

JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT ANSWERS TO QUESTIONS ON NOTICE

IQ24-000001

Department/Agency: Australian Public Service Commission

Inquiry: Inquiry into probity and ethics in the Australian Public Sector

Date of Hearing: 12 March 2024

Topic: Secretaries performance

Senator: Linda Reynolds

Type of question: Proof Committee Hansard, Joint Committee of Public Accounts and Audit, Inquiry into probity and ethics. Page 5.

Date set by the committee for the return of answer: 15 April 2024

Number of pages: 1

Question:

Senator REYNOLDS: Just on that point, can you take on notice and provide in confidence, if you think that it's necessary, but can you go back maybe five years. I know you do an assessment every year of secretaries, and you talk to ministers and others. Can you go back, and maybe aggregate it so you can't point to anyone in particular. It would be very interesting to know if, in your performance assessment, there have been any implications for any secretary—financial, job-wise, discipline—in terms of any failures to deliver by their department, of which there have been many. You can see in the ANAO reports, but I can't recall a single secretary, anyone, who has ever been accountable for failures to deliver by departments.

Answer:

In accordance with section 61A of the *Public Service Act 1999*, an annual review of the performance of a Secretary must be carried out in accordance with a framework established by the Secretary of the Department of the Prime Minister and Cabinet and the Australian Public Service Commissioner.

Like any employment relationship, the outcome of performance discussions remain confidential between the relevant Secretary, the Secretary of PM&C, the APS Commissioner, the Prime Minister and the relevant Minister.

Through the above robust arrangements, Secretaries are accountable to the Prime Minister and their Minister for their performance.

JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT ANSWERS TO QUESTIONS ON NOTICE

IQ24-000002

Department/Agency: Australian Public Service Commission

Inquiry: Inquiry into probity and ethics in the Australian Public Sector

Date of Hearing: 12 March 2024

Topic: APS performance

Senator: Linda Reynolds

Type of question: Proof Committee Hansard, Joint Committee of Public Accounts and Audit, Inquiry into probity and ethics. Page 6.

Date set by the committee for the return of answer: 15 April 2024

Number of pages: 2

Question:

Senator REYNOLDS: For example, you saw the ones I just read out. We had Treasury; we've had a whole conga line; Home Affairs have had some egregious breaches and failures. Treasury, the one I just read out, et cetera. Have any of those failed programs, failed in terms of ethics, probity, contracting, management, delivery of the contract—has anybody ever had any consequences? I think what you're saying is no; at best, in their performance assessment they might get 'That was a really bad thing, you mishandled a billion dollars worth of contracts' but there are actually no consequences for them or anybody else.

Dr Bacon: I'm not saying there are no consequences.

Senator REYNOLDS: So what are the consequences?

CHAIR: They've taken it on notice. I'm mindful of the time. I've got no problem with the line of questioning. We have a bit to get through. I think you've made the point very clearly.

Senator REYNOLDS: I think this is an important point for our report. Maybe you could take it on notice. If there are consequences, are you able to explain more what the consequences are or take that on notice?

Answer:

Please refer to answer at IQ24-000001.

Agency Heads, including Secretaries, and Australian Public Service employees are bound by the *Public Service Act 1999* including the APS Code of Conduct. APS Code of Conduct processes is a mechanism to hold public servants to account where behaviours do not meet the APS standard. A breach of the Code may result in action being taken against a person in accordance with the Act. The APS conduct these processes with professionalism, fairness and empathy and are dealt with on a confidential basis.

Additionally, agencies are required to consult the Commission where an SES employee is suspected of breaching the Code, and where a breach is found, to consult on the proposed sanction. This obligation was implemented through the *Commissioner's Directions 2022*, to ensure that SES conduct matters are considered and addressed appropriately and consistently across the Service.

The Government's APS Reform Agenda is seeking to ensure that the APS acts with and champions integrity and fairness, and is accountable and transparent in everything it does – this is the first pillar in the agenda – *an APS that embodies integrity in everything it does*.

