

## Integrity initiatives and Robodebt

### Key Messages

- In the October 2022-23 Budget, the Government announced a reform plan for the APS, which includes the priority area of an APS that embodies integrity in everything it does.
- This includes an ambitious agenda to strengthen integrity across the Australian public sector, with the progression and establishment of key initiatives across the APS to enhance integrity and trust in the institutions of government.
- Key initiatives are being led by various portfolios across the APS including AGD, APSC and PM&C. These initiatives include the establishment of a National Anti-Corruption Commission, strengthening whistle-blower protections, establishment of an APS Integrity Taskforce and arrangements to increase transparent and merit-based appointments to government boards and other public sector roles.
- The Government's integrity agenda continues to evolve in response to new and emerging issues.

### Facts and figures

- Under the four priority pillars of the APS Reform agenda, specific initiatives will build the capability and capacity of the APS, support greater transparency and genuine partnership with the community, and position the APS to work in collaborative and dynamic ways to support the Government to deliver on its agenda now and into the future.
- APS Reform pillars one and two will respectively:
  - Support institutional integrity and create a culture in which it is safe for staff to collaborate, express concerns and ask questions in their daily work; and
  - Strengthen the APS's approach to working in genuine partnership with the community to solve problems and co-design the best solutions to improve the lives of the Australian community.
- This work is being led by a number of agencies, and will strengthen pro-integrity culture, systems and accountability across the APS.

### KEY QUESTIONS AND ANSWERS

#### *What is the APS doing to strengthen the integrity of the Public Service?*

- An APS that embodies integrity in everything it does is the first priority of the Government's Public Service Reform Agenda.
- A number of integrity initiatives are being progressed under this priority (some of which have already been delivered), including the following:
  - The establishment of the National Anti-Corruption Commission on 1 July 2023, led by the Attorney-General's Department, with extensive powers to detect,

- investigate and reports on serious or systemic corrupt conduct in the public sector and educate the APS and public about corruption risks and prevention.
- A review of public sector board appointment processes, led by Ms Lynelle Briggs AO, and supported by PM&C, to consider and propose appropriate standards for the processes by which Board members are appointed to Government Boards, ensuring these appointments contribute to integrity and trust in government institutions.
  - Implementing the recommendations of the Set the Standard Report, led by PM&C, with a first tranche of legislation to establish an independent statutory agency, the Parliamentary Workplace Support Service, as a new specialist parliamentary human resources agency.
  - Cross APS work to strengthen pro-integrity systems and culture, led by PM&C, AGD, APSC and Australian Commission for Law Enforcement Integrity (ACLEI)
    - Outcomes-based performance management, ensuring performance management in the APS starting with the SES is focused on outcomes (what) and behaviours (how), aligned to the APS values.
    - Secretaries Board will model transparency by communicating its priorities and decisions.
  - Legislative amendments and work, led by PM&C, including to:
    - Enshrine stewardship as an APS Value; and
    - Reaffirm the apolitical role of the APS by making it explicit that Ministers cannot direct Agency Heads on employment matters.
  - Work led by the APSC to establish a range of measures to strengthen behaviours and outcomes-based performance management, ensuring performance management in the APS starting with the SES is focused on outcomes (what) and behaviours (how), aligned to the APS values.
  - Secretaries Board modelling transparency by communicating its priorities and decisions.
- Establishment of an APS Integrity Taskforce (Taskforce), jointly led by AGD, APSC and PM&C with secondees from other agencies to develop and deliver a comprehensive action plan to enhance APS integrity. Secretaries Board discussed and endorsed in-principle the final draft report of the Taskforce in September 2023 and will further consider implementation of the report in coordination with other integrity initiatives.
  - Ongoing work of the multi-agency Robodebt Royal Commission Response Taskforce to develop advice for Government on the Royal Commission report and its recommendations.

## ***APS Integrity Taskforce***

**Handling Note:** The APS Integrity Taskforce formally wound up at the end of September 2023. The Deputy Secretary, Governance and Corporate, to lead on responses to questions for the APS Integrity Taskforce.

The Department of the Prime Minister and Cabinet (PM&C) is the lead agency and has primary responsibility for the APS Integrity Taskforce.

