

ALLEGATIONS MADE AGAINST AGENCY HEADS AND STATUTORY OFFICE HOLDERS

Subject

The Australian Public Service Commissioner is authorised under Section 41A of the *Public Service Act 1999* to inquire into allegations that an agency head has breached the APS Code of Conduct.

Key points

s 22 [REDACTED]

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s 22 [REDACTED]

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General information

- The APSC is happy to assist the Committee in detailing the process of when an allegation against an agency head is received by the Commission in broad terms.
- The Commissioner may receive allegations that an agency head has breached the APS Code of Conduct.
- Agency heads are bound by the APS Code of Conduct in the same way as APS employees.
- 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:

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- 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.
- 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
- 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
- A proportion of complaints made against agency heads are misconceived as they do not refer to actions or behaviours of agency heads, but rather delegates of agency heads. When this is the case, the Commissioner may exercise their discretion not to investigate.
- A further proportion of complaints made against agency heads relate to non-APS agencies. The Commissioner has no power to conduct investigations into such allegations.
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Background

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Consultation: