



Australian Government

Australian Fisheries Management Authority

Conduct and Ethics Policy

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1. Introduction

In working towards the Australian Fisheries Management Authority's (AFMA) goals and objectives, AFMA's employees are expected to maintain the highest standards of business and personal ethics, through our work and our behaviour towards AFMA's clients and work colleagues. AFMA's clients include the government, the parliament, the public, stakeholders such as the commercial fishing industry, researchers, environment and conservation organisations, recreational fishing and Indigenous interests, other government agencies and other AFMA staff.

As an employee of AFMA and the Australian Public Service (APS), we are individually responsible for ensuring that we implement government policies and programs impartially and effectively, provide our clients with professional, apolitical service and advice, and be openly accountable for our actions. AFMA is committed to ensuring a work environment that relies on personal integrity, quality management and the provision of a high level of service. To this end, AFMA employees will be assisted in understanding the standards and behaviours expected of them through AFMA's Conduct and Ethics Policy and a management environment that is supportive and conducive to maintaining a high performing organisation with high standards of personal behaviour.

The APS Code of Conduct and AFMA's Conduct and Ethics Policy provide Australian Public Service (APS) employees with an understanding of the standards required of them. While it is not possible to articulate every possible situation that may arise, employees must evaluate the importance of their obligations to the APS, AFMA and its clients in the light of any allegiances which might create conflicts of interest. Where there may be a conflict of interest, or if there is some uncertainty, employees should seek advice from the Senior Manager, Human Resources or the General Manager, Corporate Services Branch, General Manager, Fisheries Operations Branch or Executive Manager, Fisheries Management Branch.

It should be understood that a breach of the Code of Conduct or other AFMA policies could result in disciplinary action being taken and sanctions imposed. Any such disciplinary action taken will be in accordance with a prevailing award, workplace agreement or AFMA policies. Disciplinary action, if substantiated, could result in sanctions including termination of employment, reduction in classification, re-assignment of duties, reduction in salary, deductions from salary (by way of fine) and reprimand.

To this end AFMA has produced this Conduct and Ethics Policy which details the expected levels of behaviour required of all AFMA staff.

The APS Values, Employment Principles and the Code are not simply aspirational statements of intent. At all times, APS employees must behave in a way that upholds the Values, Employment Principles and comply with the Code as well as the integrity and good reputation of the Agency and the APS. Failure to do so may attract sanctions. Chief Executive Officers (and the Senior Executive Service) are required also to uphold the Values and Employment Principles, and promote them by personal example and other appropriate means. The Australian Public Service Commissioner is empowered to evaluate the extent to which agencies incorporate and uphold the

Values and Employment Principles and the adequacy of systems and procedures to ensure compliance with the Code.

2. The APS Values

There are 5 APS Values (ICARE):

- Impartial
- Committed
- Accountable
- Respectful
- Ethical

Impartial

The APS is apolitical and provides the Government with advice that is frank, honest, timely and based on the best available evidence

Having regard to an individual's duties and responsibilities, upholding the APS Value in subsection 10(5) of the Act requires:

- a. serving the Government of the day, providing the same standard of high quality policy advice and implementation, and the same high quality professional support, irrespective of which political party is in power and of personal political beliefs;
- b. ensuring that the individual's actions do not provide grounds for a reasonable person to question the ability of the individual to serve the Government of the day;
- c. ensuring that management and staffing decisions are made on a basis that is independent of the political party system, free from political bias and not influenced by the individual's political beliefs;
- d. understanding the needs of the Government and providing it with the best objective, non-partisan advice based on the best evidence available;
- e. providing advice that is relevant and comprehensive, is not affected by fear of consequences, and does not withhold important facts or bad news;
- f. providing advice that takes account of the context in which policy needs to be implemented, the broader policy directions set by Government and, where appropriate, implications for the longer term;
- g. implementing Government policies in a way that is free from bias, and in accordance with the law.

Committed to service

The APS is professional, objective, innovative and efficient, and works collaboratively to achieve the best results for the Australian community and the Government.

