



# **Australian Government**

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## **Geoscience Australia**

### **Code of Conduct Procedure**

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# 1. Introduction

## 1.1 Purpose

These procedures define how the *Review Respect and Conduct Policy* (the Policy) will be implemented in practice and assist Australian Public Service (APS) employees to understand their responsibilities in relation to the APS Code of Conduct (the Code). It outlines the process to determine whether an employee has breached the Code including the responsibilities of all parties and the potential consequences if a breach is found.

Section 15(3) of the *Public Service Act 1999* (the Act) requires the Agency Head to have established procedures for determining whether an APS employee has breached the Code and the sanction (if any) that is to be imposed. The Chief Executive Officer (CEO) has been delegated the powers of an Agency Head for the purposes of the Act and these procedures are made for the purpose of section 15(3) of the Act. The CEO has delegated certain powers to other position holders (delegate) at Geoscience as described in [Geoscience Australia's Employment Related Delegations 2022](#).

Together the APS Values, the APS Employment Principles and the Code set out the standard of behaviour expected of Agency Heads and APS employees. Section 10 of the Act outlines the APS Values that all APS employees are required to uphold in the performance of their duties.

The primary aim of taking action in cases of suspected misconduct is protecting the integrity of the APS and maintaining public confidence in public administration. Sanctions are intended to be proportionate to the nature of the misconduct, to be a deterrent to others and confirm that misconduct is not tolerated in our organisation.

## 1.2 Scope

This procedure applies to all APS employees, covered by the Geoscience Australia Enterprise Agreement (EA) or former APS employees who were employed in the organisation at the time of the suspected misconduct. The procedure also covers all Senior Executive Officers (SES).

Nothing in this procedure prevents an employee from using the dispute resolution procedures in the Geoscience Australia Enterprise Agreement (EA) including referring a matter to the Fair Work Commission or to authorised Officers in accordance with the [Public Interest Disclosure](#) (PID) procedures.

## 2. Procedures

**Aim:** To inform employees about how reports of misconduct will be managed and the consequences of breaching the Code.

**Policy:**

All managers and employees are expected to demonstrate the core behaviours of respect, fairness and courtesy.

We will take timely and appropriate action in respect of suspected breaches of the Code, the Values or Employment Principles.

We uphold APS Code of Conduct, Values and Employment Principles and Geoscience's Expected Values and Behaviours.

We provide a safe, supported and respectful workplace for all workers.

We do not accept or tolerate any form of discrimination, harassment or bullying in the workplace.

We value a transparent, fair and accountable system of management and decision-making.

We provide procedural fairness, ensuring workers are informed of their rights, responsibilities and processes.

We hold people accountable for their actions and behaviour.

We maintain the confidentiality of persons who raise complaints about inappropriate workplace behaviour or who are the subject of an investigation relating to their workplace behaviour so far as possible, having appropriate regard to the action that may need to be taken in response to any complaint.

We emphasise and prefer the informal resolution of disputes wherever possible.

A person responsible for investigating or making a determination on a complaint will be, and should appear to be, both independent and unbiased in relation to the matter.

All reports of suspected misconduct, unacceptable behaviour and complaints about employment-related decisions will be taken seriously and will be actioned in a timely and transparent way.

### 2.1 What is a breach of the code of conduct?

1. All employees have a legal responsibility to adhere to the Values, the Employment Principles and the Code, as found in sections 10, 10A and 13 of the *Public Service Act 1999* (The Act).

2. An APS employee, or former APS employee (who was an APS employee at the time of the suspected misconduct), whose conduct does not comply with an element of the Code, can be found to have breached the Code. A reference to a breach of the Code may also include a reference to a person engaging in conduct set out in subsection 15(2A) of the Act in connection with their engagement as an APS employee.
3. These procedures outline the process for determining if an employee (or former employee) has breached the Code and, if so, determining the sanctions to be imposed.
4. It should be noted that not all reported incidents of misconduct need to be dealt with by a determination under these procedures. In some circumstances another way of dealing with suspected misconduct may be more appropriate, including performance management, training or mediation. The *Guide to Suspected Misconduct* provides further information.

### 2.1.1 Availability of procedures

5. As provided for in subsection 15(7) of the Act, these procedures are publicly available on Geoscience Australia's [website](#).

## 2.2 How these Procedures operate

6. All reviews and investigations will be conducted in a manner that is fair and independent and will have due regard to procedural fairness (also known as natural justice) and comply with the basic procedural requirements set out in Part 7 of the Australian Public [Service Commissioner's Directions 2022](#) (the Directions)
7. All reviews and investigations will be conducted in private and be finalised as quickly and with as little formality as proper consideration of the matter allows.
8. In relation to these Procedures, procedural fairness requires that:
  - the rights and responsibilities of employees involved will be clearly articulated prior to commencement of an investigation
  - the decision makers act without bias or an appearance of bias
  - there is logically probative evidence to support the decision, on the balance of probabilities, of any adverse finding.
9. Where the conduct issue includes allegations of bullying and/or harassment, this procedure should be read in conjunction with the *Respect and Courtesy Guidelines*. Where the complaint is related to sexual harassment or sexism this procedure should be read in conjunction with the *Sexual Harassment and Sexism Procedure*.

### 2.2.1 Criminal behaviour

10. Some types of misconduct may also constitute offences under criminal law.
11. If an employee suspects that a work-related incident may have potentially constituted a criminal offence, they should immediately contact Human Resources who will provide the individual with

support, assistance and advice. This includes information and advice about reporting the matter to police.