As part of Tranche 2 of APS Reform, the Minister for the Public Service announced further integrity related measures in her Annual Statement on 1 November 2023, to strengthen accountability in senior leaders. Relevant measures include:

- New own motion powers for the APS Commissioner to initiate reviews and investigations into Code of Conduct breaches by current and former agency heads, including Secretaries, and APS employees
- New powers for the APS Commissioner to inquire into Code of Conduct breaches by former agency heads, including Secretaries, to match the existing powers to investigate current agency heads.

Additionally other measures under APS Reform that are designed to hold senior leaders to account include:

- Merit-based appointment and performance of Secretaries and Agency Heads
- Build safeguards into the APS Commissioner's appointment process to complement the expansion of their own motion and inquiry powers.

These measures are designed to hold Secretaries and Agency Heads to account, and provide transparency and confidence to the Government, the Parliament and Australian people, that the APS operates with integrity.

JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT ANSWERS TO QUESTIONS ON NOTICE

IQ24-000003

Department/Agency: Australian Public Service Commission

Inquiry: Inquiry into probity and ethics in the Australian Public Sector

Date of Hearing: 12 March 2024

Topic: Integrity Frameworks

Senator: Linda Reynolds

Type of question: Proof Committee Hansard, Joint Committee of Public Accounts and Audit, Inquiry into probity and ethics. Page 6.

Date set by the committee for the return of answer: 15 April 2024

Number of pages: 2

Question:

Senator REYNOLDS: This is my last question, for the moment. For the last appearance, which was on 20 November, there were a few questions on notice. Commissioner, I suspect you didn't see these, but I asked a simple question: wouldn't it be better and more sensible to have a single framework that everyone who is covered by this could then implement? I got a very long response—it's a mastery of public sector writing!—but it didn't answer the question. It's probably 500 or 600 words. There is also question 2. Could you have a look at those answers in light of this, because they're quite important, fundamental questions that we'll be looking at. It could be 'yes' or 'no' and 'because', but it would be helpful to get something in clearer language that we could use, if possible.

Answer:

Question 1 – 20 November 2024 public hearing: *Wouldn't it be better and more sensible to have a single framework, rather than expecting every department and agency to do the work to come up with their own? It might have some level of consistency, but it won't be consistent, so it will never be able to be measured consistently and reported consistently.*

The Commonwealth Integrity Maturity Framework (www.nacc.gov.au/commonwealth-integrity-maturity-framework) developed by the former Australian Commission for Law Enforcement Integrity, now hosted by the National Anti-Corruption Commission, provides a common standard for entities to assess the effectiveness and maturity of their integrity frameworks.

The Framework identifies 8 common elements – 'integrity principles' that contribute to an effective integrity framework and a self-assessment tool to enable entities to understand their maturity against each.

The 8 elements draw together relevant requirements that apply to Commonwealth entities under related frameworks – for example, the APS Code of Conduct, the *Protective Security Policy Framework*, the *Commonwealth Risk Management Policy* and the *Commonwealth Fraud and Corruption Control Framework*. The maturity assessment process draws together the outcomes from the existing assessment processes under those frameworks with existing

data sources like the APS Employee Census, the APS Agency Survey and the Annual Fraud Survey – which, from 1 July 2024 will also encompass reporting on corruption.

As part of the actions for Recommendation 12 of the *Louder than Words*: APS Integrity Action Plan to upscale institutional integrity, it recommended Secretaries undertake self-assessments against the Commonwealth Integrity Maturity Framework and report back to the Secretaries Board by September 2024 on plans to upscale their agency's integrity maturity.