### ***What did the APS Integrity Taskforce seek to address?***

- In February 2023, the Secretaries Board established the APS Integrity Taskforce to ensure the APS is delivering a pro-integrity culture at all levels. The Taskforce comprised of staff seconded from PM&C, Attorney-General's Department (AGD), the Australian Public Service Commission (APSC) and National Anti-Corruption Commission (NACC).
- The Taskforce's terms of reference included a focus on framing a comprehensive response to the themes emerging from the Royal Commission into the Robodebt Scheme, and to ensure that the APS operates in the interests of the Australian public.
- The Taskforce was asked to provide advice on ensuring the APS is focused on delivering a pro-integrity culture at all levels of the service and to bring together information about initiatives underway across agencies, consider how they intersect, and identify gaps and opportunities to deliver system wide integrity improvements.
- The Taskforce focussed on lifting ethical leadership across the service, building the culture to support frank and fearless advice, and strengthening integrity functions as a system.
- Secretaries Board endorsed the Taskforce's final report on 13 September 2023 and is currently considering next steps with implementation.

### ***What will the review of public sector board appointments seek to address?***

- The Thodey Review emphasised the importance of maintaining the highest standards of public sector integrity, and the role these standards play in the 'APS's capacity to provide services to citizens, to regulate effectively and to provide well informed and influential advice<sup>1</sup>.
- Minister for the Public Service, Senator the Hon Katy Gallagher announced the first priorities of the Public Service Reform Agenda (the APS Reform Agenda) in October 2022. One of the activities under that Agenda was to undertake a review of arrangements and processes for appointments to public sector boards, to be completed by mid-2023.
- The focus of this Review was to consider and propose appropriate standards for the processes by which Board members are appointed to Government Boards. In considering these processes, the Review sought to consider how appointments to Boards can contribute to integrity and trust in the institutions of Government.

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<sup>1</sup> See 'Our Public Service, Our Future: Independent Review of the Public Service' 2019, p. 105.

- In February 2023, the Government appointed Ms Lynelle Briggs AO to lead the Review.
- The Review commenced in February 2023, with the Final Report provided to the Minister for the Public Service on 4 August 2023.
- The Final Report will be published on the APS Reform website.

### **BACKGROUND**

- The 2019 Thodey Review and the Report into Institutional Integrity, conducted by Stephen Sedgwick AO in 2020, made recommendations to strengthen pro-integrity systems and culture in the APS.
- In addition to integrity initiatives underway, previous work to address the Thodey Review and Sedgwick Report include the introduction of mandatory induction training on integrity, SES integrity masterclasses and updating integrity-related workforce management guidance.
- The Thodey Review's recommendations to reinforce APS institutional integrity to sustain the highest standards of ethics (Recommendation 7) included recommendations for the APS Commissioner to work with Secretaries Board and agencies with responsibility for integrity to build pro-integrity culture and practices in the APS.

### **Supporting information**

#### Freedom of Information (FOI) Requests

- On 11 September 2023, the Canberra Times (Miriam Webber) made an FOI request to the department for a copy of The APS Integrity Taskforce's "Taskforce Interim Report". The scope of the request is from 1 January 2023 to 30 June 2023.

#### Relevant Media Reporting

- There have been two media articles that reference the APS Integrity Taskforce:
  - 'Why the public service is missing – or ignoring – reports and wrongdoing' published in the Australian Financial Review on 15 June 2023.
  - 'Thodey Recommendations a year into Albanese's watch' published in the Mandarin on 24 May 2023.

Date:

Cleared by (SES): Dr Rachel Bacon, Deputy Secretary

Telephone No: s22

Group/Branch: Public Sector Reform/APS Reform Office

Contact Officer: Marianne Dolman

Telephone No: s22

Consultation: Nil

## Estimates Opening Statement

The Australian Public Service Commission has been working closely with Secretaries Board and the Minister for the Public Service on strengthening the integrity of the APS.

I would like to share with the Committee some of the work the Commission is currently undertaking in line with its statutory responsibilities. My colleagues and I take our responsibilities seriously.

The conduct of senior APS leaders and employees is an issue of heightened public interest.