12. An organisation, or employee, can report a suspected breach of the criminal law directly to the relevant law enforcement agency.

## 2.3 Reporting a suspected breach of the Code

13. All employees have a responsibility to report behaviour which could be misconduct.
14. All reports of potential misconduct will be taken seriously, and appropriate and timely action will be taken to address the matter and to prevent further incidents.
15. The *Guide to Suspected Misconduct* provide details about the avenues for reporting suspected misconduct.
16. A formal report can be made verbally or in writing through several channels, including:
  - to a manager
  - in the WHS (Work Health and Safety) incident tool
  - to [Human Resources](#)
  - to [Harassment and Diversity Contact Officers](#) (HDCOs)
  - to a delegate of the CEO
17. Employees should refer to the *Procedures for Handling Public Interest Disclosures* to determine if the report of suspected misconduct meets the definitions of 'disclosable conduct' under the *Public Interest Disclosure Act 2013* (PID Act) and should be managed under those procedures. Further assistance can be obtained from Governance.
18. The person who made the report is known as the 'complainant'.

### 2.3.1 Receiving a report of misconduct

19. If a report is received the delegate of the CEO will review the report and consider the most appropriate action to be taken in response.
20. The Directions require that where an APS employee has engaged in conduct that may breach the Code, the delegate of the CEO must, before deciding to commence formal misconduct action, have regard to any relevant standards and guidance issued by the Commissioner. In addition, if concerns are raised about the conduct of an SES employee the delegate of the CEO must consult with the Australian Public Service Commissioner (the APS Commissioner), on the process for handling the matter, including the decision to start a misconduct action.
21. The Geoscience Australia's Guide to Suspected Misconduct should also be considered in making a decision on how to proceed.
22. Appropriate action that can be taken in response to a report of suspected misconduct may include:
  - referring the matter to the work area for local management action, if this has not already occurred

- conducting a preliminary review of the matter to determine if it is serious and/or if there is likely to be sufficient evidence to enable a delegate to make a determination under the Code Procedure (see the Guide to Suspected Misconduct for more information)
  - appointing a suitable person to conduct a formal Code of Conduct investigation and determination
  - reporting the complaint to another relevant authority, such as the police.
23. Where the delegate of the CEO considers that the matter falls outside this Procedure there will be no determination in relation to whether the employee has breached the Code and no further action will commence in relation to this Procedure.
24. If the accused worker is not an APS employee the complaint will be reported to the relevant contract manager, organisation or service provider.
25. Human Resources will provide support and ensure EAP services are made available to all parties involved. An employee may also request a support person to be present at any discussions relating to the investigation.

## 2.4 Decision makers

As soon as practicable after it has been determined that the matter should be investigated under this Procedure, the delegate of the CEO, will appoint a suitable person to take responsibility for making a determination under this procedure. That person will be known as the code delegate.

26. The role of the code delegate is to determine, in writing, whether a breach of the Code has occurred.
27. In determining the appropriate person to appoint as code delegate, the delegate of the CEO will take reasonable steps to ensure the code delegate is, and appears to be, independent and unbiased in the matter and has appropriate administrative decision-making skills. When appropriate, this person may be external to the organisation.
28. The code delegate will ensure that procedural fairness applies throughout the Code process.
29. The code delegate may seek the assistance of an investigator to investigate the alleged breach, gather evidence and make a report of recommended factual findings. It is open to an investigator to make recommendations to the code delegate as to whether breaches of the Code have occurred, however it remains the responsibility of the code delegate to ultimately determine whether a breach of the Code has occurred.
30. If an APS employee is found to have breached the Code a person will be appointed to impose a sanction. The person who is to decide what, if any, sanction is to be imposed must hold a delegation of the power under the Act to impose sanctions (the sanction delegate).
31. This procedure does not prevent the code delegate from being the sanction delegate in the same matter but wherever practical the decision makers should be different people.
32. Any delegation of powers under the Act that is proposed to be made to a person who is not an APS employee must be approved in writing in advance by the APS Commissioner. This is required by subsection 78(8) of the Act. This would include delegation of the power under subsection 15(1) to impose a sanction.

33. The code delegate and the sanction delegate must, in writing, advise the delegate of the CEO if they consider that they may not be independent and unbiased or if they consider that they may reasonably be perceived not to be independent and unbiased, for example if they are a witness in the matter.

## 2.5 Advice to employee suspected of breaching the Code

34. Prior to commencing an investigation, the code delegate will inform the employee suspected of breaching the code (known as the respondent) in writing of:
- their appointment as code delegate
  - the details of the suspected breach of the Code, including any subsequent variation of those details
  - any material that is before the code delegate that is adverse to the person, or their interests, and that is credible, relevant and significant
  - the sanctions that may be imposed on the employee under subsection 15(1) of the Act
  - the employee's right to make a statement in relation to the suspected breach within seven calendar days (or such longer period as agreed by the delegate in the particular circumstances).
35. A determination may not be made in relation to a suspected breach of the Code unless reasonable steps have been taken to inform the respondent of the above.
36. Where the code delegate intends to conduct an investigation, they will take reasonable steps to provide the respondent with additional information regarding the investigation that includes:
- the purpose of the investigation
  - the details of the investigator (internal or external)
  - the Terms of Reference for the investigation, if required
  - the option to have a support person in any interviews or discussions
  - contact details for the Employee Assistance Program (EAP).
37. In certain circumstances, Geoscience Australia may investigate alleged misconduct or a suspected breach of the Code which occurred prior to an employee's engagement. Such circumstances may include where an employee, in connection with their engagement:
- knowingly provided false or misleading information
  - failed to disclose information they knew or ought have known was relevant, or
  - otherwise failed to behave honestly and with integrity.

