

ATTACHMENT B

THE PUBLIC SERVICE COMMISSIONER'S POWERS TO INQUIRE

The Commissioner may receive allegations that an agency head or statutory office holder (as set out below) has breached the APS Code of Conduct.

Section 40 of the PS Act provides that the Commissioner may engage consultants to assist with conducting an investigation.

Regulation 6.3 of the *Public Service Regulations 1999* allows the Commissioner the discretion to decline to conduct an investigation into an agency head for reasons including whether the allegation is:

- not in the public interest
- frivolous
- lacking in substance or detail
- related to a properly made decision by the agency head
- cost effective

STATUTORY OFFICE HOLDERS:

With a couple of exceptions listed in Regulation 2.2, all heads of statutory agencies and statutory office holders are bound by the APS Code of Conduct subject to:

- their appointment being made under an Act; and
- they have dealings with, or are assisted by APS employees in a day to day working relationship.

AGENCY HEADS:

Agency heads are bound by the APS Code of Conduct in the same way as APS employees.

Section 41A of the *Public Service Act 1999* empowers the Commissioner to investigate an allegation of a breach of the APS Code of Conduct made against agency heads including:

- a Secretary
- head of an executive agency
- head of a statutory agency

OTHER AGENCY HEADS:

The Commissioner has no power to conduct investigations into allegations into:

- agency heads of non-APS agencies.
- former agency heads or former heads of statutory agencies.