It is a matter of public record that there are active inquiries underway that rely on the Commissioner's statutory powers. It is critical – to both good decision-making and the public's continued confidence in the integrity of the APS – that those inquiries are conducted fairly and according to proper process, including the provision of natural justice. I would like to assure the Parliament and the public that I believe this is the case.

It is not appropriate to provide commentary on individual inquiries, including details of specific allegations, lines of inquiry, projected timeframes, or likely outcomes. Such commentary may disclose sensitive personal information, prejudice those processes or jeopardise outcomes, inadvertently undermine the effectiveness of future code inquiries, or potentially affect inquiries conducted by other integrity agencies.

In terms of code of conduct investigations following from the Robodebt Royal Commission, the Public Service Commission has stated that 16 referrals have been made. The referrals include current and former APS employees and former agency heads. In terms of process, I can update the Committee that investigations have started for all referrals and that around half have proceeded to the issue of notices, which outline the grounds and categories for potential breach of code.

It is a matter of public record that I initiated an inquiry into alleged breach of the code of conduct by Mr Michael Pezzullo AO under s41(2)(m) of the Public Service Act. The Commission has confirmed that Ms Lynelle Briggs AO is conducting the review based on my inquiry powers as Commissioner and will provide a report to me on whether the code has been breached and, if so, possible sanctions. As required by the Public Service Act, I will then provide a report to the Prime Minister.

The Commission has some other breach of code inquiries of senior officials underway. All together (including Robodebt), the Commission currently has around 2 dozen formal investigations underway, which is well above the couple or so a year that has been the norm in recent years. This is in addition to the

code of conduct inquiries that heads of agencies conduct into current and former APS officers in their own agencies (excluding Robodebt). While there is significant public interest in some of the inquiries underway, it is important that commentary around them does not undermine other inquiries.

The inquiries underway reflect the expectation of the Australian people, the Government and indeed the public service itself that public servants meet professional standards and all the requirements set out in the Public Service Act. They give leaders of the public service insight into where institutions and people are vulnerable to failure, and how the APS can be more resilient and effective in its service to the Government, Parliament and Australian public.

In this light, I would like to highlight key elements of public sector reform that help foster a pro-integrity culture across the APS, many of which are the Government's public sector reform priorities and have been overseen by Secretaries Board. These include:

- establishment of the National Anti-Corruption Commission
- reform of Public Interest Disclosure laws
- the intention to add stewardship as a value for the public service and extend APS values to the Australian Government public sector as appropriate
- greater transparency measures, including Secretary Board communiques, APS Census results and action plans, and expanded Trust survey data
- strengthening the Senior Executive Service performance framework to standardise expectations about delivery and behaviour across the APS
- strengthening proactive talent management of SES and greater openness in SES and agency head recruitment
- strengthening training on integrity, fraud and corruption prevention, psychological safety in the workplace, and Executive Level and SES leadership training, overseen by the APS Academy
- initiating a review of Public Sector Board appointments
- a roadmap for strengthening pro-integrity culture within the APS, and
- supporting the Government's response to the recommendations of the Robodebt Royal Commission.

I trust that these steps give the Parliament and the public confidence in the integrity of the public service.

Thank you.

Gordon de Brouwer  
Australian Public Service Commissioner  
24 October 2023

## APVMA Investigation

### Subject/Issue

The Minister for Agriculture, Fisheries and Forestry, Senator the Hon Murray Watt has referred allegations of misconduct by senior employees at the Australian Pesticides and Veterinary Medicines Authority (APVMA) to the Australian Public Service Commissioner for further investigation under his statutory integrity powers.

### Key facts and figures

- On 9 February 2023, Minister Watt referred the allegations of misconduct to the Australian Public Service Commissioner for further investigation under his statutory integrity powers.
- This review is ongoing, and is being informed by an independent strategic review report on the APVMA's regulatory, financial, operational performance and governance by Clayton Utz lawyers for the APVMA Board, released by the Minister 14 July 2023.