## 2.6 Investigating suspected misconduct

38. Any investigation will be conducted with as much expedition as a proper consideration of the matter allows.
39. Any employee participating in an investigation will be provided reasonable work time to participate in the investigation. Any employee participating in an investigation may request permission from the



code delegate to take reasonable work time to collate the information required or prepare for the appointment. All reasonable requests will be considered.

40. Any employee participating in an investigation relating to suspected breaches the Code is entitled to have a support person present at any discussions relating to the investigation.
41. A person who does not make a statement in relation to the suspected breach is not, for that reason alone, to be taken to have admitted to committing the suspected breach.
42. For the purpose of determining whether a person who is, or was, an APS employee in the organisation, has breached the Code, a formal hearing is not required.

### **2.6.1 Internal investigation**

43. The code delegate can conduct an internal investigation. The code delegate will conduct the investigation, with the assistance of other persons as required, sourcing information as the code delegate considers appropriate.
44. Once the code delegate considers sufficient information has been obtained, the findings will be detailed in an investigation report.

### **2.6.2 External investigation**

45. If the code delegate determines it appropriate to engage an external investigator, the code delegate will engage a suitably qualified and independent person, or organisation, to conduct the investigation.
46. The method of the investigation will be agreed between the external investigator and the code delegate in advance of the investigation commencing and may be varied by agreement during the investigation, as appropriate.
47. On completion of the investigation, the external investigator will prepare an investigation report and provide that to the code delegate. The investigation report will contain:
  - the method undertaken in the investigation
  - relevant stakeholders (i.e. employees interviewed, witnesses)
  - evidence reviewed
  - findings and relationship to legislative or policy frameworks
  - any recommendations that the external investigator may have been asked to make.
48. The code delegate will then consider the investigation report (including the evidence relied upon by the investigator), and any additional information the code delegate considers relevant and reach a provisional determination in relation to the matter.

## 2.7 Determination and sanctions

### 2.7.1 Determination

49. After the investigation has been completed, the code delegate will advise the respondent in writing of the provisional determination including:
  - the determination as to whether or not there has been a breach of the Code
  - the details of the suspected breach
  - statement of reasons regarding the determination in relation to the suspected breach
50. The respondent will have at least seven days (or such longer period as considered appropriate by the code delegate) to consider the provisional determination and make a statement in response, prior to the code delegate making a final determination.
51. The code delegate will consider all evidence including any response to the provisional decision and make a final determination regarding a breach.
52. The code delegate will advise the respondent in writing of the final determination and the potential sanctions that may apply if a breach is determined.

### 2.7.2 Consequences of a breach of the Code

53. If an employee is found to have breached the Code, the delegate of the CEO, will appoint a sanction delegate who may impose sanctions in accordance with s 15(1) of the Act.
54. On appointment the sanction delegate will take reasonable steps to inform the employee of:
  - their appointment as sanction delegate
  - the sanction or sanctions that are under consideration (not all possible sanctions need be considered in every case)
  - the matters the sanction delegate proposes to have regard to in considering what sanction should be imposed
  - the employee's right to make a statement in relation to the sanctions under consideration within seven days (or such longer period as allowed by the sanction delegate)
55. Following consideration of any statement made by the employee, or the expiration of the period which the employee was given to make a statement, the sanction delegate may impose any sanction that is authorised under the Act.
56. A sanction cannot be imposed on a former APS employee.
57. A sanction cannot be imposed on an SES employee without prior consultation with the APS Commissioner.
58. The possible sanctions are:
  - a reprimand

- deductions from salary, by way of fine (not exceeding two per cent of the employee's annual salary)
  - reduction in salary
  - re-assignment of duties
  - reduction in classification
  - termination of employment.
59. The sanction delegate will advise the employee in writing of the sanction (if any) within seven days of the decision being made. The final decision notification will include the statement of reasons (if applicable), the date of effect of any sanctions and the review rights of the employee.
60. If the employee's employment is terminated for a breach of the Code, before that termination comes into effect, the organisation is required to issue a termination instrument.
61. Within three months the decision must be notified (i.e. published) in the Public Service Gazette unless the APS Commissioner agrees to another arrangement. The notification must include the employee's name and the section of the Act under which their employment was terminated. The organisation may make a decision to not include an employee's name pursuant to s40 (4) of the Directions.

## 2.8 Finalising a process

### 2.8.1 Informing the participants of the outcome

62. At the end of the process parties involved in the investigation will be notified that the process has been finalised. Complainants should be given sufficient information to provide assurance that the organisation has addressed their complaint.
63. Prior to disclosing information about the outcome of a Code investigation, the organisation will have due regard to the *Privacy Act 1988*, including determining whether personal information will be used or disclosed and in what circumstances. General information containing no personal information may be disclosed to others where the organisation considers it necessary, appropriate and reasonable to do so.
64. When considering how and to whom information may be released, the organisation will take into account the potential impact on a person's reputation, right to privacy and safety and whether providing the information to a third party, including the complainant, would be disproportionate to the nature and seriousness of the misconduct.
65. See the Guide to Suspected Misconduct for further information.

### 2.8.2 Record keeping

66. Misconduct records are only disclosed on a case-by-case basis having careful regard to any APS Commissioner guidelines and the Privacy Act.

