



Parliamentary Service Commissioner's Direction 2014

made under subsection 15(6) of the

Parliamentary Service Act 1999

Dated 23 December 2014

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Parliamentary Service Commissioner

*Parliamentary Service Commissioner's Direction
2014*

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Part 1—Preliminary

1 Name of Direction

This Direction is the *Parliamentary Service Commissioner's Direction 2014*.

2 Authority

This Direction is made under subsection 15(6) of the *Parliamentary Service Act 1999* (the Act).

3 Commencement

This Direction will commence on the day after it is registered on the Federal Register of Legislative Instruments.

4 Revocation of previous directions

This Direction revokes the *Parliamentary Service Commissioner's Direction 2000/1*.

Part 2—Secretary handling of suspected Code of Conduct breaches

1 Purpose of Direction

The purpose of this Direction is to set out the basic procedural requirements that must be complied with by the procedures established by a Secretary under subsection 15 (3) of the Act for:

- (a) determining whether a Parliamentary Service employee, or a former Parliamentary Service employee, in the Department has breached the Code of Conduct; and
- (b) determining what sanction, if any, should be imposed on a Parliamentary Service employee for a breach of the Code of Conduct.

Note: The requirements set out in this Direction and the procedures established under subsection 15 (3) of the Act apply only in relation to a suspected breach of the Code of Conduct by a Parliamentary Service employee, or former Parliamentary Service employee, in respect of which a determination may be made. Not all suspected breaches of the Code of Conduct need to be dealt with by way of a determination. In particular circumstances, another way of dealing with a suspected breach of the Code of Conduct may be more appropriate. (See also clause 52 of *Parliamentary Service Determination 2013*.)

2 Application to former Parliamentary Service employees

- (1) In this Direction, unless the contrary intention appears, a reference to a Parliamentary Service employee in a Department includes a reference to a former Parliamentary Service employee who is suspected of having breached the Code of Conduct while an employee in the Department.
- (2) Subparagraph 3(a)(ii) and clause 4 do not apply in relation to a former employee.

3 Employee must be informed that a determination is being considered

A determination may not be made in relation to a suspected breach of the Code of Conduct by a Parliamentary Service employee unless reasonable steps have been taken to:

- (a) inform the employee of:
 - (i) the details of the suspected breach (including any subsequent variation of those details); and
 - (ii) the sanctions that may be imposed on the employee under subsection 15 (1) of the Act; and
- (b) give the employee a reasonable opportunity to make a statement in relation to the suspected breach.

4 Employee must be informed before a sanction is imposed

If a determination is made that a Parliamentary Service employee has breached the Code of Conduct, a sanction may not be imposed unless reasonable steps have been taken to:

- (a) inform the employee of:
 - (i) the determination; and
 - (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.

5 Person making determination to be independent and unbiased

A Secretary must take reasonable steps to ensure that:

- (a) the person who determines whether a Parliamentary Service employee has breached the Code of Conduct is, and appears to be, independent and unbiased; and
- (b) the person who determines any sanction to be imposed is, and appears to be, independent and unbiased.

6 Determination process to be informal

The process for determining whether a Parliamentary Service employee has breached the Code of Conduct must be carried out with as little formality and as much expedition as a proper consideration of the matter allows.

7 Record of determination and sanctions

If a determination is made in relation to a suspected breach of the Code of Conduct by a Parliamentary Service employee, a written record must be made of:

- (a) the suspected breach; and
- (b) the determination; and
- (c) any sanctions imposed as a result of a determination that the employee breached the Code of Conduct; and
- (d) if a statement of reasons was given to the employee—the statement of reasons.

Note: The *Archives Act 1983* applies to a record made under this clause.