICIAL CONDUCT FOR APS EMPLOYEES AND AGENCY HEADS

INTRODUCTION AND OVERVIEW

The APS Values and Code of Conduct in Practice: a Guide to Official Conduct for APS Employees and Agency Heads aims to assist APS employees to understand the practical application of the APS Values and Code of Conduct in both common and unusual circumstances. Along with the Commission's Good Practice Guide, *Embedding the APS Values*, this Guide is designed to assist Agency Heads establish policies and procedures that promote the Values and ensure compliance also with the Code. It is not a rulebook and its purpose is not to reintroduce detailed, central rules.

This brochure contains a brief summary of the Guide. Employees should consult the complete publication for a fuller exploration of the issues covered, and to obtain links to other relevant guides and publications.

While neither the complete publication nor the summary can provide the answer to every problem of conduct or ethics that may arise, the principles identified will point to an answer in many cases. It is also helpful to discuss ethical issues with experienced and respected colleagues.

THE APS - DEFINED BY VALUES

The APS Values and Code of Conduct are not simply aspirational statements of intent. All APS employees are required to uphold the Values and comply with the Code. Agency Heads and members of the Senior Executive Service are required also to promote the Values.

The Public Service Commissioner is empowered to evaluate the extent to which agencies incorporate and uphold the Values and the adequacy of their systems and procedures to ensure compliance with the Code.

BALANCING THE VALUES

While the Values complement each other, there may be tensions between them from time to time. No Value should be pursued to the point of direct conflict with another.

KEY RELATIONSHIPS AND BEHAVIOURS

Although the *Public Service Act 1999* (the PS Act) does not group or prioritise the Values or Code, it is helpful to consider them in terms of relationships and behaviours:

- relationship with Government and Parliament
- relationship with the public
- workplace relationships
- personal behaviour.

The full version of the Guide, this summary and the Commission's Good Practice Guide, *Embedding the APS Values*, are structured around these relationships and behaviours.

COVERAGE

The APS Values and Code cover all APS employees, and Agency Heads. They also apply to some statutory office-holders.

PERSONAL BEHAVIOUR

APS employees must treat everyone with respect and courtesy and without harassment. They must perform their duties honestly and with integrity and at all times behave in a way that upholds the Values and the good reputation of the APS.

USING COMMONWEALTH RESOURCES

Agency Heads must manage their agency in a way that promotes the efficient, effective and ethical use of Commonwealth resources.

APS employees must be scrupulous in using Commonwealth resources, which should not be used for personal profit or gain. Agencies usually allow limited use of office equipment such as the telephone or email for private communication. Agencies should develop clear policies about use of equipment, including email and the Internet and ensure that employees are aware of them. Computer software should only be copied if authorised and only for official purposes. Private software should not be used on agency systems without authorisation, as it may introduce computer viruses.

FREQUENT FLYER POINTS

APS employees may join a frequent flyer scheme for official purposes. However, it is government policy that APS employees are not to use accrued points for private travel. This includes upgrading to another class of travel unless authorised to do so.

PREVENTING, INVESTIGATING AND PROSECUTING FRAUD

APS employees who commit fraud breach the Criminal Code and the APS Code and may be subject to misconduct action under the PS Act. An employee should report anyone they suspect of committing fraud to the appropriate person in their agency. For further information, refer to the *Commonwealth Fraud Control Guidelines 2002* available at the Attorney-General Department's website.

CONFLICT OF INTEREST

Public confidence in the integrity of the APS is vital to the proper operation of government. That confidence may be jeopardised if the community perceives a conflict of interest. APS employees need to be aware that their private interests, both financial and personal, could conflict with their official duties. APS employees must notify managers about real or apparent conflicts of interest. While avoiding a conflict is best, it is not always practical and agencies need to establish processes that will ensure the management of conflict in such situations will withstand scrutiny.

BOARDS AND COMMITTEES

APS employees are sometimes required to serve on government boards and committees. Employees serving on boards should be aware of the potential for conflicts of duty, leading to conflicts of interest. For example, a conflict of duty may arise where an employee is involved in purchasing services from an entity, and also sits on the board of the entity. A conflict of interest may follow if the employee's performance is in part measured by the successful outcome of the purchasing arrangement. The potential also exists for conflicts of interest or duty in committees established by agencies, particularly where a Minister appoints the chair and/or members and the committee can significantly influence decisions. Agencies should establish procedures to alert employees who sit on boards and committees to the need to identify and avoid conflicts of interest.