### Key points

- In November 2022, Minister Watt commissioned independent reviewer Mary Brennan to investigate APVMA's workplace culture following public allegations of serious misconduct by senior executive service employees at the agency.
- Minister Watt has received interim findings from Ms Brennan (dated 8 February 2023), which contain further serious complaints, including suspected breaches of the APS Code of Conduct by more than one SES employee. He has asked the Commissioner to investigate under his relevant statutory integrity powers in the *Public Service Act 1999*.
- The Commissioner then engaged the Hon Hilary Penfold PSM KC, to conduct inquiries on his behalf, and she reported to him with preliminary findings and recommendations for further action on 22 June 2023. These inquiries are ongoing and are informed by the findings of the Clayton Utz strategic review report. Clayton Utz are assisting Ms Penfold, the Commission and the APVMA with these investigations.
- The Clayton Utz strategic review has made a number of key findings regarding the APVMA's regulatory performance, financial management and procurement practices and personnel related issues which are now further informing the Code of Conduct inquiry processes.

## Background

Alleged incidents of sexual harassment involving senior APVMA employees occurred in November 2021. In particular, a senior manager was allegedly involved in a ‘urination incident’ involving a co-worker. The employee resigned from the APS shortly afterwards.

On 8 November 2022, Senator Peter Whish-Wilson (Australian Greens) raised concerns in Budget Estimates about these allegations and APVMA’s general handling of staff misconduct.

There are also claims that multiple senior staff were ‘fired’ after making complaints to the agency about harassment and bullying.

Independent reviewer Mary Brennan was commissioned by Minister Watt in November 2022 to investigate APVMA’s workplace culture. Ms Brennan delivered interim findings to Minister Watt on 8 February 2023. These findings contain additional serious complaints, including about the former agency head.

On the basis of those interim findings, Minister Watt made a referral to the Australian Public Service Commissioner, and referred allegations of criminal conduct to the NSW Police. The APVMA Board also commissioned Clayton Utz to undertake a separate strategic review into the agency’s performance and governance.

The Hon Hilary Penfold PSM KC has been engaged to conduct inquiries for the APS Commissioner. Ms Penfold is a former judge of the Supreme Court of the Australian Capital Territory, former First Parliamentary Counsel and former Secretary of the Department of Parliamentary Services. Ms Penfold reported to the Commissioner with preliminary findings and recommendations for further action on 22 June 2023. The inquiries are ongoing in an amended form and will be fully informed by the Clayton Utz strategic review.

On release of the Clayton Utz strategic review the Chief Executive Officer, Ms Lisa Croft, and the Board Chair, Dr Carmel Hillyard, have both resigned their positions.

Public concerns about APVMA workplace culture follow low APS Employee Census results regarding perceptions of corruption and staff well-being. APVMA has cited its relocation from Canberra to Armidale and COVID-19 for the apparent drop in employee morale.

The *Australian Public Service Commissioner’s Directions 2022* require agency heads to consult with the Commissioner about suspected breaches of the APS Code of Conduct by SES employees when initiating Code processes and again when imposing sanctions.

Since the relevant consultation Direction commenced in February 2022, and aside from the referrals from Minister Watt, the APVMA had not consulted with the APS Commissioner, as it had not initiated any Code processes or imposed any sanctions in relation to current or former SES employees.

In relation to workplace culture, the Albanese Government has mandated the public release of the APS Employee Census results as part of the APS Reform agenda. Transparency and accountability will drive improved workplace culture and address issues such as bullying or harassment.



Decisions relating to the location of agencies are matters for portfolio Ministers. In the case of the APVMA's relocation to Armidale, this was a decision of the former Government.

## Supporting information

### Questions on Notice

- No QoNs asked

### Freedom of Information (FOI) Requests

- No FOIs asked

### Recent Ministerial Comments

- Minister Watt has also announced a rapid evaluation of the APVMA's structure and governance to be conducted by eminent former public servant Mr Ken Matthews AO for reporting by 30 September 2023.  
<https://minister.agriculture.gov.au/watt/media-releases/government-action-ensure-integrity-ag-chemical-regulation>

### Relevant Media Reporting

- [Pesticides authority boss and chair resign, after inquiry triggered by APVMA worker who allegedly urinated on colleagues](#) Kath Sullivan, ABC News, 14 July 2023
- [Urine scandal at APVMA sees CEO and board chair resign](#) Brooke Rolfe, Daily Telegraph 14 July 2023

**Date:** 17/10/2023  
**Cleared by (SES):** Jo Talbot  
**Telephone No:** S 22  
**Group/Branch:** Integrity, Performance and Employment Policy  
**Contact Officer:** Kylie Barber  
**Telephone No:** S 22  
**Consultation:** APVMA, Department of Agriculture Fisheries and Forestry  
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## Kathryn Campbell AUKUS appointment

### Subject/Issue

The appointment to and remuneration of Ms Kathryn Campbell AO CSC in the role of Deputy Secretary, AUKUS Joint Program Office, Department of Defence.

