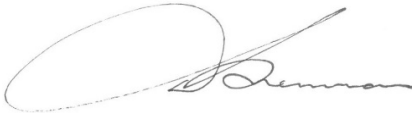




Title:	Procedures for Managing Alleged Breaches of the APS Code of Conduct and Deciding Sanctions
Overview:	<p>The purpose of this procedure is to determine whether an Australian Public Service (APS) employee, or a former APS employee, in the Agency has breached the Code of Conduct and the sanction (if any) that is to be imposed on an APS employee in the Agency who is found to have breached the Code of Conduct.</p>
Procedure Owner:	People & Culture
Procedure Contact:	People & Culture
Approval Authority:	CEO
<div></div> <div>Approval Date: 5 August 2024</div>	
Version:	V1
See page 2 for Change Control log	

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Change control log

Changes to this procedure or its dependent processes should not occur without the involvement of the Procedure Contact, and should not be implemented without approval of the Procedure Owner.

The table below lists the changes to the policy that have been approved, and the stakeholders consulted:

Version No.	Date	Stakeholders Consulted	Amendment Description
1	June 2024	People & Culture Legal CEO	This procedure is required for APS employees at Screen Australia.

1. Purpose and application

- 1.1. The purpose of these procedures is to determine whether a current APS employee in Screen Australia, or a former APS employee at Screen Australia who was employed at the time of the suspected misconduct, has breached the APS Code of Conduct (the 'Code') in section 13 of the Public Service (PS) Act.
- 1.2. These procedures also applies to determine the sanction (if any) that is to be imposed on an APS employee at Screen Australia who is found to have breached the Code of Conduct.
- 1.3. In these procedures, a reference to a breach of the Code by a person includes a reference to a person engaging in conduct set out in the subsection 15(2A) of the Act in connection with their engagement as an APS employee
- 1.4. Not all suspected breaches of the Code may need to be dealt with by way of a determination. In particular circumstances, another way of addressing a suspected breach of the Code may be more appropriate.

2. Availability of procedures

- 2.1. These Procedures are publicly available on the Screen Australia website in accordance with subsection 15(7) of the PS Act.

3. Breach decision maker and sanction delegate

- 3.1. As soon as practicable after a suspected breach of the Code has been identified and the CEO has decided to deal with the suspected breach under these procedures, the CEO will appoint a decision making ('the breach decision maker') to make a determination under these procedures.
- 3.2. A breach decision maker can be appointed from inside or outside Screen Australia.
- 3.3. The role of the breach decision maker is to determine in writing whether a breach of the Code has occurred.
- 3.4. The breach decision maker may seek the assistance of an investigator with matters including investigating the alleged breach, gathering evidence and making a report of recommended factual findings to the beach decision maker.
- 3.5. The CEO will decide what, if any, sanction is to be imposed on an APS employee who is found to have breached the Code (the CEO is 'the sanction delegate').
- 3.6. These Procedures do not prevent the breach decision maker from being the sanction delegate in the same matter.

4. Person or persons making the breach determination and imposing any sanction to be independent and unbiased

- 4.1. The breach decision maker and the sanction delegate must be, and must appear to be, independent and unbiased.
- 4.2. The breach decision maker and the sanction delegate must advise the CEO (or the person authorised by the CEO to appoint the breach decision maker) in writing if they consider they may not be independent and unbiased or if they consider they may reasonably be perceived not to be independent and unbiased, for example if they are a witness in the matter.

5. The determination process

- 5.1. The process for determining whether a person who is, or was, an APS employee at Screen Australia has breached the Code must be carried out with as little formality, and with as much expedition, as proper consideration of the matter allows.
- 5.2. The process must be consistent with the principles of procedural fairness.
- 5.3. A determination may not be made in relation to a suspected breach of the Code by a person unless reasonable steps have been made to;
 - a) inform the person of
 - i) the details of the suspected breach of the Code, including any subsequent variation of those details, and
 - ii) where the person is an APS employee, the sanctions that may be imposed on them under subsection 15(1) of the Act.
 - b) give the person a reasonable opportunity to make a statement in relation to the suspected breach.
- 5.4. The statement may be either a written or an oral statement and should be provided within seven (7) calendar days or any longer period that is allowed by the decision maker.
- 5.5. For the purpose of determining whether a person who is, or was, an APS employee at Screen Australia has breached the Code, a formal hearing is not be required.

6. Sanctions

- 6.1. The process for imposing a sanction must be consistent with the principles of procedural fairness.
- 6.2. If a determination is made that an APS employee in PSR has breached the Code, a sanction may not be imposed on the employee unless reasonable steps have been taken to;
 - a) inform the employee of
 - i) the determination that has been made
 - ii) the sanction or sanctions that are under consideration
 - iii) the factors that are under consideration in determining any sanction to be imposed, and
 - b) give the employee a reasonable opportunity to make a written statement in relation to the sanction or sanctions under consideration.
- 6.3. The statement may be either a written or oral statement and should be provided within seven (7) calendar days or any longer period that is allowed by the sanction delegate.

7. Record of determination and sanction

- 7.1. If a determination is made in relation to a suspected breach of the Code by a person who is, or was, an APS employee at Screen Australia, a written record must be made of
- a) the suspected breach,
 - b) the determination
 - c) any sanctions imposed as a result of a determination that the employee has breached the Code, and
 - d) if a statement of reasons was given to the person regarding the determination in relation to suspected breach of the Code, or in the case of an employee regarding the sanction decision, that statement of reasons or those statement of reasons.

8. Disclosure of information concerning a breach

- 8.1. Where a breach has been found for a current or former APS employee of Screen Australia, Screen Australia may disclose information concerning the breach:
- a) where for or relevant to the performance or exercise of any employer powers or where Screen Australia considers it is appropriate for employment purposes;
 - b) to a complainant who identified or witnessed the breach;
 - c) to relevant human resources personnel in any other Commonwealth agency the subject of the breach approaches (e. g. regarding a transfer, promotion or engagement);
 - d) to external bodies or agencies who are or have been involved in the matter, such as the Merit Protection Commissioner, Commonwealth Ombudsman, Office of the Privacy Commissioner or the Inspector General of Intelligence and Security;
 - e) to any enforcement body (e. g. the Australian Federal Police);
 - f) to a security assessment agency (e. g. the Australian Government Security Vetting Agency);
 - g) to any future or prospective future employer of the subject.
- 8.2. All information about a Code of Conduct process will be destroyed in accordance with the Administrative Functions Disposal Authority (as made or varied from time to time under the Archives Act 1983) and will generally not be disclosed after the passing of five years from the end of the process (usually the date of the breach determination unless appeals are heard by the Merit Protection Commissioner).
- 8.3. Screen Australia may disclose general de-identified information concerning any breach to fulfil reporting requirements.

9. Procedure when an ongoing employee is to move to another agency

- 9.1. This clause applies if:
- a) a person who is an ongoing APS employee at Screen Australia is suspected of having breached the Code;
 - b) the employee has been informed of the matters mentioned in 5.3.(a);
 - c) the matter has not yet been resolved; and
 - d) a decision has been made that, apart from this clause, the employee would move to another agency in accordance with section 26 of the Act (including on promotion).
- 9.2 Unless the CEO and the new Agency Head agree otherwise/ the movement (including on promotion) does not take effect until the matter is resolved.
- 9.3 For the purpose of this clause the matter is taken to be resolved when:
- a) determination in relation to suspected breach of the Code is made in accordance with these procedures; or
 - b) the CEO decides that a determination is not necessary.