Question 2 – 20 November 2024 public hearing: *What's the time frame? Can you take that on notice and also provide more detail about what the timeline is, the implementation process and how you will end up getting a system that is consistent and in which everybody's been marked in the same way. Obviously, they're starting at different places, but how do you get them to the same destination using the same metrics and reporting on the same metrics, not marking their own homework?*

Secretaries are expected to report back to the Secretaries Board later in 2024 about implementation of Recommendation 12 of the *Louder than Words*: APS Integrity Action Plan.

JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT ANSWERS TO QUESTIONS ON NOTICE

IQ24-000004

Department/Agency: Australian Public Service Commission

Inquiry: Inquiry into probity and ethics in the Australian Public Sector

Date of Hearing: 12 March 2024

Topic: Accountability

Senator: Linda Reynolds

Type of question: Proof Committee Hansard, Joint Committee of Public Accounts and Audit, Inquiry into probity and ethics. Page 7.

Date set by the committee for the return of answer: 15 April 2024

Number of pages: 2

Question:

Senator REYNOLDS: For integrity. That's actually for culture, which we've talked about quite a bit, for process and also for accountability. That then links to outcomes and goes through to discussion. I think what the answer here is saying is that there are all these other different things happening—you've gone through them at some length, and then you've referred me to recommendations 11 and 15. But those don't actually answer the question, to my mind, in any meaningful way. I'm asking if you could take that back and also if you could take on notice how you're looking to bring all of these together into a single golden thread, between policy, funding and actual outcome delivery. Ultimately, that's what taxpayers need and what accountability to the parliament requires: how do you demonstrate that you've actually delivered what we've paid for? Again, it's culture, it's process and it's accountability. At the moment, these areas seem to be quite fragmented. I understand, Commissioner, that you are doing a lot of work in all of these areas, but how do they actually come together to answer a simple question? How does a taxpayer and a minister know that you are delivering what we intend for you to deliver?

Answer:

Consistent with the *Public Governance, Performance and Accountability Act 2013* and the *Commonwealth Performance Framework*, the Commission undertakes planning activities across the forward years, and publishes these initially in its Portfolio Budget Statement in May, and expands further on these in its Corporate Plan in August of each year. The Parliament and taxpayers are informed of the Commission's achievements and progress made towards achieving its purpose, key activities, performance measures and planned performance results through its annual preparation and publication of its PBS, Annual Performance Statements and Annual Report. The Commission also has an established planning and performance framework which captures its commitments and obligations across other planning artefacts, including Group Plans, Branch Plans and Individual Performance Agreements. These provide internal assurance over the planning and monitoring of our commitments and obligations.

Additionally, the Commission reports annually to the Minister for the Public Service, for presentation to the Parliament, on the state of the health of the APS. This is reported through the *State of the Service Report*, under section 44 of the *Public Service Act 1999*.

The 2023 *State of the Service Report* shows how the APS is supporting the priorities of the Australian Government and serving the Australian community. Relevant to this inquiry, it offers consideration of APS capability, leadership and integrity issues, trends and responses.

JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT ANSWERS TO QUESTIONS ON NOTICE

IQ24-000005

Department/Agency: Australian Public Service Commission

Inquiry: Inquiry into probity and ethics in the Australian Public Sector

Date of Hearing: 12 March 2024

Topic: Integrity Metrics

Senator: Linda Reynolds

Type of question: Proof Committee Hansard, Joint Committee of Public Accounts and Audit, Inquiry into probity and ethics. Page 7.

Date set by the committee for the return of answer: 15 April 2024

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Question:

Senator REYNOLDS: I note in your report you've got Attorney-General's doing a piece of work as well, but, ultimately, for the taxpayer and for the parliament, how do we know that the lessons are being learnt? We see in this committee each and every day that the frameworks you're talking about are not actually getting through to the delivery of programs and conduct in departments. How does what you're doing, when you put them all together, result in better audit reports—improving all the time? That's not occurring at the moment.

Senator REYNOLDS: If you could explain that in plain English, we would be very happy.