### Key facts and figures

- On 1 July 2022, Ms Campbell was appointed to the role of Deputy Secretary, AUKUS Joint Program Office in the Department of Defence.
- Ms Campbell's total remuneration package in this role was \$892,630. This is the same level of remuneration she received as Secretary of the Department of Foreign Affairs and Trade, the office from which she was terminated with effect 1 July 2022.
- The remuneration package for Ms Campbell in the role of Deputy Secretary, AUKUS Joint Program Office was requested by Mr Greg Moriarty, Secretary of the Department of Defence, on 27 June 2022 and approved by Mr Peter Woolcott AO, former APS Commissioner on 30 June 2022.
- s47E(c) [REDACTED]
- Ms Campbell resigned from the Department of Defence with effect from 21 July 2023.

### Key points

- Section 60 of the *Public Service Act 1999* contemplates former Secretaries being appointed into other positions within the APS.
- s47E(d) [REDACTED]
- The Executive Remuneration Management Policy, which is managed by the Australian Public Service Commission, sets out the arrangements for the management of executive remuneration including the approval process for remuneration proposals above the 'notional amount'.

- The Policy applies to all staff employed under the *Public Service Act 1999* and requires agency heads to obtain approval from the APS Commissioner before they offer any SES or non-SES employee a remuneration package valued in excess of the notional amount.
- The notional amount is the maximum remuneration agency heads may approve for SES and non-SES roles and is 65% of the base remuneration of the Secretaries' classification structure. Effective from 1 July 2022, the notional amount for SES Band 3 roles was \$488,600. Effective from 1 July 2023, the notional amount is \$508,150.
- Other than in exceptional circumstances, the remuneration of any SES or non-SES employees will not exceed the notional amount. Exceptions will be considered by the APS Commissioner where 'compelling circumstances' exist, based on job weight and/or market factors.
- Questions relating to Ms Campbell's appointment to the Deputy Secretary role are best put to the Department of Defence.
- Ms Campbell was the Secretary of the then Department of Human Services during the implementation of the Robodebt Scheme.  
(*SB23-000108 refers.*)
  - A Royal Commission was established in August 2022 to inquire into the Robodebt Scheme. The report of the Royal Commission was handed down on 7 July 2023. The report makes various findings about the conduct, roles and responsibilities of individual public servants involved in the Robodebt Scheme.
  - A centralised inquiry mechanism has been established to inquire into alleged breaches of the Code of Conduct by APS employees, former APS employees and Agency Heads arising from the Royal Commission.

## Background

Ms Campbell was appointed as the Secretary of the Department of Foreign Affairs and Trade in July 2021. On 22 June 2022 the Prime Minister announced Ms Campbell's appointment as Secretary was to be terminated effective 1 July 2022, and that she would be taking up a senior appointment in the Defence portfolio in an AUKUS-related role. On 27 June 2022 the Secretary of Defence sought the then APS Commissioner's approval to offer Ms Campbell a remuneration package of \$892,630. The APSC approved the request, and provided advice to the Department of Defence regarding limits on non-ongoing engagement terms to ensure the engagement was consistent with the *Australian Public Service Commissioner's Directions 2022*. In accordance with the Directions, there was no additional role for the Commission in relation to this appointment.

s47E(c)

The matter of Ms Campbell's appointment and remuneration received attention at Budget Estimates hearings in May 2023.

