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12. WORKPLACE MANAGEMENT

This section applies to all LES engaged by a DFAT-managed post (including partner agency staff) and should be read in conjunction with the DFAT Conduct and Ethics Manual.

Staff should contact the Employee Conduct and Ethics Unit (EES) for policy clarification and guidance, or to seek advice about the ethical implications of a proposed course of action.

EES can be contacted via email at: s 22(1)(a)(ii) @dfat.gov.au or telephone s 22(1)(a)(ii)

12.1 LES CODE OF CONDUCT

Manager alert:
The LES Code of Conduct forms part of the LES Terms and Conditions of employment (T&C) and must be signed by all LES upon commencement.

The LES Code of Conduct is issued under the authority of the HOM/HOP at each post and may vary between locations according to local laws and customs. The standard LES Code of Conduct is outlined in the DFAT Conduct and Ethics Manual and is based on the principles contained in the APS Code of Conduct and the DFAT Code of Conduct for Overseas Service.

LES must maintain conduct consistent with the LES Code of Conduct as a condition of employment and all LES must sign the LES Code of Conduct upon commencement acknowledging they understand the document and will abide by its contents. Post management must ensure that signed copies of the LES Code of Conduct are retained on individual personnel files.

LES are also required to review the LES Code of Conduct regularly and ensure all mandatory training is completed on an annual basis. Specific policies surrounding conflicts of interest, outside employment, acceptable use of official information and resources, acceptance of gifts and benefits are outlined in the LES Code of Conduct and all staff and supervisors must be familiar with these requirements.

See also: Chapter 3 and Chapter 4 of the DFAT Conduct and Ethics Manual.

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Conflicts of interest

Any LES who consider that they might be in a position of actual or apparent conflict of interest should disclose the matter to their supervisor or the Agency Head. This requirement is an important safeguard for both the Post and our employees. Staff should contact the Employee Conduct and Ethics Unit via email at: s 22(1)(a)(ii) @dfat.gov.au if they are uncertain about any potential conflict of interest.

See also: Chapter 5 of the DFAT Conduct and Ethics Manual.

Form A – Disclosure of Private, Financial and Other Interests

Outside employment

In accordance with the LES Code of Conduct, LES must seek and obtain the permission of the HOM/HOP before engaging in outside employment. The HOM/HOP may not grant permission to engage in outside employment which is incompatible with the employee's duties on behalf of the post.

Factors to consider include any apparent or perceived conflicts of interest, the number of hours to be worked, the frequency of the proposed employment and any additional risk to health and/or possible injury to the LES. LES should be aware that the post, as the primary employer, has first call on their availability to perform work and staff must ensure they meet this obligation.

Outside employment includes paid employment, such as running a business, maintaining a professional practice, being a director of a company or acting as a tax agent. It also includes unpaid (voluntary) work.

LES must inform post management if the nature or circumstances of any approved outside employment changes, or if their official duties change, which could result in a conflict of interest or adversely affect the performance of their official duties.

See also: Chapter 3 of the DFAT Conduct and Ethics Manual.

Form B – Permission to Engage in Outside Employment

Appropriate use of official information and resources

In accordance with the LES Code of Conduct, employees must maintain appropriate confidentiality including about information obtained during the course of his or her employment. Employees must not misuse information obtained in connection with his or her duties and must use the resources of the post in a proper manner.

See also: Chapter 7 and Chapter 8 of the DFAT Conduct and Ethics Manual.

Gifts, benefits, hospitality, sponsored travel and sponsorship

The department's policy on accepting and declaring gifts, benefits, hospitality, sponsored travel and sponsorship is outlined in Chapter 6 of the DFAT Conduct and Ethics Manual.

See also: Form C – Gift/Benefit/Hospitality/Sponsored Travel Report

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3 Conduct

3.1 *Code of Conduct*

The Embassy is committed to the highest levels of probity and integrity in all its official and business dealings.

All employees must abide by the LES Code of Conduct as outlined in Chapter 3 of the DFAT Conduct and Ethics Manual, which shall be deemed to be incorporated into these Terms and Conditions. The Code of Conduct outlines the standard of behaviour and performance that is expected from all employees, and may change from time to time. Employees are to read and sign an acknowledgement that they accept the conditions under the Code of Conduct.

Where there is a suspected breach of the Code of Conduct, the matter will be dealt with by the relevant Agency Head in the first instance, working closely with Post Management. Alleged misconduct will be investigated promptly and fairly in accordance with steps outlined in Chapter 11 of the Conduct and Ethics Manual. An employee who is found to have breached the Code of Conduct will be subject to disciplinary action, including possible dismissal.