67. Misconduct records form part of the employee's personnel file, although they are not physically attached to the personnel file. As such the misconduct records follow the employee as the employee moves between agencies in the APS.
68. Where a formal complaint is reported to a manager, the manager is responsible for documenting the concerns raised by the employee, any actions taken and the outcome. All other records related to a potential breach such as investigation reports, correspondence and determinations will be managed by the Human Resources area. Records will be accessible by specific members of Human Resources and the applicable delegates responsible for the relevant Code process.
69. Electronic records are held for seven years from the date the case is closed and the last action is completed and disposed of by the Information and Records Management Team in accordance with the Records Disposal Authority. If a decision is made not to investigate suspected misconduct under this procedure all records are to be kept for 18 months after last action.
70. If an employee, or former employee, who has been determined to have breached the Code, is found to have breached the Code again within five years of that determination, the records of prior misconduct should be kept for a further period of five years, dating from the time of the new determination.
71. A written record must include:
  - the report of the suspected breach
  - the final determination
  - any sanctions imposed as a result of a determination
  - if a statement of reasons was given to the employee regarding the determination in relation to the suspected breach of the Code, or, in the case of an employee, regarding the sanction decision – that statement of reasons or those statements of reasons.

### **2.8.3 Transferring to a new agency**

72. If an employee resigns from the APS after being notified of a suspected breach of the Code, the code delegate may choose to continue to investigate the suspected breaches after the resignation.
73. A transfer or promotion of an employee who is suspected of breaching the Code (and has been informed of the suspected breach and possible sanctions) will generally not take effect until the matter is resolved.
74. The transfer or promotion may take effect if the delegate of the CEO and the Agency Head of the receiving organisation agree for it to take effect at an earlier date. The matter will be deemed resolved when a determination is made, or it is decided that a determination is not necessary.

## 3 Other matters

### 3.1 Protection against reprisal

75. Employees who have reported breaches and/or made statements in relation to suspected misconduct in good faith will be protected from victimisation and discrimination. Employees should report any detrimental action they consider has been taken as a consequence of that action to their manager, the Human Resources or an authorised official.
76. Retaliatory action taken against someone who has reported suspected misconduct could be a potential breach of the Code and appropriate disciplinary action may be taken.

### 3.2 Confidentiality and privacy

77. At all times during an investigation, employees are required to adhere to the Privacy Act and the *Australian Privacy Principles*, ensuring that information disclosed or discussed is relevant and consistent with the purpose of the investigation and the 'need to know'.
78. During investigation, the organisation will only use and disclose personal information for the purposes it was collected and in accordance with the Privacy Act and *the Geoscience Australia Privacy Policy and Procedures*.
79. The identities of the complainant and the respondent will be treated confidentially as far as is practicable and consistent with a proper investigation and consideration of the matter.
80. Consistent with the provision of procedural fairness, the information within a report of a suspected breach of the Code will be provided to the respondent. In so doing, the identity of the complainant, or those who provided statements in relation to the matter, may be disclosed.
81. In the course of the investigation, personal information about an employee may be collected from employees or other people, or from within records held by Geoscience Australia or other sources. The purpose of collecting personal information is to provide a factual basis for determining whether an employee has breached the Code and, if so, determining what (if any) sanction to apply.
82. During the course of a Code investigation, or after the investigation is complete, personal information about an employee under investigation may, where necessary, appropriate and reasonable, be disclosed to others, including:
  - the complainant
  - other Commonwealth bodies who have been involved in the matter, such as the Commonwealth Ombudsman, the Office of the Privacy Commissioner or the Inspector-General of Intelligence and Security
  - an APS agency where the employee moves or seeks to move in the future.
83. Where Geoscience Australia is considering disclosing personal information about an employee to another person, body or agency, the employee concerned will be advised in writing and given the opportunity to make a case prior to the information being disclosed, as to why their personal

information should not be disclosed. The employee will have seven days to provide a case, in writing, to the investigating officer.

84. Further information about confidentiality is provided in the Guide to Suspected Misconduct.

### 3.3 Temporary reassignment or suspension from duties during investigation

85. Some cases may require the consideration of temporarily reassigning or suspending an employee suspected of misconduct. Either of these actions can occur at any time prior to, or during the process of determining whether a breach of the Code has occurred and applying a sanction. Reassignment or suspension during the process is not considered to be a sanction.
86. A relevant delegate will have careful consideration of a range of issues when making a decision to reassign or suspend an employee. For example:
- the nature and seriousness of the allegation(s) and the evidence presently to hand
  - any risks of the alleged misconduct being repeated or the employee behaving inappropriately
  - the potential risks to the reputation of the organisation if the alleged misconduct were to become known
  - the health and safety of the employee suspected of misconduct along with other employees in the workplace
  - the availability to the leave entitlements.

#### 3.3.1 Reassignment

87. A decision to temporarily reassign an employee suspected of misconduct to other duties can only be made by an appropriate delegate who must consult with the Chief Human Resources Officer, prior to making the decision.

#### 3.3.2 Suspension

88. An APS employee may be suspended from duties if a delegate believes, on reasonable grounds, that they have or may have breached the Code and the employee's suspension is in the public or Geoscience Australia's interest. The suspension may be with or without remuneration. A decision to suspend an employee, with or without pay, can be made by someone with the authority to do so within [Geoscience Australia's Employment Related Delegations 2022](#).
89. In making the decision, the suspension delegate will have due regard to procedural fairness and inform the employee of the intention to suspend them, the reasons and provide an invitation to respond before the decision is made.
90. In some circumstances it may not be appropriate to provide the employee with this information prior to suspending them. For example, it may not be appropriate where there is an imminent and serious threat to the safety of other employees. Where the suspension has come into immediate effect, employee will be given reasons for the suspension as soon as practicable and given an opportunity to

respond. The suspension will be reviewed as soon as practicable after receipt of any response from the employee.

