



Department of  
**AGRICULTURE  
 FISHERIES &  
 FORESTRY -  
 AUSTRALIA**



Ms H Donaldson  
 Secretary  
 Finance and Public Administration Committee  
 Parliament House  
 CANBERRA ACT 2600



Dear Ms Donaldson

I refer to the Chairman of your Committee's letters (dated 6 September 2001) to the Minister for Agriculture, Fisheries and Forestry, and the Minister for Forestry and Conservation, calling for submissions with regard to the *Public Interest Disclosure Bill 2001*. Those letters have been referred to this Department for response. You advised that the deadline for submissions has been extended to 12 October 2001.

As is required under the *Public Service Act 1999*, this Department has established procedures for dealing with "whistleblower reports" consistent with *Public Service Regulation 2.4*. Under the Procedures (copy attached) avenues for reporting breaches of the APS Code of Conduct are established and it is specified that "any victimisation or discrimination against an employee who reports matters under this Procedure will be treated as a breach of the APS Code of Conduct and will be dealt with as such".

A range of relatively minor reports have been made under the Procedures, and all have been investigated as required and concluded against. There has to date been no case of victimisation or discrimination against any officer making such a report. As such the Department has been satisfied with the disclosure mechanisms provided for under the *Public Service Act 1999*.

It is noted that the disclosure mechanisms detailed in the *Public Interest Disclosure Bill 2001* closely parallel those of the *Public Service Act 1999*, but with the addition of prescribed penalties for unlawful reprisals, breaches of confidentiality, or making misleading statements concerned with the disclosure. The establishment of such penalties seems reasonable as a support to the disclosure process, and they could alternatively be established under the *Public Service Regulations* (as is the case for other matters). If the latter was to occur, there may not be a requirement for separate disclosure legislation.

Thank you for the opportunity to make this submission. The contact officer for this matter is Stuart Lukeman, who can be reached on 6272 4720.

Yours sincerely,

Bill Pahl  
 General Manager  
 Corporate Governance

8 October 2001



Centenary of Federation

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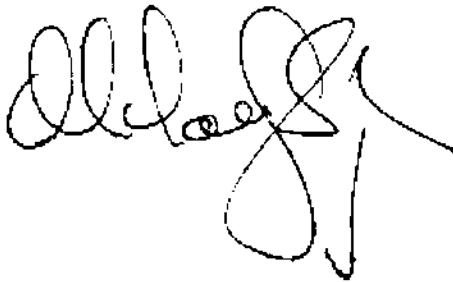
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## Procedures for Reporting Breaches of Code of Conduct

I, Michael John Taylor, Secretary of the Department of Agriculture Fisheries and Forestry, establish these Procedures under Public Service Regulation 2.4 (1) of 1999.

Dated 9th October 2000.

Signature



### 1. Background to Procedure

1.1 Section 16 of the Public Service Act 1999 specifies that a "person performing the functions in or for an Agency must not victimise, or discriminate against, an APS employee because the APS employee has reported breaches (or alleged breaches) of the Code of Conduct".

1.2 Section 16 establishes a legal framework for "public interest whistleblowing" within which allegations that the APS Code of Conduct<sup>1</sup> has been breached can be raised. The Act provides for such allegations to be raised with the Public Service Commissioner<sup>2</sup>, the Merit Protection Commissioner<sup>3</sup>, or the Agency Head or a person authorised by the Agency Head<sup>4</sup>.

1.3 The Public Service Regulations<sup>5</sup> and Directions<sup>6</sup> require an Agency Head to establish procedures for dealing with such reports of misconduct.

### 2. Procedure

2.1 The Public Service Regulations<sup>5</sup> and Directions<sup>6</sup> require an Agency Head to establish procedures for dealing with such reports of misconduct.

the Director of the Business Ethics, Security and Investigations Unit, who can be reached via 1800 813 753 or [DIRBESIU@affa.gov.au](mailto:DIRBESIU@affa.gov.au).

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- 1 Public Service Act 1999 Section 15
- 2 Public Service Act 1999 Section 16(a)
- 3 Public Service Act 1999 Section 16(b)
- 4 Public Service Act 1999 Section 16(c)
- 5 Public Service Regulations 1999: 2.4(1)
- 6 Public Service Commissioner's Directions 1999: 2.5(1)[c]
- 7 Public Service Commissioner's Directions 1999: 2.5(1)[e]
- 8 Public Service Act 1999 Section 16[c]; Public Service Regulations 1999: 2.4(2)[b]
- 9 Public Service Act 1999 Sections 16[a] and 16[b]; Public Service Regulations 1999: 2.4(2)[c]
- 10 Public Service Regulations 1999: 2.4(2)[d]
- 11 Public Service Regulations 1999: 2.4(2)[e]
- 12 Public Service Regulations 1999: 2.4(2)[h]
- 13 Public Service Regulations 1999: 2.4(2)[g]
- 14 AFFA Procedures for Determining Breaches of Code of Conduct - first issued 5 December 1999
- 15 Public Service Act 1999 Section 16; Public Service Regulations 1999: 2.4(2)[f]
- 16 Public Service Regulations 1999: 2.1 "Duty not to disclose information"
- 17 Public Service Regulations 1999: 2.5 through 2.7

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December 7, 2000 11:18 AM