



**TEQSA PROCEDURES FOR APS CODE OF CONDUCT DETERMINATIONS UNDER
SUBSECTION 15(3) OF THE *PUBLIC SERVICE ACT 1999***

I, Anthony McClaran, Chief Executive Officer of the Tertiary Education Quality and Standards Agency (“the Agency”), acting under subsection 15(3) of the *Public Service Act 1999*, hereby establish the procedures for:

- (a) determining whether an Australian Public Service employee, or a former Australian Public Service Employee, in the Agency has breached the Code of Conduct;
- (b) determining what sanction, if any, should be imposed on an APS employee for a breach of the Code of Conduct.

I revoke the procedures previously made under subsection 15(3) for the Agency on 9 May 2014.

These procedures commence on the day specified below.

Dated this 10th day of November 2015

Anthony McClaran
Chief Executive Officer

1. Application of procedures

- 1.1 These Procedures must be complied with in determining:
 - (a) whether an APS employee in the Tertiary Education Quality and Standards Agency (TEQSA) has breached the Code of Conduct;
 - (b) what sanction, if any, should be imposed on an APS employee in TEQSA for a breach of the Code of Conduct.
- 1.2 Unless the contrary intention appears, a reference to an APS employee in TEQSA includes a reference to a former APS employee who is suspected of having breached the Code of Conduct while an employee in TEQSA.
- 1.3 Paragraphs 3.1(a)(ii) and 5.1 do not apply in relation to a former APS employee.

Note: These Procedures apply only in relation to a suspected breach of the Code of Conduct by an APS employee in respect of which a determination is to be made. Not all suspected breaches of the Code of Conduct may need to be dealt with by way of a determination. In particular circumstances, another way of dealing with a suspected breach of the Code may be more appropriate.

2. Selection of decision maker

- 2.1 Subject to the Chief Executive Officer of TEQSA having made a selection, the person who determines whether an APS employee has breached the Code of Conduct, and the person who determines any sanction to be imposed, is to be selected by the Director, Corporate.
- 2.2 In selecting a person to make a determination under paragraph 2.1, the person making the selection must ensure that a person who is selected to make a determination is, and appears to be, independent and unbiased. In particular, a person must not determine whether an employee has breached the Code of Conduct if the person has previously made a report in relation to any of the matters suspected of constituting a breach by the employee of the Code of Conduct.

3. Information to be given to employee before determination is made

- 3.1 Before a determination is made in relation to a suspected breach of the Code of Conduct by an APS employee, the employee must:
- (a) be informed of:
 - (i) the details of the suspected breach of the Code of Conduct (including any variation of those details); and
 - (ii) the sanctions that may be imposed on the employee under subsection 15 (1) of the Act; and
 - (b) be given reasonable opportunity to make a statement in relation to the suspected breach.

4. Determination process to be informal

- 4.1 The process for determining whether an APS 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.

5. Employee must be informed before a sanction is imposed

- 5.1 If a determination is made that an APS employee has breached the Code of Conduct, a sanction may not be imposed unless the employee has:
- (a) been informed 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) been given a reasonable opportunity to make a statement in relation to sanctions under consideration.

6. Record of determination

- 6.1 After a determination in relation to a suspected breach of the Code of Conduct by an APS employee is made, a written record must be made of:
- (a) the suspected breach;
 - (b) the determination;
 - (c) any sanctions imposed as a result of a determination that the employee breached the Code of Conduct;
 - (d) if a statement of reasons was given to the employee - the statement of reasons.

Note: The *Archives Act 1983* and the *Privacy Act 1988* apply to a record made under this clause.