91. The suspension delegate will review the suspension at reasonable intervals and must immediately end the suspension if they no longer consider that the employee has or may have breached the Code, or that it is no longer in the public or the organisation's interest to continue the suspension; or if a sanction has been imposed for the relevant breach of the Code.
92. Under s33 of the Act a suspended employee has a right of review to the [Merit Protection Commissioner](#) following any internal review by the delegate of the CEO.

## 3.4 Review of actions and other review options

### 3.4.1 Fair employment decisions

93. Under s 33 of the Act, APS employees are entitled to review of actions or decisions that relate to their APS employment, with some exceptions. The *Public Service Regulations 1999* (the PS Regulations) provide limits and exceptions to the right of review. The PS Regulations extends that review right to former employees found after separating from the APS to have breached the Code.
94. Under s 33 of the Act non-SES employees and former employees who have been found to have breached the Code and who wish to challenge either the determination that a breach has occurred, or the sanction imposed, or both, may lodge an application for review with the [Merit Protection Commissioner](#).
95. In addition to these decisions, other decisions relating to the investigation for suspected misconduct may also be reviewable including, for example, a decision to suspend an employee from duties or to re-assign an employee's duties temporarily while a Code investigation is underway. These decisions are reviewable in the first instance by the delegate of the CEO.

### 3.4.3 Termination of employment

96. An employee whose APS employment has been terminated for misconduct cannot apply for review of that decision under s 33 of the PS Act but may have access to the remedies under the *Fair Work Act 2009* by making an application to [the Fair Work Commission](#).

## 4. Supporting Information

This section is informative.

### 4.1.1 Related Legislations

<a href="#">Age Discrimination 2004</a>	Legislation that prohibits discrimination or harassment in employment on the basis of age, in areas of public life including education, accessing services or accommodation.
<a href="#">Australian Commissioner's Directions 2022 [particularly part 7]</a>	Legislation that applies certain mandates relating to Code of Conduct in the Australian Public Service.
<a href="#">Australian Privacy Principles</a>	Part of the Privacy Act - provides the principles to protect privacy
<a href="#">Disability Discrimination Amendment Act 2002</a>	The <i>Disability Discrimination Act 1992</i> (DDA) provides protection for everyone in Australia against discrimination based on disability.
<a href="#">Fair Work Act 2009</a>	Legislation to protect both business and employees providing the foundation to all employment standards and regulations for Australian businesses.
<a href="#">Privacy Act 1988</a>	Makes provisions to protect the privacy of individuals.
<a href="#">Public Governance, Performance and Accountability Act 2013 (PGPA Act)</a>	The interaction between <a href="#">the Code</a> and <a href="#">the PGPA Act</a> is detailed in the APSC's guide.
<a href="#">Public Interest Disclosure Act 2013</a>	Legislation to remove barriers preventing people who work in the public sector from reporting serious misconduct, providing a framework by which disclosures are properly investigated whilst providing protection for those who report the allegations. The interaction between <a href="#">the Code</a> and <a href="#">the PID Act</a> is complicated.
<a href="#">Public Service Act 1999</a>	The legislation under which Australian Public Service employment arrangements are applied and supported by the <a href="#">Public Service Regulations 1999</a> .
<a href="#">Racial Discrimination Act 1975</a>	Legislation that prohibits discrimination or harassment against a person due to their race, colour, descent, national origin or ethnic origin or immigration status including in the areas of employment, education, accessing services, accommodation or public areas.



<a href="#">Sex Discrimination Act 1984</a>	Legislation that prohibits discrimination on the basis of sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy, potential pregnancy, breastfeeding or family responsibilities or involving sexual harassment.
<a href="#">Work Health and Safety Act 2011 (WHS Act)</a>	The WHS Act obliges employers to provide a safe place to work. Comcare is the Regulator. ( <a href="#">link</a> ), the <i>Work Health and Safety Regulations 2011</i> (the WHS Regulations), the <i>Work Health and Safety Codes of Practice 2011 and 2012</i> (the WHS Codes)

#### 4.1.2 Related Policies

<a href="#">Managing Personal Information Policy</a>	This policy set the requirements for how all Geoscience Australia's officials are to collect, use, disclose, maintain and keep secure personal information, and respond to complaints about possible breaches of privacy.
<a href="#">Media Engagement and Public Comment Policy</a>	This policy sets out the responsibilities of employees when making public comment, including via social media platforms and when engaging with the media.
<a href="#">Privacy Policy</a>	The Privacy Policy provides general information to everyone who provides personal information to Geoscience Australia about how and why Geoscience Australia may collect, use and disclose personal information, and describes options available for individuals to contact Geoscience Australia to access and correct their information, and report a possible breach of privacy.
<a href="#">Public Interest Disclosure Scheme</a>	<a href="#">PIDs for Geoscience Australia</a> are governed by the processes of the Department of Industry, Science, Energy and Resources.
<a href="#">Review, Respect and Conduct Policy</a>	The Policy to ensure in all our workplaces, our employees behave in accordance with the Code of Conduct, the Values and the Employment Principles characterised by respect and courtesy at all times.
<a href="#">Sexual Harassment and Sexism Policy</a>	This policy confirms the commitment of Geoscience Australia (the organisation) to provide a workplace environment that upholds the APS Values, Employment Principles and Code and where sexual harassment and sexism is not tolerated.