3.2 *Conflict of Interest*

As provided for in the Code of Conduct, all employees are expected to comply with the requirement for financial certification and disclosure, including the reporting of full and accurate information where required. This may also entail obtaining the cooperation of immediate family members.

All employees are required to sign a Conflict of Interest declaration at the start of their employment. Failure to comply with this undertaking could result in disciplinary action including termination of the employee's service.

Any employee who considers that they might be in a position of actual or apparent conflict of interest should disclose the matter to their supervisor or their Agency Head. This requirement is an important safeguard both for the Embassy and its employees.

Employees who leave the Embassy will not be eligible, for a period of nine months, to participate in competitive tenders in which their previous employment could provide a real or perceived advantage in the selection process.

3.3 *Unauthorised Absence from Duty*

Employees unable to attend work on any given day are to advise their supervisor as early as possible on the day (no later than 10:00hrs). If an employee is unable to make contact themselves, they must ask a family member or friend to contact the Embassy on their behalf. If an employee is unable to contact their supervisor they must contact a colleague within their section or an A-based manager.

Where an employee is absent from work without approval, all pay and other benefits provided under these Terms and Conditions will cease to be available until the employee resumes work or is granted leave. Periods of unauthorised absence do not count as service for any purpose under these Terms and Conditions. The relevant Agency Head will determine when a period of unauthorised absence commences.

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After two written warnings, a third unauthorised absence will be referred to the relevant Agency Head or their delegate who will determine the appropriate action to be taken, which may include termination of employment. In cases where there has been continuous unauthorised absence from the workplace for five consecutive days, without valid excuse, and the employer has given at least two written demands for the employee to attend work, and the employee ignores these demands, the employee may be deemed to have resigned from their employment with the Embassy.

3.4 *Attendance at Official Functions*

Attendance at official functions and meetings, including in overseas locations, is considered to form part of an employee's duties and, as such, expectations of behaviour and appearance are the same as those expected at the Embassy.

3.5 *Accepting Gifts, Money or Commissions*

An employee must not directly or indirectly solicit or accept gifts, money or commissions from any person or organisation concerned with or seeking to be concerned, directly or indirectly, with any matter relating to the official business of the relevant Agency. No gifts may be accepted without the written permission of the HOM / SAO or the relevant Agency Head. Agencies may have differing guidelines covering the acceptance of gifts which will be advised to employees on commencement of duty.

3.6 *Smoking in the Workplace*

In recognition of the increasing evidence of the adverse health effects of smoking, the Australian Government has instituted a ban on smoking in all its offices both in Australia and overseas. As a result of the ban, the Embassy is designated a smoke-free environment and smoking is prohibited. Smoking in official vehicles, chancery and other official buildings or in any area where the general public can observe employees is also prohibited.

3.7 *Complaints or Grievances*

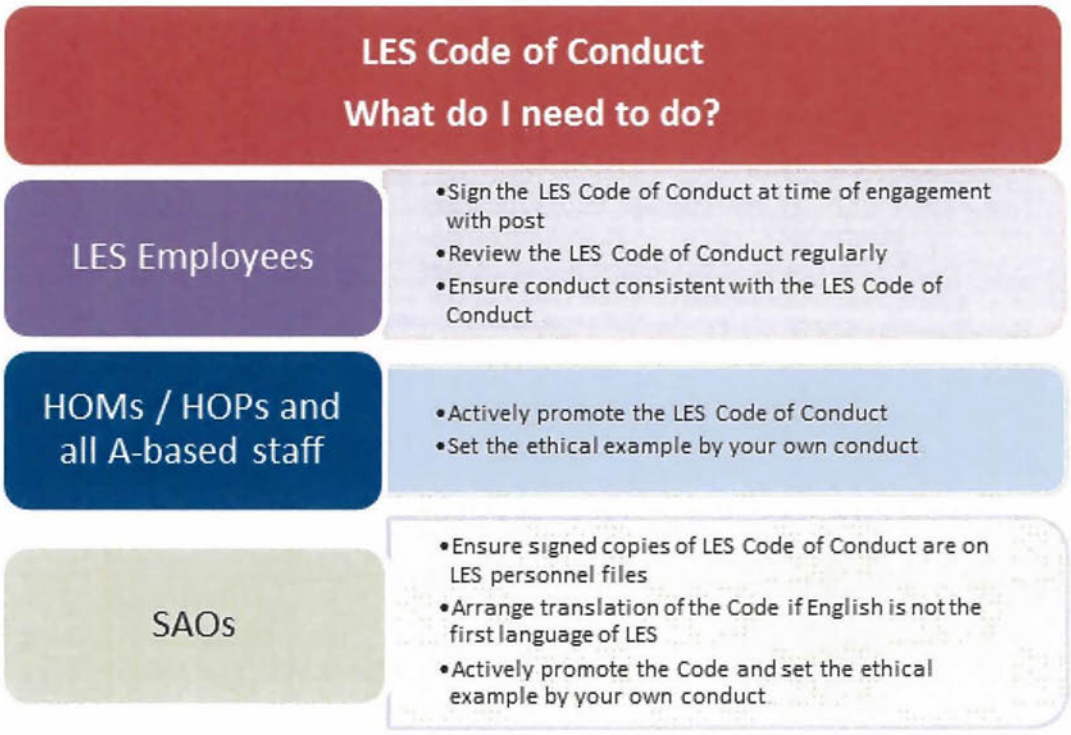
An effective workplace requires that all staff work together in a collegial manner, each group respecting the others' skills, expertise and experience and treating each other in a professional manner. Given the widely varying cultural contexts in which the Embassy operates, complaints and differences can arise, often simply as the result of misunderstandings through language differences or unintended disrespect of different cultures.