Having regard to an individual's duties and responsibilities, upholding the APS Value in subsection 10(1) of the Act requires:

- a. engaging effectively with the community and working actively to provide responsive, client-focused service delivery;

- b. providing appropriate information to clients and the community about rights and entitlements, and the process for gaining access to them;
- c. ensuring that decisions and interactions with clients are objective and impartial, and in accordance with Government policy;
- d. encouraging innovative thought and supporting innovative solutions;
- e. supporting collaboration and teamwork, both internally (within an Agency), and externally (with other agencies and the wider community);
- f. promoting continuous improvement and managing change effectively;
- g. contributing to a culture of achievement;
- h. identifying and managing areas of potential risk;
- i. supporting a unified APS that is determined to serve the Government of the day and the Australian community;
- j. pursuing and supporting training and development to improve capability;
- k. planning time and priorities to deliver intended results;
- l. being responsive to Ministers (taking account of resource and time constraints), including being knowledgeable about the Government's policies and understanding the relevant issues and options, the Government's objectives and the environment in which it operates.

Accountable

The APS is open and accountable to the Australian community under the law and within the framework of Ministerial responsibility.

Having regard to an individual's duties and responsibilities, upholding the APS Value in subsection 10(4) of the Act requires:

- a. being answerable to Ministers for the exercise of delegated authority, and, through them, to Parliament;
- b. being open to scrutiny and being transparent in decision making;
- c. being able to demonstrate that actions and decisions have been made with appropriate consideration;
- d. being able to explain actions and decisions to the people affected by them;
- e. being accountable for actions and decisions through statutory and administrative reporting systems;
- f. being able to demonstrate clearly that resources have been used efficiently, effectively, economically and ethically;
- g. being answerable for individual performance through performance management systems.

Respectful

The APS respects all people, including their rights and their heritage.

Having regard to an individual's duties and responsibilities, upholding the APS Value in subsection 10(3) of the Act requires:

- a. treating all people with dignity and recognising that all people have value;
- b. dealing with all people honestly and with integrity;
- c. recognising the importance of human rights and understanding Australia's human rights obligations;
- d. recognising and fostering diversity;

- e. collaborating and being open to ideas in policy development, implementation, program management and regulation;
- f. complying with all relevant anti-discrimination laws.

Ethical

The APS demonstrates leadership, is trustworthy, and acts with integrity, in all that it does.

Having regard to an individual's duties and responsibilities, upholding the APS Value in subsection 10(2) of the Act requires:

- a. acting in a way that models and promotes the highest standard of ethical behaviour;
- b. following through on commitments made;
- c. having the courage to address difficult issues;
- d. complying with all relevant laws, appropriate professional standards and the APS Code of Conduct;
- e. acting in a way that is right and proper, as well as technically and legally correct or preferable;
- f. reporting and addressing misconduct and other unacceptable behaviour by public servants in a fair, timely and effective way;
- g. supporting the strategic objectives of the Agency;
- h. providing leadership in policy development, implementation, program management and regulation;
- i. taking account of whole of government issues and concerns in developing and implementing policies and programs;
- j. supporting systems that give APS employees appropriate opportunities to develop and demonstrate leadership qualities.

The APS Employment Principles

Subsection 10A of the Public Service Act 1999 outlines the APS Employment Principles. The Employment Principles are binding and are the basis for employment decisions in the APS.

The APS is a career-based public service that:

- a. Makes fair employment decisions with a fair system of review; and
- b. recognises that the usual basis for engagement is as an ongoing
- c. APS employee; and
- d. makes decisions relating to engagement and promotion that are based on merit; and
- e. requires effective performance from each employee; and
- f. provides flexible, safe and rewarding workplaces where communication, consultation, cooperation and input from employees on matters that affect their workplaces are valued; and
- g. provides workplaces that are free from discrimination, patronage and favouritism; and
- h. recognises the diversity of the Australian community and fosters diversity in the workplace.