GIFTS AND BENEFITS

APS employees must not improperly use their position, status, power or authority to gain a benefit or advantage for themselves or others. They must take reasonable steps to avoid conflict of interest. As a general principle APS employees should not accept gifts or benefits (which in some circumstances could be seen as a bribe). However, there are instances where it is acceptable, such as on behalf of their agency, from an overseas delegation. Sometimes it is reasonable to accept hospitality as a means of networking, which can be particularly important for senior employees responsible for implementing government policy. Balanced judgement is required.

OUTSIDE EMPLOYMENT

Public servants can undertake paid and unpaid work outside the APS if it does not conflict with or adversely affect the performance of their official duties.

POST-SEPARATION EMPLOYMENT

Mobility between the public and private sectors is important. However, employees should be cautious if they are leaving the APS to undertake work that aligns closely with their official duties. If an employee intends to take up a business appointment after leaving the APS, it is important that all reasonable steps are taken to avoid conflicts of interest while the person is still employed by the Commonwealth. For post-separation arrangements, agencies should have in place guidance that makes it possible for all parties (the agency, the transferring employee and the new employer) to demonstrate that ethical considerations have been explicitly considered and that the interests of all the parties are protected in the event of any future audit, parliamentary or media scrutiny. Six months might typically be used as the period a person in a sensitive situation should wait before they work in business areas that have direct contact with their former agency. An agency may also include provisions in contracts restricting successful tenderers from employing APS employees who managed the tender process.

MARKET TESTING AND OUTSOURCING

APS employees managing outsourcing or undertaking market testing are at a greater risk of actual or perceived conflicts of interest. Agencies should develop guidelines to assist employees working in these areas to deal with such conflicts.

APS EMPLOYEES AS CITIZENS

APS employees can participate in political activities as part of normal community affairs. However, it is important that they separate their personal views on policy issues from the performance of their official duties. This is an important part of professionalism and impartiality as an APS employee. Similarly, APS employees can join and participate in the activities of a union.

WORKING OVERSEAS

The Code of Conduct requires APS employees working overseas to behave at all times in a way that upholds the good reputation of Australia.

WHISTLEBLOWING

Whistleblowing refers to the reporting by an APS employee, in the public interest, of information alleging a breach of the Code of Conduct by an employee or employees within an agency. Agencies are required to have procedures in place to investigate reports and provide protection against victimisation or discrimination for an APS employee who makes a report to an authorised person.

APS CODE OF CONDUCT

The Code of Conduct requires that an employee must:

- behave honestly and with integrity in the course of APS employment
- act with care and diligence in the course of APS employment
- when acting in the course of APS employment, treat everyone with respect and courtesy, and without harassment
- when acting in the course of APS employment, comply with all applicable Australian laws
- comply with any lawful and reasonable direction given by someone in the employee's Agency who has authority to give the direction
- maintain appropriate confidentiality about dealings that the employee has with any Minister or Minister's member of staff
- disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with APS employment
- use Commonwealth resources in a proper manner
- 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
- not make improper use of:
 - a. inside information
 - b. the employee's duties, status, power or authorityin order to gain, or seek to gain, a benefit or advantage for the employee or for any other person
- at all times behave in a way that upholds the APS Values and the integrity and good reputation of the APS
- while on duty overseas, at all times behave in a way that upholds the good reputation of Australia
- 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.

The Code of Conduct is set out in section 13 of the *Public Service Act 1999*.

APS VALUES

THE APS AND ITS RELATIONSHIP WITH THE GOVERNMENT AND THE PARLIAMENT

The Australian Public Service:

- is apolitical, performing its functions in an impartial and professional manner
- is openly accountable for its actions, within the framework of Ministerial responsibility to the Government, the Parliament and the Australian public
- is responsive to the Government in providing frank, honest, comprehensive, accurate and timely advice and in implementing the Government's policies and programs.

THE APS AND ITS RELATIONSHIP WITH THE PUBLIC

The Australian Public Service:

- delivers services fairly, effectively, impartially and courteously to the Australian public and is sensitive to the diversity of the Australian public
- provides a reasonable opportunity to all eligible members of the community to apply for APS employment.