### 4.1.3 Related Procedures

<a href="#">Managing Personal Information Procedure</a>	This policy set the requirements for how all Geoscience Australia's officials are to collect, use, disclose, maintain and keep secure personal information, and respond to complaints about possible breaches of privacy.
<a href="#">Review of Action Procedure</a>	Defines how the Review of Action framework is applied in the organisation.
<a href="#">Review and Courtesy Guidelines</a>	Defines inappropriate behaviour in the workplace including bullying and harassment and sexual harassment
<a href="#">Sexual Harassment and Sexism Procedure</a>	The Sexual Harassment and Sexism Procedure defines how the Sexual Harassment and Sexism Policy will be implemented and monitored. This procedure details the roles and responsibilities of workers within the organisation, how to make a complaint and available support options.

### 4.1.4 Other useful resources

<a href="#">Ethics Advisory Service (part of the APSC)</a>	As a service they can provide information, policy advice and guidance on the application of the APS Code and Values.
<a href="#">Geoscience Australia's Employment Related Delegations 2022</a>	Defines the powers and functions delegated under Geoscience Australia's Enterprise Agreement and other related legislation.
<a href="#">Geoscience Australia's Values and Expected Behaviours</a>	Defines expected values, behaviours and standard of conduct that apply to all Geoscience Australia employees.
<a href="#">Geoscience Australia's Guide to Suspected Misconduct (under Development)</a>	The Guide to Suspected Misconduct provides guidance and best practice for managing misconduct including potential breaches of the Code. It further provides guidance on reporting suspected misconduct.
<a href="#">Handling Misconduct: A Human Resource Manager's Guide</a>	The Australian Public Service Commission (APSC) has a detailed guide for Human Resource managers to assist in developing procedures, conducting investigations and making decisions.
<a href="#">Social media: Guidance for Australian Public Service Employees and Agencies</a>	The APSC has provided guidance on the use of social media for public servants.
<a href="#">Australian Government Investigations Standard 2022</a>	The Australian government investigations standards outlines Australian government policy and is the foundational standard, framing accountability and security for entities conducting investigations relating to the government programs and legislation they administer.

#### 4.1.5 Definitions

<b>APS</b>	Australian Public Service
<b>APSC</b>	Australian Public Service Commission(er)
<b>APS Code of Conduct</b>	The Code of Conduct (Code) sets out the standard of conduct required of APS employees, designed to protect the integrity of the APS and thereby maintain public confidence in public administration
<b>APS Values</b>	The Australian Government's expectations of public servants in term of performance and standards of behaviour
<b>Behaviour</b>	The way in which a person acts or conducts themselves, especially towards another person
<b>Bullying</b>	The term used to describe repeated behaviour that could reasonably be considered to be humiliating, intimidating, threatening or demeaning to an individual or group of individuals
<b>Bystander</b>	Any persons who are present and witness an incident that do not condone or take part in the inappropriate behaviour(s)
<b>CEO</b>	The Chief Executive Officer of Geoscience Australia
<b>Code delegate</b>	The person appointed under s 15(1) of the Act to make a determination about a breach of the Code
<b>Complaint</b>	A statement of an action or behaviour that is unsatisfactory or unacceptable or a report of misconduct
<b>Complainant</b>	The person who makes the report or complaint is known as the 'complainant'
<b>Decision maker</b>	The employee who has been appointed as delegate by the CEO to make the decision / determination
<b>Delegate of the CEO</b>	Position holder with delegated powers or functions under <a href="#">Geoscience Australia's Employment Related Delegations 2022</a>
<b>Determination</b>	A determination refers to a decision made by the breach decision-maker (or code delegate) under the agency s 15(3) procedures about whether an APS employee was found to have breached the Code
<b>Dispute Resolution</b>	The internal processes by which disputes are brought to an end that may include negotiation, mediation, facilitated conversations or arbitrated, binding decisions as outlined in the Enterprise Agreement
<b>Employee</b>	An employee is a person employed under the Act. It may include former employees who are or have been the subject of an investigation under an agency's s 15(3) procedures in relation to action(s) while they were employed under the Act
<b>Harassment</b>	Workplace behaviours that includes offensive, belittling or threatening behaviour towards an individual or a group of employees. The behaviour is unwelcome, unsolicited, usually unreciprocated and often repeated