3. The Code of Conduct

The Code of Conduct requires that an APS employee must:

1. behave honestly and with integrity in connection with APS employment;
2. act with care and diligence in connection with APS employment;
3. when acting in connection with APS employment, treat everyone with respect and courtesy, and without harassment;
4. when acting in connection with APS employment, comply with all applicable Australian laws;
5. comply with any lawful and reasonable direction given by someone in the employee's Agency who has authority to give the direction;
6. maintain appropriate confidentiality about dealings that the employee has with any Minister or Minister's member of staff;
7. disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with APS employment;
8. use Commonwealth resources in a proper manner;
9. not provide false or misleading information in response to a request for information that is made for official purposes in connection with the employee's APS employment;
10. not make improper use of:
 - a. inside information, or
 - b. the employee's duties, status, power or authority; in order to gain, or seek to gain, a benefit or advantage for the employee or for any other person;
11. at all times behave in a way that upholds:
 - a. the APS Values and APS Employment Principles; and
 - b. the integrity and good reputation of the employee's Agency and the APS.
12. on duty overseas must at all times behave in a way that upholds the good reputation of Australia.
13. comply with any other conduct requirement that is prescribed by the regulations.

4. Application of the Code of Conduct

An investigation of a possible breach in the Code of Conduct can be taken in relation to current APS employees.

An investigation of a possible breach in the Code of Conduct can also be taken in relation to APS employees who may have, before engagement, provided false or misleading information, failed to provide relevant information or otherwise failed to act with honesty or integrity in connection with their engagement.

A determination of a breach of a Code of Conduct may be made after an employee separates from the APS however sanctions may not be imposed on former employees.

Chief Executive Officers are bound by the Code of Conduct in the same way as APS employees and have an additional duty to promote the APS Values and Employment Principles.

5. Personal Behaviour

Employees must comply with all applicable Australian laws, including:

Public Service Act 1999

Public Service Regulations 1999

Australian Public Service Commissioner's Directions 2013

Criminal Code Act 1995

Crimes Act 1914

Financial Management Act 1997

Fisheries Management Act 1991

Privacy Act 1988

Public Interest Disclosure Act 2013

Workplace Relations Act 1996

Workplace Health and Safety Act 2011

and other employment and administrative legislation.

All staff have the normal rights of employees under common law, such as antidiscrimination, equal employment opportunity and workplace health and safety legislation. The conduct of staff is also subject to the requirements and sanctions specified in relevant legislation.

6. Professional Behaviour

Staff must perform all duties associated with their positions diligently, impartially, conscientiously, in a respectful and courteous manner towards others and to the best of their ability.

In the performance of their duties staff should, at all times:

- act in such a way, at work, in the field, overseas, outside work hours and at official functions that the Authority will be held in high regard by the community and by industry.
- treat members of the public and other employees with courtesy and with acknowledgement of their rights.
- keep up to date with advances and changes in their area of expertise.
- comply with relevant legislative, industrial and administrative requirements.
- maintain adequate documentation to support decisions.
- strive to obtain value for AFMA money spent and avoid waste and extravagance in the use of the Authority's resources.
- not take, or seek to take, improper advantage of official information gained in the course of employment.

Staff representing AFMA are expected to act in a professional and ethical manner that does not bring AFMA into disrepute. Staff socialising at official and semi-official functions, including after-hours events, with stakeholders are still representing AFMA and are required to act in a professional manner that does not bring AFMA into disrepute. This also applies to behaviour outside work hours and away from the conventional workplace including work-related travel or training. Staff also need to

ensure they remember the Code of Conduct when posting comments about their workplace (AFMA), the APS or colleagues on social media forums.

While wearing official AFMA clothing, both during and outside of working hours, staff are considered to be representing AFMA and are required to act responsibly and in a professional manner.

Staff must exercise all reasonable care, skill and diligence in giving information or advice. Any information or advice must be as accurate and complete as possible, to the best of the employee's ability. Ideally, staff will utilise their expertise to anticipate and meet client requirements. Where they cannot provide the required service personally, they will seek out the necessary expertise and advise the client accordingly.

7. Fairness and Equity

Staff must treat members of the public and other staff equitably. Staff should deal with all matters in accordance with approved procedures, promptly and without discrimination. There is an obligation to treat every issue reasonably and fairly and with a view to meeting the principles of natural justice.