THE APS AND WORKPLACE RELATIONSHIPS

The Australian Public Service:

- is a public service in which employment decisions are based on merit
- provides a workplace that is free from discrimination and recognises and utilises the diversity of the Australian community it serves
- establishes workplace relations that value communication, consultation, co-operation and input from employees on matters that affect their workplace
- provides a fair, flexible, safe and rewarding workplace
- focuses on achieving results and managing performance
- promotes equity in employment
- provides a fair system of review of decisions taken in respect of APS employees.

PERSONAL BEHAVIOUR

The Australian Public Service:

- has the highest ethical standards
- has leadership of the highest quality
- is a career-based service to enhance the effectiveness and cohesion of Australia's democratic system of government.

The APS Values are set out in section 10 of the *Public Service Act 1999*.

RELATIONSHIP WITH THE GOVERNMENT AND THE PARLIAMENT

The principles of apoliticism, impartiality, professionalism, responsiveness and accountability are at the heart of strong, productive relationships between the APS and the Government and Parliament. These Values need to be seen together as a set.

APOLITICAL, IMPARTIAL AND PROFESSIONAL

The role of the APS is to serve the government of the day; to provide the same high standard of policy advice, implementation and professional support, irrespective of which political party is in power. Good advice from the APS is unbiased and objective. It is politically neutral but not naive. APS employees impartially perform their duties and implement government policies and programs on merit.

RESPONSIVENESS

Responsiveness demands a willingness and capacity to be effective and efficient. Responsive advice is frank, honest, comprehensive and timely. It should be well argued and creative, anticipating the issues and appreciating the underlying intent of government policy. It should be forthright and direct and not gloss over important known facts.

ACCOUNTABILITY

APS employees work within an accountability framework. They are accountable to Ministers and through them to Parliament. They assist Ministers to fulfil their accountability obligations by providing Parliament with full and accurate information about the facts and technical background to policies and their administration. They are accountable for their performance through agency management systems. They must conform with the law and may be held to account through the legal system.

RELATIONSHIP WITH MINISTERS

Building and maintaining a constructive relationship with Ministers and their offices is a key responsibility of APS employees. APS employees consistently working to the Values is crucial to such relationships, as are a sound appreciation of the respective roles and a spirit of cooperation and good communication.

MANAGING OFFICIAL INFORMATION

There is a legislative and regulatory framework that governs the use and disclosure of official information. The purpose of the framework is to avoid the unauthorised disclosure of information rather than inhibit its flow. APS employees must not use official information for personal profit or gain, or access another person's information, such as taxation records, without authorisation.

Employees who deal with Ministers or with Ministers' offices should be particularly careful in their dealings as they may have access to very sensitive information.

MAKING PUBLIC COMMENT

Some APS employees are required to provide comment to the media and the public about agency activities. More generally, while there are some cautions, APS employees as private citizens may make public comment in a private capacity, as long as they make it clear they are expressing their own views and not those of their agency.

RECORDKEEPING

Good recordkeeping is essential to accountability. All significant decisions or actions should be documented to a standard that would withstand independent scrutiny. Proper recordkeeping allows others to understand the reasons why a decision was made or an action taken and can guide future decision-makers.

MANAGING PERSONAL INFORMATION

The Privacy Act 1988 establishes processes for the collection, storage and security, access and correction and use and disclosure of personal information. It contains the Information Privacy Principles that govern the way agencies manage personal information.

The *Freedom of Information Act 1982* allows the public access to agency documents. Under the Act, a person may apply to obtain personal information about themselves, and in certain circumstances, about others.

RELATIONSHIP WITH THE PUBLIC

APS employees must treat everyone with respect and courtesy, and without harassment. They should provide reasonable assistance and help the public understand their entitlements and obligations. APS employees must administer the law fairly and equitably and provide responsive, efficient and effective services.

FAIR DECISION MAKING

Compliance with the law is a fundamental requirement of fair decision making. The APS functions within an administrative law framework to ensure individuals and groups receive fair and equitable treatment. Decision makers should ensure that decisions are 'fair and reasonable'; that they properly exercise power; that procedural fairness has been observed; and that they can provide reasons to explain and justify their decisions.

