



Australian Government
Australian Public Service Commission

Dr Gordon de Brouwer
Commissioner

s22

Chief Executive Officer

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Delivered via: s22

Dear Mr s22

Senior leaders in the Australian Public Service are required to lead by example in upholding high standards of integrity and conduct. The conduct of APS leaders is a matter of heightened public interest. In this context, I would like to draw your attention to three themes I have observed through the exercise of my integrity functions under the *Public Service Act 1999* framework, and to seek your cooperation in ensuring that you and your senior staff are meeting obligations to demonstrate behaviours that model and promote the APS Values and Code of Conduct.

Conflict of interest

- Declarations:

First, there is a need to strengthen our approach to the declaration and management of conflicts of interest by senior leaders. As you are aware, all agency heads and SES employees are required to submit, at least annually, a written declaration of their own and their immediate family's financial and other material personal interests.

In the first instance, employees are required to take measures to avoid conflicts of interest. Where a conflict of interest is identified—be it real, perceived, or potential—it must be managed; for example, by an employee withdrawing from particular discussions, restricting the flow of information, abstaining from decisions, reassignment of duties, or relinquishing the interest or the position.

I ask that you ensure you and your SES employees have up-to-date declarations in place, as well as strategies in your agency to mitigate or manage conflicts that are identified. I ask, too, that you ensure similar arrangements are in place for all relevant agency functions and processes, such that conflict of interest declarations are triggered for those participating in activities such as recruitment, procurement, awarding grants, or performing regulatory roles.



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- Personal relationships:

Conflicts of interest can also arise from personal relationships, including relationships with colleagues. It is essential that these relationships be declared and properly managed in order to mitigate any real or apparent conflict with employees' official duties. The risks associated with such relationships are heightened where there is a supervisory relationship or a power imbalance between the individuals. I ask that you ensure that you and your senior staff understand the obligations to take reasonable steps to avoid conflicts of interest and to declare and manage those conflicts that cannot be avoided.

Procurement

Obligations under the *Public Governance, Performance and Accountability Act 2013* and the Commonwealth Procurement Rules are not negotiable. Multiple Australian National Audit Office audits have identified deficiencies in procurement practices across the Commonwealth and, in some cases, these practices have fallen short of ethical requirements. The APS is entrusted to manage significant resources on behalf of the government, and doing so responsibly and ethically is core to the integrity of the Service. The ANAO released a [Procurement and Contract Management Audit Insights report](#) that I recommend you share and apply within your agency.

There are also conflicts arising from senior employees' dealings with suppliers and other non-APS partners, sometimes culminating in the employee resigning from the APS to take up a role with that entity. The declaration and management of these relationships, including post-separation, is critical to the integrity of the APS, and I ask that you reinforce within your agencies the expectations of employees in this regard, including mitigating conflicts of interest before and after separation, and maintaining confidentiality of Commonwealth information on an enduring basis, as required by law. The Commission will be enhancing its existing guidance in 2024 on conflict management, including post-separation matters, which I hope will be of further assistance to you.

Personal behaviour in the workplace

Interpersonal behaviour is a recurring focus in the Commission's work, based on the legal requirement to **treat others with respect and courtesy, and without harassment**. I ask you to reinforce these expectations with your senior staff.

The DRIVE leadership values and the whole-of-service SES Performance Leadership Framework, launched in August 2023, are helping reinforce behavioural obligations by ensuring that behaviour is assessed as a performance metric. The Framework makes clear that excellence in delivering outcomes cannot be used to offset or minimise behavioural concerns. As Agency Head, it is especially important that you lead both by example and by ensuring that this standard is applied without exception in your agency. Staff observe the way their leaders behave, and there is a good body of evidence that leaders set the tone of behaviour in their organisations.



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New requirement—sexual harassment and discrimination:

The *Sex Discrimination Act 1984* now requires employers to proactively take ‘reasonable and proportionate measures’ to eliminate sexual harassment, sex discrimination, and victimisation in the workplace. This positive duty requires employers to implement measures to eliminate, as far as possible

- discrimination on the ground of sex in a work context,
- sexual harassment in connection with work,
- sex-based harassment in connection with work,
- conduct creating a workplace environment that is hostile on the ground of sex, and
- related acts of victimisation.

The positive duty operates concurrently with existing work health and safety laws, which require employers to provide a safe working environment. Further amendments coming into effect on 12 December 2023 will provide the Australian Human Rights Commission with new inquiry and enforcement powers to ensure that employers are complying with this positive duty.

The Australian Human Rights Commission, Comcare, and the Mental Health Support Unit in the Commission will continue to release resources to support agencies in creating positive and respectful workplaces. Early in 2024 the Commission will launch the ADDRESS Model for the Assessment and Intervention of Workplace Psychological Hazards, to assist with managing psychosocial safety risks in the workplace.

The conduct of senior leaders is central to APS integrity, and to trust and confidence in the APS as an institution. I ask that when reports are made within your agencies of inappropriate behaviour by your senior staff, these are taken seriously and considered on their merits.

The *Australian Public Service Commissioner’s Directions 2022* require that the APS Commissioner is consulted when an SES conduct concern is identified, and again in relation to sanction should a breach of the Code of Conduct be found. I have delegated this function to the Assistant Commissioner, Integrity, Performance and Employment Policy, who may be contacted for consultations through the Ethics Advisory Service at ethics@apsc.gov.au or (02) 6202 3737. I ask that you ensure these consultations are taking place in relation to each SES conduct matter in your agency.

The Ethics Advisory Service is also available to all APS employees, including Agency Heads and SES employees, who wish to discuss and seek advice on ethical issues that occur in the workplace. The service is available Monday to Friday from 9am to 5pm AEST/AEDT at the contact details above. I encourage you to promote this service within your agencies.

Integrity is all of our business. I will keep you updated on developments in integrity. Australian Government integrity agencies meet regularly (as the Integrity Agencies Group) and you will find a lot of valuable information and insight in their work, including insights published by the National Anti-Corruption Commission, the Office of the Commonwealth Ombudsman and the Australian National Audit Office. Be it the APS Values and Code of Conduct in the Public Service Act or managing public resources properly under the Public



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Governance, Performance and Accountability Act, public servants are always required to act in accordance with the law.

I encourage you to speak with your teams about the information in this letter.

If you would like further advice or guidance on these or other APS integrity matters, please contact ^{s22} Assistant Commissioner Integrity, Performance and Employment Policy, directly on ^{s22} or at ^{s22}

Yours sincerely

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Dr Gordon de Brouwer
8 December 2023