## Supporting information

### Questions on Notice

- QoN 101. Appointment of Band 3s – positions exceeding the notional salary. Budget Estimates 2023-23, 25 May 2023. Tabled 14 July 2023.
- QoN 102. Appointment of Band 3s – positions exceeding the notional salary. Budget Estimates 2023-23, 25 May 2023. Tabled 4 August 2023
- QoN 103. Approval of remuneration arrangements for Ms Kathryn Campbell. Budget Estimates 2023-23, 25 May 2023. Tabled 14 July 2023

### Freedom of Information (FOI) Requests

- APSC FOI request LEX 565. Documents relating to the cessation of Kathryn Campbell as DFAT Secretary and/or appointment of Kathryn Campbell to the Department of Defence. Access grant decision made, currently under embargo waiting for third party appeal rights to be exercised or expire – by 8 November 2023 (LEX 639).

### Recent Ministerial Comments

- On 20 July 2023, Prime Minister Anthony Albanese confirmed in two separate radio interviews with the ABC that Ms Campbell had been suspended from the Department of Defence.

### Relevant Media Reporting

- [Campbell's AUKUS appointment did not meet standards of public service](#), Paddy Gourley, The Mandarin, 28 August 2023.
- [Robodebt: 16 bureaucrats named in royal commission report face investigation by public service agency](#), Sarah Basford Canales, The Guardian, 3 August 2023
- [Robo-debt bureaucrat quits her \\$900k-a-year defence job](#), Angus Thompson, The Sydney Morning Herald, 24 July 2023.
- [Senior robodebt public servant resigns from defence job](#), Dominic Giannini, The Canberra Times, 24 July 2023.
- [Kathryn Campbell, senior public servant in Robodebt scheme, resigns from Department of Defence](#), Claudia Long and Georgia Roberts, ABC News, 24 July 2023.

**Date:** 17/10/2023  
**Cleared by (SES):** s22 [REDACTED]  
**Telephone No:** s22 [REDACTED]  
**Group/Branch:** Executive Remuneration and Statutory Offices  
**Contact Officer:** s22 [REDACTED]  
**Telephone No:** s22 [REDACTED]  
**Consultation:** Integrity, Performance and Employment Policy  
**PDR Number:** SB23-000121  
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## SUPPLEMENTARY BUDGET ESTIMATES - OCTOBER 2023

### EXECUTIVE BRIEF - Integrity

#### KEY ISSUE/SUBJECT

- The Australian Public Service expects a high standard of integrity and professionalism
- The Australian Public Service Commission, in partnership with APS agencies, continues to deliver practical initiatives to build and support integrity culture across the APS as part of the Government's APS Reform agenda.
- Management of specific integrity issues not being actioned by the Australian Public Service Commission, and allegations of breaches of the APS Code of Conduct by APS employees, are matters for the relevant agency head.

#### FACTS AND FIGURES

- The Commission works closely with the APS Reform Office in the Department of the Prime Minister and Cabinet, the Attorney-General's Department, the Department of Finance and other agencies to support effective delivery of an ambitious and enduring reform agenda to ensure the APS embodies integrity in all that it does.
- The APS Reform Agenda includes proposed legislative amendments to the *Public Service Act 1999* to include a requirement for an APS purpose statement, creating a new APS Value of Stewardship, and making explicit that a Minister cannot direct an Agency Head on employment matters.
- The commencement of the National Anti-Corruption Commission, the release of the report of the Royal Commission into the Robodebt scheme and commencement of an initial tranche of reforms to public sector whistleblowing laws have all occurred since the previous Estimates hearing, and will have major implications for the APS.
- As part of the APS Reform agenda the Commission, with PM&C and AGD, established an APS Integrity Taskforce to review the system of current APS integrity functions and initiatives, to comprehensively plan measures to address any identified gaps, and assist in the delivery of system-wide integrity improvements. The Taskforce is due to deliver a final action plan to Secretaries Board in October 2023 following in-principle endorsement of the Taskforce's draft report in September.
- On 1 August 2023, the Australian National Audit Office commenced a performance audit into the Commission's administration of statutory functions relating to integrity



and ethical conduct in the Australian Public Service. The report is expected to be presented for tabling in the Autumn 2024 session of Parliament.