In undertaking official duties, particularly as a supervisor or manager, all staff have an obligation to be aware of the specific responsibilities placed upon them by AFMA's own Equal Employment Opportunity (EEO) policies and by administrative and employment legislation. Staff are not permitted to discriminate against, harass or bully any colleague, client or member of the public, particularly on the basis of:

- race
- religion
- gender
- political or union affiliation
- sexual preference
- political opinion
- marital status
- pregnancy
- social origin
- criminal record
- age
- physical, intellectual or mental disability or impairment.

AFMA will not tolerate behaviour which is shown to be discriminatory, or which constitutes harassment or bullying.

8. Workplace Health and Safety

Staff should be aware of the implications and responsibilities placed on them by Commonwealth Workplace Health and Safety (WH&S) legislation and AFMA policies. These are explained in greater detail in AFMA's Health and Safety Management Arrangements and specific policies and guidelines including the Drug

and Alcohol Policy, Safe Driving Policy, Sea Safety Policy, Smoke Free Work Environment Policy, Sun Protection Policy and other AFMA policies and guidelines.

All staff whether supervisors, managers or individual employees, must take all reasonable practical steps to provide and maintain a safe and healthy work environment, particularly with:

- the provision of information, instruction and training in safe working procedures;
- reporting all dangerous incidents, hazards or near incidents to Human Resources; and
- adherence to safe working practices detailed in AFMA's WH&S Policies.

In addition the Authority is responsible for:

- the monitoring of employees' workplace conditions;
- taking prompt action to address unsafe working conditions;
- keeping appropriate records; and
- providing access to adequate medical, first aid and counselling services.

9. Conflict of Interest

Employees should avoid private financial or other interests or undertakings that could directly or indirectly compromise or conflict with the performance of their duties. This applies whether it is a real conflict of interest or a perceived one, direct or indirect.

In many cases, only the individual person will be aware of the potential for conflict. The onus is therefore on individuals to notify senior staff if a potential or actual conflict of interest arises so that appropriate action may be taken. If the employee is in any doubt that it constitutes a conflict of interest they should consult with the Senior Manager, Human Resources or the Branch General Manager or General Manager Corporate Services Branch.

10. Declaration of Shares (financial) and other interests

In order to avoid all perceptions of conflicts of interest, AFMA requires that all shares (financial) and interest in fisheries companies whether they operate in State, Commonwealth or Territory areas must be declared.

11. Acceptance of Gifts or Benefits

Employees must not accept a gift or benefit if it could be perceived by the public, knowing the full facts, as intended or likely to cause individuals to undertake or influence their work in a particular way, or deviate from the proper course of duty. Any gifts or benefits which have a value less than \$50 must be declared to the Senior Manager, Human Resources who will make a decision on their acceptance or disposal.

Any gifts or benefits which have a value greater than \$50 or where there is an identified issue must be declared to the Chief Executive Officer who will make a decision on their acceptance or disposal.

12. Public Comment

Public comment includes public speaking engagements, comments on radio and television and expressing views in letters to newspapers or in books, journals or notices or where it might be expected that the publication or circulation of the comment would spread to the community at large.

Whilst employees, as members of the community, have the right to make public comment and to enter into public debate on political and social issues, there are some circumstances in which public comment is inappropriate. These circumstances would be where there is an implication that the public comment, although made in a private capacity, is in some way an official comment of the Authority or the Government. Employees should avoid making private statements about matters relating to AFMA unless it is made clear that the employee is speaking as a private citizen.

13. Use of Official Information

Employees can disclose official information, which is normally given to members of the public. Employees should only disclose other official information or documents acquired in the connection with employment when required to do so by law in the course of duty, when called to give evidence in court, or when prior approval has been given by the Chief Executive Officer. Unauthorised disclosure of official information is an offence under Section 70 of the *Crimes Act 1914* (which applies to both current and former employees) and contravenes Public Service Regulation 2.1 (which has application while an APS employee).

Employees are also responsible for classified information within their possession or control. All appropriate safeguards and care must be taken to ensure that unauthorised access or distribution is not permitted. As appropriate to their clearance level, employees must be aware of the relevant safeguards and procedures for the handling and storage of classified material required under various provisions of the *Privacy Act 1988*.