<b>Harassment and Diversity Contact Officer (HDCOs)</b>	<a href="#">Harassment and Diversity Contact Officers (HDCOs)</a> are employees who are trained to assist colleagues with any enquiries about discrimination, harassment or bullying. HDCOs are also trained in Mental Health First Aid. The role of HDCOs is clearly defined and limited to a support and guidance role. A HDCO is not an advocate nor a decision-maker
<b>Misconduct</b>	The term 'misconduct' is used throughout this document as a readily understood label for behaviour that breaches the Code. Misconduct refers to any action or behaviour by employees which has been determined under s 15(3) Procedures to have breached the Code. Before such a determination is made, the conduct is referred to as 'suspected' or 'alleged' misconduct
<b>Personal information</b>	Personal information is defined in section 6 of the <i>Privacy Act</i> as <i>'information or an opinion...about an individual...whose identity is apparent, or can reasonably be ascertained, from the information or opinion'</i> . Geoscience Australia will ensure that, where appropriate, necessary and reasonable, personal information about an employee under investigation will remain confidential
<b>Procedural Fairness</b>	Procedural fairness requires that before an unfavourable decision is made, the affected person must be offered an opportunity to respond. Procedural fairness also requires that decision-makers be, and appear to be, without bias. Procedural fairness can also be referred to as 'natural justice'
<b>Respondent</b>	The person who is alleged to have breached the Code
<b>Sanction</b>	A sanction is the consequence or action imposed on an employee who is determined to have breached the Code. The options for sanctions are set out in s 15(1) of the Act: <ul style="list-style-type: none"> <li>• termination of employment</li> <li>• reduction in classification</li> <li>• re-assignment of duties</li> <li>• reduction in salary</li> <li>• deductions from salary, by way of fine</li> <li>• a reprimand.</li> </ul>
<b>Sanction delegate</b>	The person appointed under s 15(1) of the Act to make impose a sanction once a code delegate has determined that the person has breached the Code. The code delegate and the sanction can be the same person.
<b>Serious incident</b>	A serious incident is an occurrence, condition, or situation arising in the course of work that has the ability to cause significant harm, which may be physical and/or psychological, to a worker
<b>Sexism</b>	Sexism is defined as a prejudice or discrimination based on a person's sex or gender.

<b>Sexual harassment</b>	Any unwelcome sexual advance, request for sexual favours or conduct of a sexual nature where a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.
<b>Suspension</b>	<p>Suspension refers to the action of standing an employee down from their duties. In accordance with s 28 of the Act and regulation 3.10 of the Regulations the delegate of the CEO may suspend an employee from duties if the delegate of the CEO believes on reasonable grounds that:</p> <ul style="list-style-type: none"> <li>(a) the employee has, or may have, breached the Code of Conduct; and</li> <li>(b) the employee's suspension is in the public, or the organisation's interest.</li> </ul> <p>Suspension can be with or without pay.</p>
<b>Suspension delegate</b>	A suspension delegate is the person who is appointed by the delegate of the CEO under regulation 3.10 of the Regulations for the purpose of deciding whether an employee should be suspended from duty
<b>s 15(3) procedures</b>	s Refers to these procedures established by the delegate of the CEO in accordance with s 15(3) of the Act for determining whether an APS employee, or former employee, has breached the Code and the sanctions, if any, that are to be imposed
<b>The Act</b>	The Act refers to the <i>Public Service Act 1999</i>
<b>The Regulations</b>	The Regulations refers to the <i>Public Service Regulations 1999</i>
<b>Workplace discrimination</b>	Discrimination based race, gender, religion, national origin, physical or mental disability, age, sexual orientation and gender identity by employers.

#### 4.1.6 Roles and responsibilities

<b>Role</b>	<b>Responsibility</b>
<b>Delegate of the CEO</b>	<p>The delegate of the CEO receives a complaint/ incident that is potentially a breach of the code of conduct (the code).</p> <p>The delegate of the CEO considers whether it should progress to a preliminary review by a code delegate. The delegate of the CEO should consult Human Resources for advice. If not, the CEO or delegate can determine other more appropriate action to take.</p> <p>If continuing as potential breach of the Code investigation, the delegate of the CEO appoints a code delegate. A letter is sent to the code delegate to appoint them.</p> <p>The code delegate informs the delegate of the CEO of their final decision regarding a potential breach of the code.</p> <p>If there is a breach the delegate of the CEO appoints a sanction delegate and notifies the sanction delegate and the respondent of the appointment.</p>

<p><b>Code delegate</b></p>	<p>The code delegate must be, and must be seen to be, independent and unbiased in the matter.</p> <p>The code delegate conducts a preliminary review of the complaint (and material) and determines whether it is appropriate to progress the matter to a formal code investigation or to deal with it in a different way. The code delegate notifies Human Resources of their decision.</p> <p>If the matter is progressing under these procedures:</p> <p>The code delegate decides whether to appoint an external investigator or to conduct the investigation internally.</p> <p>The code delegate notifies the respondent in writing that a complaint has been received and that a formal investigation will be conducted. The letter also informs the respondent of the investigator's details and terms of reference and informs the respondent of their opportunity to respond to the complaint.</p> <p>At conclusion of the investigation the code delegate receives the investigation report and the recommendations and makes a decision.</p> <p>The code delegate advises the respondent of the provisional determination if there is a breach of the code and gives them seven days to respond.</p> <p>After the seven days the code delegate makes a final decision and notifies the respondent.</p> <p>The code delegate advises the delegate of the CEO if it is determined there is a breach and the delegate of the CEO will appoint a sanction delegate who will determine the sanction.</p> <p>The code delegate keeps appropriate records and confidentiality.</p>
<p><b>Suspension delegate</b></p>	<p>The suspension delegate is the person responsible for determining if an employee should be suspended with or without pay while an investigation into a potential breach of the code is underway. The sanction delegate can also reassign them for the duration of the investigation.</p> <p>They are appointed by the delegate of the CEO and are often the same as the code delegate.</p> <p>The delegate considers the circumstances and makes a decision and advises the employee of the decision. The delegate must have regard to procedural fairness and provide reasons for decision and opportunity to respond.</p> <p>A suspension or reassignment can happen at any point in the process.</p> <p>A decision to suspend must be reviewed at reasonable intervals.</p>
<p><b>Complainant</b></p>	<p>The complainant notices/ experiences something that could be misconduct.</p> <p>The complainant might try to address the issues at the local level first.</p> <p>The complainant lodges a formal report in the WHS incident tool, to Human Resources or their manager.</p> <p>The complainant may be requested to take part in the subsequent investigation and/or provide evidence in support their complaint.</p>
<p><b>Respondent</b></p>	<p>The respondent receives a letter from the code delegate notifying them of a possible breach of the code.</p>