PROVIDING GOOD SERVICE

Agency service charters set out the standards of customer service and conduct that the public can expect. APS employees should ensure they read and understand their obligations under the relevant service charter.

MEETING DIVERSE NEEDS

An awareness of, and sensitivity to, the diversity of the Australian community is essential for good advice, quality service and appropriate decision making. It ensures different perspectives are brought to bear, and the needs of different clients considered. The Department of Immigration and Multicultural and Indigenous Affairs has produced *The Charter of Public Service in a Culturally Diverse Society*, which includes a Good Practice Guide for Culturally Responsive Government Services and information sheets.

It is unlawful to discriminate against people on the grounds of disability, sex, marital status, pregnancy, family responsibility, race, colour and national or ethnic origin. APS employees are required to treat the public equitably.

PROVIDING INFORMATION OR ADVICE

APS employees are expected to exercise reasonable care when giving information or advice. This applies equally to written or verbal advice. The standard of care required relates to the nature of the enquiry and the possible consequences that may arise if the advice given is incorrect.

PROCUREMENT

Employees involved in government procurement should be mindful of potential conflicts of interest and not use their position to benefit themselves or others. The *Commonwealth Procurement Guidelines and Best Practice Guidelines 2002* provides information about how agencies should manage procurement. 'Value for money' is the core principle, underpinned by four supporting principles: efficiency and effectiveness; ethics; accountability and transparency; and industry development.

COMPETITIVE TENDERING AND CONTRACTING

Competitive tendering and contracting (CTC) enables agencies to contract to another organisation services previously delivered by that agency. The process involves evaluating public and private sector bidders against criteria to select a preferred supplier. Tender assessment must be conducted without favour or prejudice. Employees involved in CTC must maintain the highest ethical standards. Further information can be obtained on the Department of Finance and Administration's website.

THE VALUES AND CODE AND PRIVATE SECTOR PROVIDERS

Regardless of who is performing a function, if it involves public expenditure, contracting agencies remain accountable to government for that function. When establishing relationships with providers, agencies need to consider how the Values and Code might apply, and how they will be promoted and compliance monitored, including the use of contract provisions. Agencies need to take steps to ensure contractors are aware that APS employees are bound by the Values and the Code.

STAKEHOLDERS

Good relationships with stakeholders help agencies achieve effective and efficient implementation of government programs, thereby supporting the APS Value of achieving results. APS employees need to be clear about their obligations to be impartial, accountable and responsive to government. Conflicts of interest may be significant and need to be managed.

RELATIONSHIPS IN THE WORKPLACE

Cooperative and productive working relationships are at the heart of values-based management. While employers have an obligation to provide a safe, harassment-free, flexible and rewarding workplace, APS employees have an obligation to obey lawful instructions and contribute effectively to corporate management. APS employees must treat their colleagues with respect and courtesy and without harassment. Decisions relating to engagement or promotion in the APS must be based on merit.

WORKPLACE DIVERSITY

Workplace diversity aims to make best use of people's backgrounds, skills, talents and perspectives, to ensure fairness and improve productivity. Agencies should seek a balanced workforce where different backgrounds and perspectives are drawn on to maximise effectiveness. Good diversity practices also enable agencies to contribute to the fairness of the overall Australian workforce. An agency that provides services direct to the public should pay particular attention to the diversity of its workforce so that it meets the needs of its clients.

ELIMINATING DISCRIMINATION AND HARASSMENT

It is unlawful to discriminate against or harass a person at work, and in most other areas of public life. APS employees must comply with all Commonwealth anti-discrimination laws. The APS Commission provides further information about how to prevent and manage workplace harassment which is available on its website.

REVIEW OF ACTIONS

Under s.33 of the PS Act, non-SES employees are entitled to apply for review of actions that relate to their employment. More information about review of actions is in the APS Commission publication *Review of employment-related actions in the APS*, available on the Commission's website.

HEALTH AND SAFETY

The Occupational Health and Safety (Commonwealth Employees) Act 1991 is the principal legislation that governs the management of occupational health and safety in the workplace. The Act has a preventive focus. Agencies are required to take all reasonable steps to protect the health, safety and welfare of employees by providing and maintaining a safe work environment and employees are required to take all reasonable and practicable steps to work safely and not endanger others.