For further instructions regarding the use of official information please refer to AFMA's Chief Executive Instruction – Disclosure of Information, Chief Executive's Instructions, AFMA's Security Policy and AFMA's Security Instructions.

14. Political Participation

Employees have the right to engage in political activity so long as this activity does not take place during normal working hours and AFMA policy is not violated or compromised.

Participation in political matters should not bring employees into conflict with their duties with the Authority and if such a conflict does arise, the employee may have to either cease political activity or withdraw from areas of duty where the conflict of interest arises.

15. Outside Employment

The prior approval of the Chief Executive Officer is required before an employee of the Authority may engage in any form of paid employment outside their official duties. The request to undertake paid work outside of official duties must be provided to the Senior Manager, Human Resources for consideration prior to being sent to the CEO for approval.

In all cases when outside employment is considered, employees should give their AFMA employment first consideration. No work for financial gain should be undertaken if it conflicts with the purposes of the Authority, could raise doubts over an employee's professional integrity, could give rise to a situation of conflict of interest or impinges on the ability of an employee to carry out their AFMA work.

16. Acceptance of Business Appointment on Retirement or Resignation

AFMA employees resigning or retiring to take up business appointments should give consideration to possible conflicts of interest that may arise. Circumstances where sensitivities or improprieties may arise are:

- the use of confidential information gained by virtue of a former employee's position at AFMA;
- the use of AFMA contacts or personal influence by a former employee to secure preferential treatment for a new employer; or
- actions or decisions on the part of an employee taken while still employed by AFMA, which may be construed as having been intended to give preferential treatment to a company in anticipation of the employee receiving an offer of employment in the future.

Where an offer of employment could give rise to an actual or perceived conflict of interest, the employee should apply to the Chief Executive Officer for assent to take up the proposed employment. The application should state any relationship that exists between any of the employee's duties over the preceding two years and the proposed future employment, and should also include a statement describing any possible conflicts of interest perceived by the employee.

If a conflict of interest is identified the Chief Executive Officer may:

- obtain an undertaking from the employee regarding the use of information gained in his/her employment at AFMA; or
- impose conditions regarding the nature of contacts with AFMA.

17. Sponsored Travel

As a general principle AFMA should meet all expenses associated with work undertaken on its behalf by its officials and employees.

The overriding factor in accepting sponsored travel is that there should be no possibility of a conflict of interests arising, or appearing to arise, from the acceptance of that sponsorship. Instances where sponsored travel may be appropriate are where:

- The employee is to provide a specific service to an organisation and cost recovery is appropriate;
- The employee has been seconded or lent to another organisation;
- The employee has been invited to attend an international official agency or international seminar or the like;
- It is in the commercial interest of AFMA that an employee travels under a sponsored arrangement.

It is not appropriate that AFMA staff solicit sponsored travel under any circumstances. Sponsored travel is not made acceptable by being undertaken during a period of leave. Any travel which is considered to be of a sponsored nature is to be approved by the Chief Executive Officer.

18. Use of Official Facilities and Equipment

It is expected that staff will be:

- efficient and economical in the use and management of AFMA resources.
- scrupulous in their use of AFMA property and services and not permit their abuse by others.

AFMA facilities and equipment may only be used for private purposes when official permission has been given.

AFMA's Information and Communication Technology (ICT) systems must be properly and efficiently used. AFMA's ICT systems are not to be used for inappropriate activities for example accessing pornography, fraud, defamation, breach of copyright, unlawful discrimination or vilification, sexual harassment, stalking, illegal activity or privacy violations, hacking, unlawful browsing, running a business.

19. Use of Computing Facilities Supplied by AFMA

AFMA provides computer facilities to staff to assist in the performance of their duties and staff should follow all directions issued by the Corporate Services Branch regarding the usage of these facilities. These facilities are provided for official use and while it is accepted that there will be some personal use of the facilities by AFMA personnel, this should in no way take a form which is contrary to any provision of this Code of Conduct. In particular staff should ensure that they:

- never disclose their user id or password or provide access to any party inside or outside of AFMA;
- never disclose classified or sensitive data to any unauthorised personnel;
- never install any computer software on any AFMA computer without the approval of the Corporate Services Branch;
- never use AFMA computing facilities in such a way that would bring AFMA into disrepute or expose the Authority to legal prosecution;
- never use AFMA computing facilities for criminal or illegal purposes; and
- never use AFMA computer facilities for carrying out tasks related to employment outside the Authority.