## **QUESTIONS AND ANSWERS**

### **What is the Australian Public Service Commission doing to support integrity in the APS?**

- The APS Commissioner's statutory functions under the Public Service Act Framework include the promotion of high standards of accountability, effectiveness, performance, integrity and conduct in the APS.
- The Commission plays a critical role in fostering a strong culture of integrity across the APS. This is delivered through a range of leadership initiatives and guidance materials, the exercise of investigatory powers into the conduct of agency heads, APS employees or former employees where necessary or requested, and providing advice to APS agencies and employees, through the Ethics Advisory Service, on applying the APS Values, Employment Principles and Code of Conduct.
- The APS Academy provides a number of courses, programs and resources that support public servants embrace the values and behaviours of integrity. Examples include: the SES Integrity Mastercraft program, fraud and corruption prevention case-studies (via ATO partnership), psychological safety in the workplace, ethical leadership, induction and Senior Executive Service (SES) and Executive (EL) leadership programs.
- The recently launched SES Performance Leadership Framework and an expansion of the Commissioner's involvement in SES recruitment processes, will together help embed integrity in the APS. The Framework provides an opportunity to embed behaviour and outcomes-based performance standards in agencies, and changes announced in Circular 2023/7 increase the rigour of SES selection committees through increased participation of the Commission.

### **Why is the Commission the subject of an Australian National Audit Office performance audit in relation to its statutory integrity and ethics functions?**

- This audit is part of the ANAO's regular program of performance audits for 2023-24.
- The objective of this audit is to assess the effectiveness of the Commission's administration of its statutory functions relating to upholding high standards of integrity and ethical conduct in the APS.
- The audit criteria will enable an examination of the Commission's promotion of the APS Values and Code of Conduct, the effectiveness of its monitoring and evaluation



of agencies' implementation of the Values and Code, and the effective contribution of the Commission to the stewardship of the APS.

- The Commission is working closely with the ANAO during the audit period and welcomes its findings.

### National Anti-Corruption Commission (NACC)

#### **Has your integrity role changed with the introduction of the National Anti-Corruption Commission?**

- No. The *National Anti-Corruption Commission Act 2022* complements the APS Commissioner's powers and functions in respect of Agency Head conduct, and requires the NACC to provide the Commissioner copies of any corruption investigation reports relating to the conduct of APS Agency Heads.

#### **How do the NACC and APS Code of Conduct processes integrate?**

- The NACC Act ensures that where an allegation of corrupt conduct is made to the NACC which also relates to the APS Commissioner's statutory powers of investigation, review or consultation—e.g. in respect of Agency Head or employee misconduct investigations under the Public Service Act, or systemic APS matters—the NACC must provide visibility to the Commissioner of:
  - the referral
  - the outcome of the NACC investigation, and
  - at the NACC's discretion, any other information it considers the APS Commissioner needs to know to perform his statutory functions.
- Agency Heads will have mandatory obligations to refer serious or systemic corruption allegations to the NACC.
- Code of Conduct processes in agencies which relate to APS employees also subject to a NACC investigation may be conducted concurrently. If considered necessary, the NACC will have power to direct agencies to pause their internal Code investigation processes pending the outcome of a corruption investigation, after which the Code process may proceed.
- If, as a result of a corruption investigation, the NACC recommends to an Agency Head that they should terminate the employment of an APS employee 'in accordance with relevant procedures', they may do so without conducting, or concluding, a separate Code of Conduct process. The Commission has recently amended the Public Service





Regulations to provide an additional ground of termination if there is an express recommendation of the NACC in a corruption investigation report.

- Specific questions on the NACC should be referred to AGD.

#### Gifts and benefits

#### **Is it appropriate for public servants to accept expensive gifts or benefits, including exclusive airline lounge memberships?**

- The Commission provides guidance to APS agency heads – published on its website – on their obligations to publicly disclose all gifts or benefits accepted and valued at over \$AUD100.00 (excluding GST). The guidance sets out factors that agency heads should have regard to in considering whether it is appropriate to accept a gift or benefit. This list expressly includes free or discounted hospitality.
- Questions about specific gifts or benefits accepted by an APS employee or agency head should be put to the relevant agency.

#### ***If pressed on other specific matters***

- Questions on specific integrity matters or individual employee matters at specific agencies should be referred to the relevant agency head.

