



PARLIAMENT OF AUSTRALIA

DEPARTMENT OF PARLIAMENTARY SERVICES

DPS Procedures for determining breaches of the Code of Conduct and for determining sanctions

I, Rob Stefanic, Secretary of the Department of Parliamentary Services ('the Department'), establish these procedures under subsection 15 (3) of the *Parliamentary Service Act 1999* ('the Act').

These procedures commence on 1 January 2017.

These procedures supersede the previous procedures made for the Department of Parliamentary Services under subsection 15 (3) of the Act, but the previous procedures may continue to apply for transitional purposes.

A handwritten signature in black ink, appearing to be 'Rob Stefanic', with a long horizontal flourish extending to the right.

Rob Stefanic
Secretary
Department of Parliamentary Services

13 December 2016

1. Appointing a breach decision maker

1.1. The Secretary of the Department ('the Secretary') or a person authorised by the Secretary may appoint a person ('the breach decision maker') to decide whether a Parliamentary Service (PS) employee in the Department or a person who was formerly a PS employee has breached the PS Code of Conduct ('the Code') in section 13 of the *Parliamentary Service Act 1999* ('the Act').

1.2. The breach decision maker must be, and must appear to be, independent and unbiased.

2. The breach determination process

2.1. The process for determining whether a person has breached the Code must be carried out with as little formality, and with as much expedition, as a proper consideration of the matter allows.

2.2. The process for determining breach and the process for determining any sanction must have due regard to procedural fairness.

2.3. A determination may not be made in relation to a suspected breach of the Code by a person unless reasonable steps have been taken 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 a PS employee—the sanctions that may be imposed on them under subsection 15 (1) of the Act; and
- b) give the person a reasonable opportunity to make a statement in relation to the suspected breach.

3. The sanction determination process

3.1. The sanction decision maker must be, and must appear to be, independent and unbiased.

3.2. If a determination is made that a PS employee in the Department 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, and
 - 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 statement in relation to sanctions under consideration.

4. Record of determination and sanctions

4.1. If a determination in relation to a suspected breach of the Code is made, a written record must be made of:

- a) the suspected breach
- b) the determination
- c) where the person is a PS employee—any sanctions imposed as a result of a determination that the employee breached the Code, and
- d) if a statement of reasons was given to the person—the statement of reasons.

5. Procedure when an ongoing employee is to move to another Agency during an investigation

5.1. This clause applies if:

- a) an ongoing PS employee in the Department is suspected of having breached the Code
- b) the employee has been informed of the matters mentioned in clause 2.3.(a)
- c) the matter has not yet been resolved, and
- d) a decision has been made that, apart from this clause, would result in the movement of the employee under section 26 of the Act to another Agency (including on promotion).

5.2. Unless the Secretary and the new Agency Head agree otherwise, the movement (including on promotion) does not take effect until the matter is resolved.

5.3. For this clause the matter is taken to be resolved when:

- a) a determination is made, as mentioned in clause 2.3, or
- b) the Secretary decides that a determination is not necessary.