Staff should be particularly careful regarding their use of electronic mail and internet access. Consideration should be given to the appropriateness of material accessed or transmitted using these mediums particularly its ability to offend others and its possible illegality. “Curiosity” is not a defence and failure to comply with these guidelines may result in criminal action. AFMA reserves the right to monitor all web browsing activity, deny access to particular sites and modify data retrieved from web sites. All email and other forms of electronic communication are deemed to be officially the property of AFMA and it not considered private usage by an employee.

The use of electronic social network facilities (Facebook, YouTube, internet chat rooms etc.) cannot be accessed on AFMA electronic equipment including an employee’s personal computer. These sites can be accessed from the stand alone computers provided at AFMA, which are not connected to the network. Unless specifically authorised, any public comment made by an AFMA staff member is unofficial – that is, it is a personal comment representing the views of the individual only. Please refer to AFMA’s *Guidance for personal use of social media* for further direction on your responsibilities when using social media as a public service employee. It is also inappropriate to represent AFMA on such sites and AFMA’s logo must not be used on such sites unless authorised.

Any equipment provided by AFMA and made available to an employee should be treated securely and with all due care. Loss, theft or damage of loan equipment should be reported to the relevant authorities and to the Corporate Services Branch as soon as possible.

Computer activity may be monitored by staff of the Corporate Services Branch for purposes of maintaining system performance and security. In instances when individuals are suspected of abuse of computer usage, the contents of user files may also be inspected upon the approval of the Chief Executive Officer, or their delegate. Any infringements of the above guidelines by a member of staff may result in disciplinary action which could include loss of access to computer facilities, particularly internet or electronic mail. Serious breaches may result in suspension or dismissal. Criminal activity will be referred to the police.

20. Detection of Fraud

Fraud means any activity by which a person dishonestly obtains a benefit by deception or other means. In relation to AFMA, 'fraud' includes dishonestly obtaining a benefit from AFMA or the Commonwealth, by an act or misrepresentation, where the person who receives the benefit was not entitled to it. Examples of fraud include theft, obtaining money or property by lying, bribing an official or unlawful use of public property or money. These are examples only and are not meant to be a complete list of the sorts of things that are fraud.

AFMA has a Fraud Control Plan, which is updated every two years. It is the responsibility of all AFMA managers and staff to adopt working practices that minimise the risk of fraud and enhance the likelihood of detecting any fraud that does occur.

If an employee becomes aware of working practices that leave the agency open to fraudulent activity, he/she has a responsibility to bring those instances to the attention of management in a formal way.

Any employee who has a reasonable suspicion that fraud is occurring within the Authority has an obligation to report the matter as provided for within the AFMA document titled *Making a Public Interest Disclosure (available on the Intranet)*. The matter may also be reported to the Public Service Commissioner or the Merit Protection Commissioner. Failure to report suspicious activities or circumstances may be seen as compounding or assisting fraud and therefore could constitute improper conduct.

AFMA's Chief Executive Instruction (CEI) (8.1 Fraud Prevention and Control) provides details regarding fraud control and the process in reporting suspected breaches. The CEI is available on AFMA's intranet.

21. Reporting Breaches of the Code of Conduct

All AFMA employees are responsible for acting appropriately in response to any illegal behaviour or behaviour by another employee outside the spirit of this Code.

The *Public Interest Disclosure Act 2013* (PID Act) establishes a legal framework for "public interest whistleblowing" in which allegations that the APS Code of Conduct has been breached can be raised without victimisation or discrimination occurring against the person reporting the breach. Any victimisation or discrimination against an employee who reports matters under AFMA's Procedures for Reporting Breaches of the APS Code of Conduct, or reports other matters under the PID Act, is to be treated as a breach of the Code of Conduct. In addition, it is an offence under the PID Act to take, or threaten to take, a reprisal against an employee who discloses suspected breaches of the Code of Conduct.