Answer:

Independent audits are an important aspect of accountability and serve as opportunities for continuous improvement. There are also a range of other mechanisms that can examine accountability and performance which are levers that foster a pro-integrity culture. These levers are outlined in response to questions 1 and 2 which focuses on the uplift of SES leadership behaviours to achieve positive outcomes across the Service.

Further to this, at the whole of APS level – i.e. system level, integrity frameworks and data on integrity will be key to holding accountable authorities across the system to account. This is outlined in response to question 3. Additionally the *Integrity Good Practice Guide* published last year along with the *Louder than Words: An APS Integrity Plan*, brings together a sample of good practices, that can be readily implemented across the integrity 'lifecycle' of an agency, from strategy through to implementation, monitoring and evaluation. This includes the APSC's *Integrity Metric Resource*, which has been provided to the Committee.

The emphasis here is on integrity culture rather than pure compliance with integrity obligations, and when monitored consistently over time, compiled and reported effectively, the metrics serve to measure progress, signal pressure points or areas for targeted support.

JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT ANSWERS TO QUESTIONS ON NOTICE

IQ24-000006

Department/Agency: Australian Public Service Commission

Inquiry: Inquiry into probity and ethics in the Australian Public Sector

Date of Hearing: 12 March 2024

Topic: Stewardship

Senator: Linda Reynolds

Type of question: Proof Committee Hansard, Joint Committee of Public Accounts and Audit, Inquiry into probity and ethics. Page 9.

Date set by the committee for the return of answer: 15 April 2024

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Question:

Senator REYNOLDS: Time after time we get people who are acting in positions, and there's an impact from the high turnover in terms of accountability: 'We just inherited this,' or, 'We're just temporarily acting and we don't know; we're not responsible.' That sort of high turnover must also have some impact on people's level of professional skills and mastery in their particular portfolios but also on the accountability. Maybe you could just take that on notice: what work or reflections are you doing on that?

Answer:

Stewardship is central to the success of a high-functioning APS. The *Public Service Act 1999* specifically aligns the concept of stewardship to Secretaries and the Secretaries Board. To be effective stewards, public servants must reach beyond institutional barriers to work collectively to harness experience, diversity and resources and to deliver common objectives. This means, regardless of turnover and acting in positions, Secretaries and Agency Heads are responsible and accountable for the work of their agency.

The *Public Service Act 1999* – APS Employment Principle 10A(1)(d) requires effective performance from each employee. The application of this requirement is further outlined with the *APS Commissioner's Directions 2022*.

JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT ANSWERS TO QUESTIONS ON NOTICE

IQ24-000007

Department/Agency: Australian Public Service Commission

Inquiry: Inquiry into probity and ethics in the Australian Public Sector

Date of Hearing: 12 March 2024

Topic: Integrity culture

Senator: Linda Reynolds

Type of question: Proof Committee Hansard, Joint Committee of Public Accounts and Audit, Inquiry into probity and ethics. Page 9.

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Question:

CHAIR: Thank you. The thing I'll just leave you with to reflect on is that we're really still trying to figure out that question of measurement—how we actually measure culture. I appreciate the evidence given. Dr Bacon has pointed us towards the integrity measures. From those examples, it sounds like some of those measures go towards culture and some are more proxy indicators or checks on things that should be in place. But, if you could just reflect on that core point, we'll distil from this transcript some of the work that's underway. I'd expect we'd seek some reports back on some of that over the next six to 12 months, given the work is underway. But we would like anything further that you could give us within the next couple of weeks on that core question of how you measure culture—the culture of probity and integrity—because, from all of the evidence we've collected through this inquiry in talking to quite a number of agencies, it seems that that gap between the stated intention and the worthy, noble frameworks that everyone points to when asked the question and the results where they actually land—that bit in the middle—is culture: the organisational culture and how leaders behave. So any further evidence about that that you want to give us on reflection would be very helpful.

Answer:

Please see answer to this question at IQ24-000005.