	<p>The respondent will be allocated time to provide a response to the allegations (usually seven days from date of letter).</p> <p>The investigator may conduct interviews or ask for evidence/ information from the respondent.</p> <p>Once the investigation is complete the respondent will receive notice of provisional determination and may provide a response to the code delegate within seven days.</p> <p>After the seven days the respondent will receive a final determination from the code delegate.</p> <p>Where a breach is determined the respondent has seven days to provide supplementary information to the sanction delegate.</p> <p>The respondent will receive notification of the sanction to be applied and review rights.</p>
<p><b>Sanction delegate</b></p>	<p>The sanction delegate is responsible for determining what sanction will be applied once it is determined that a breach of the code has occurred.</p> <p>The sanction delegate must be, and must be seen to be, independent and unbiased in the matter. The sanction delegate may receive input from the respondent. The sanction delegate must refer to the Guide and may consult Human Resources to ensure consistency of sanctions.</p> <p>After seven days the sanction delegate determines the sanction and the respondent is notified.</p>
<p><b>Human Resources</b></p>	<p>Human Resources may receive a complaint and forward it to the delegate of the CEO. The delegate of the CEO may request Human Resources provide advice about courses of action and potential delegates.</p> <p>Human Resources will also provide administrative and technical support to the parties involved in the process.</p> <p>Human Resources will draft a terms of reference for the external investigator and coordinate the contract arrangements and payments.</p> <p>Human Resources will provide support to the delegates to draft the following letters, where required:</p> <ul style="list-style-type: none"> <li>• for the delegate of the CEO to appoint a code delegate</li> <li>• from the code delegate to the respondent advising of breach</li> <li>• from the code delegate to the respondent about the appointment of an investigator, including terms of reference for the investigation</li> <li>• from the code delegate to the respondent advising a provisional determination</li> <li>• from the code delegate to the respondent and the delegate of the CEO advising a final determination</li> <li>• from the delegate of the CEO to the sanction delegate and to the respondent, appointing the sanction delegate</li> <li>• from the sanction delegate to the respondent advising sanction and date of effect.</li> </ul> <p>Human Resources will maintain records as required.</p> <p>Human Resources will inform the complainant, and other relevant parties, of the conclusion of the process.</p>

	Human Resources will provide ongoing support for any parties and advice regarding leave options.
<b>Support person</b>	<p>Any employee participating in an investigation relating to suspected breaches the Code is entitled to have a support person present at any discussions relating to the investigation.</p> <p>An employee can nominate someone to attend a meeting with them to provide support and reassurance during and after the meeting. It is advisable that the support person is not also involved in the investigation.</p> <p>The support person is not an advocate and should not speak on behalf of the individual they are supporting.</p> <p>The support person is bound by the same privacy and confidentiality agreements as other participants.</p>
<b>Investigator</b>	<p>The investigator will provide a quote for services (if external).</p> <p>The investigator will consider the terms of reference document for the investigation</p> <p>The investigator will receive relevant material for the investigation and the complaint from Human Resources. The investigator liaises with Human Resources to arrange and conduct interviews and prepare final report.</p> <p>The investigator provides fortnightly updates to the code delegate.</p> <p>The investigator prepares a final report with recommendations (based on terms of reference)</p>
<b>Harassment and Diversity Contact Officer (HDCO)</b>	<p>HDCOs are trained employees who are available to assist employees with concerns they may have including inappropriate behaviour in the workplace. The role of a HDCO is to:</p> <ul style="list-style-type: none"> <li>• provide advice on Code of Conduct procedures and how to make a formal report</li> <li>• provide information about our Respect and Courtesy Guidelines</li> <li>• discuss appropriate resolution options and outcomes</li> <li>• help employees seeking assistance impartially, sensitively and in a timely manner</li> <li>• listen without judgement and assist to clarify issues.</li> </ul> <p>However, HDCOs do not:</p> <ul style="list-style-type: none"> <li>• manage complaints</li> <li>• offer advice about what employees should do in the circumstances or on the merits of their concern or complaint</li> <li>• conduct investigations or make decisions about complaints</li> <li>• act as counsellors, mediators or advocates.</li> </ul> <p>HDCOs must maintain confidentiality and discretion at all times.</p> <p>A list of HDCOs can be located on the Intranet.</p>
<b>Manager</b>	<p><b>For manager of the complainant:</b></p> <p>If aware of the matter, the manager should provide support to the employee, regularly check in, recommend use of EAP and/or leave if required.</p> <p>Where a formal complaint is reported to the manager, the manager is responsible for documenting the concerns raised, any actions taken and</p>



	<p>the outcome. The manager should then contact Human Resources for advice on how to proceed.</p> <p>In the first instance the manager has a responsibility to ensure the workplace is safe so any necessary action required to ensure safety should be undertaken before action to address the complaint.</p> <p>The manager should monitor for any forms of discrimination or reprisal against the complainant or participants in any investigation.</p> <p>All managers are expected to demonstrate the core behaviours of respect, fairness and courtesy at all times.</p> <p><b>For managers of the respondent</b></p> <p>If aware of the matter, the manager should provide support to the employee, regularly check in, recommend use of EAP and/or leave if required.</p>
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