All matters of suspected breaches of the Code of Conduct are to be reported under the terms of the AFMA's Procedures for Reporting Breaches of the APS Code of Conduct and can be to the AFMA Authorised Officer. An AFMA Authorised Officer is a person appointed by the Chief Executive Officer to receive disclosures under the PID Act. Guidance on making a public interest disclosure involving a suspected breach of the Code of Conduct is available in the AFMA document titled *Making a Public Interest Disclosure (available on the Intranet)*.

Disclosures of suspected breaches of the Code of Conduct may be made to authorised officer of the employee's former agency if the conduct relates to that agency. Disclosures of suspected breaches of the Code of Conduct may also be made to the Public Service Commissioner, the Merit Protection Commissioner, the Commonwealth Ombudsman or the authorised officers of those agencies. It should be noted that these other agencies have the discretion to refer the disclosure back to AFMA for investigation if they are not satisfied that it would be inappropriate for the disclosure to be made to the Chief Executive Officer of AFMA.

Where an employee does not wish to disclose their identity, they can make an anonymous disclosure and this disclosure will be investigated in accordance with the provisions of the PID Act and the Public Service Act.

The identity of the person who initially makes a disclosure of a suspected breach of the Code of Conduct must be kept confidential as far as the law allows. The employee making the disclosure will be advised by the authorised officer receiving the disclosure of the process that will be followed. An employee making a disclosure is encouraged to report to the authorised officer any behaviours that they regard as threatening or retaliatory.

Staff who make allegations without malice and with reasonable belief that a case of misconduct or non-compliance with policy exists, will not be disadvantaged or discriminated against in any way. The PID Act, the *Workplace Relations Act 1996* and the *Workplace Health and Safety Act 2011* each contain provisions safeguarding employment in this context. The identity of a person making allegations is also classified as ‘personal information’ for the purposes of the *Privacy Act 1988* and therefore disclosure of their identity without consent is only permitted under certain prescribed circumstances e.g. ‘for the enforcement of criminal law’.

On the other hand, where staff make vexatious, frivolous or misconceived substance allegations without having reason to believe that they are true, they will not be supported by AFMA if legal proceedings are initiated against them as a result.

The type of matters that would normally be reported includes:

- breaches of the Code of Conduct;
- fraud or other criminal behaviour;
- waste, misuse or mismanagement of an Authority’s resources; and
- practices resulting in danger to public health or safety.

Disclosures which amount to complaints against government or AFMA policy, or complaints or grievances seeking review of an administrative decision, would not normally be dealt with under these provisions.

22. Investigation of breaches of the Code of Conduct

Investigations of suspected breaches of the Code of Conduct are dealt with through the AFMA Procedures for Determining whether an Employee has breached the APS Code of Conduct. The AFMA practitioner guidelines provide detailed information regarding the handling of suspected breach of the Code matters.

23. Reference Legislation

- *Public Interest Disclosure Act 2013*
- *Public Service Act 1999*
- *Public Service Regulations 2013*
- Australian Public Service Commissioner’s Directions 2013
- *Crimes Act 1914*
- *Financial Management Act 1997*
- *Workplace Relations Act 1996*
- *Workplace Health and Safety Act 2011*
- *Privacy Act 1988*

24. Related Documents

- AFMA's Procedures for reporting breaches of APS Code of Conduct
- AFMA's Procedures for determining whether an employee has breached the APS Code of Conduct
- AFMA's Guidance for personal use of social media
- AFMA's Fraud Control Plan

25. Definitions

AFMA - Australian Fisheries Management Authority

APS - Australian Public Service

Chief Executive Officer - AFMA Agency Head

Delegate - The employee to whom the Chief Executive Officer has formally delegated this function

General Manager - Head of a Branch in AFMA

Executive Manager - Head of a Branch in AFMA

Employee - Staff engaged at AFMA under the *Public Service Act 1999*

Merit Protection Commissioner - A statutory officer holder whose key role is to help agencies meet the requirements of the APS Values and Conduct by providing independent external review of actions affecting individual APS employees.

Australian Public Service Commissioner - A statutory officer holder who plays an important central role within the APS promoting the APS Values, evaluating performance and compliance, and helping to build the capability of the Service.