#### **For Robodebt, APVMA and Secretary Pezzullo - see separate briefs**



## BACKGROUND

### **MEDIA**

- 21/09/2023, The Mandarin, [Secretaries board endorses draft integrity report in principle](#)
- 28/07/2023, The Canberra Times - [Calls for APS code of conduct reform following Kathryn Campbell resignation](#)

### **CLEARANCE SUMMARY**

Kylie Barber Group Manager	Integrity, Performance and Employment Policy	Cleared: 1/10/2023	s 22
s 22	Integrity and Ethics	s 22	s 22
Finance team quality assurance	NIL	Finance QA date NIL	
Consultation	Nil	Is content sensitive? <sup>1</sup>	No

<sup>1</sup> This field is included to assist initial triage for use of the information after Estimates e.g. internal communication, FOI request.

## Michael Pezzullo Referral to the APS Commissioner

### Subject/Issue

An independent inquiry has commenced into the Secretary of the Department of Home Affairs, Mr Michael Pezzullo AO, following a referral from the Minister for Home Affairs, the Hon Clare O'Neil MP, to the Australian Public Service Commissioner.

### Key facts and figures

- On Sunday, 24 September 2023, the Australian Public Service Commissioner received a letter from Minister for Home Affairs, the Hon Clare O'Neil MP, after concerns were raised in media reporting about Mr Pezzullo.
- On Monday, 25 September 2023, Minister O'Neil said *“Last night, I referred this matter to the Australian Public Service Commissioner, Dr Gordon de Brouwer.”*
- The Commissioner has appointed Ms Lynelle Briggs AO to lead an independent inquiry into the concerns.
- Ms Briggs has been delegated the Commissioner's inquiry powers under the *Public Service Act 1999*.
- Mr Pezzullo has stood aside while the investigation is conducted.
- Ms Stephanie Foster PSM is acting as the Secretary of the Department of Home Affairs during this period.

### Key points

- The APSC takes these referrals seriously.
- The Commissioner holds powers under sections 41(2)(m) and 41A of the *Public Service Act 1999* to undertake inquiries into alleged breaches of the Code of Conduct by Agency Heads.
- Under the Public Service Act, the Commissioner can delegate these powers to a current or former senior official.
- Ms Briggs is a former Australian Public Service Commissioner.
- It is not appropriate to provide further commentary that pre-empts any processes.
- The Commissioner and Ms Briggs are committed to ensuring the inquiry is completed as quickly as possible. It is important that appropriate and

necessary inquiry processes are adhered to, including providing procedural fairness and natural justice.

- Ms Briggs' report will be provided to the APS Commissioner to, in turn, inform further reporting to the Prime Minister for appropriate decision-making.
- On Monday, 25 September 2023, Mr Pezzullo agreed to stand aside while the investigation is conducted. Mr Pezzullo is currently on miscellaneous leave with pay.

## Background

On 24 September 2023 allegations were jointly reported through outlets of the Nine media company – the 60 Minutes program, The Age and The Sydney Morning Herald – regarding the Secretary of the Department of Home Affairs, Mr Michael Pezzullo AO.

A total of 6 articles containing a range of allegations were published by the newspapers on 24, 25 and 26 September 2023.

The allegations are serious and significant in regards to Mr Pezzullo's role as Secretary, and warrant further inquiry.

No further details will be made publicly available while the inquiry is ongoing.

## Supporting information

### Questions on Notice

- No QoNs asked.

### Freedom of Information (FOI) Requests

- No FOIs asked.

### Recent Ministerial Comments

- The Prime Minister, the Hon Anthony Albanese MP, released a statement to the media on 25 September 2023: <https://www.pm.gov.au/media/statement> and made brief remarks at a doorstep press conference on the same day: <https://www.pm.gov.au/media/doorstop-interview-whyalla>
- Minister O'Neil has not made any public comments.

### Relevant Media Reporting

- Nick McKenzie, The Age, the Sydney Morning Herald and 60 Minutes, 24, 25 and 26 September 2023 <https://www.theage.com.au/national/power-player-20230925-p5e7fq.html>

**Date:** 16/10/2023  
**Cleared by (SES):** Jo Talbot  
**Telephone No:** S 22  
**Group/Branch:** Integrity, Performance and Employment Policy  
**Contact Officer:** Kylie Barber  
**Telephone No:** S 22  
**Consultation:** Department of Home Affairs  
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