It is incumbent on all employees to ensure that complaints or grievances are raised and addressed at an early stage, and not left to develop in a way that is detrimental to the employee and/or the efficient operation of the Embassy. In all circumstances, the principles of natural justice should be a key consideration in resolving complaints or grievances.

Procedures to manage complaints and grievances at post are outlined in the LES Management Better Practice Guide.

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Locally Engaged Staff Code of Conduct



About the LES Code of Conduct

3 4 1 An Australian Embassy, High Commission, Consulate or Business Office is the official representative office of the Australian Government Australian principles and standards of conduct apply in that workplace The department expects LES to observe the same high standard of conduct, honesty and integrity as that required of APS employees The key underlying principles of such conduct are

- to act in accordance with the local law and applicable Australian law,
- to deal equitably, honestly and in a professional manner with both the public and colleagues;
- to ensure there is no real or apparent conflict of interest, and
- to ensure professional or personal behaviour does not bring the Embassy, High Commission, Consulate, Business Office or Australia into disrepute

The LES Code of Conduct at each DFAT-managed post is an expression of these principles.

3.4 2 The LES Code of Conduct at each DFAT-managed post applies to all LES employed by DFAT The department is the employer of all LES at DFAT-managed posts, except for Austrade LES Austrade has developed its own LES code of conduct, which is similar to DFAT's LES Code of Conduct

3 4 3 The LES Code of Conduct is issued under the authority of HOM / HOP Each post may vary its LES Code of Conduct according to local laws and customs This allows posts to take into account variations in the legal and cultural context in which they operate while still

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maintaining the high standards of conduct and ethics that are expected from all staff in the department The standard elements of the LES Code of Conduct are set out in section 3 4 10 of this Manual The standard LES Code of Conduct is based on the principles contained in the APS Code of Conduct and the DFAT Code of Conduct for Overseas Service LES may be assured that the same standards apply to both groups of employees The LES Code of Conduct operates in conjunction with, and does not override or supersede, any agency-specific guidelines

3 4 4 The LES Code of Conduct forms part of the conditions of employment of LES LES employed by DFAT must read the LES Code of Conduct in place at their post and sign it on engagement with the post This is to acknowledge that they have read and understood the LES Code of Conduct, and will abide by its contents It may therefore be appropriate to have the LES Code of Conduct translated into the LES' native language where English is not the first language SAOs must ensure that signed copies of the LES Code of Conduct are retained on posts' personnel files

3 4 5 LES must maintain conduct consistent with the LES Code of Conduct as a condition of employment and should review the LES Code of Conduct regularly

3 4 6 Adherence to the LES Code of Conduct should be reinforced through the use of the standard management tools of communication, feedback and regular performance appraisal Information on the core principles that form the basis of LES conditions of employment are found in Locally Engaged Staff Human Resources Manual

3 4 7 Interns and volunteers engaged by posts are also required to abide by the LES Code of Conduct in place at post SAOs should ensure that they are provided a copy of the post's LES Code of Conduct when they begin their internships or volunteer work with post Further advice on interns is found in Chapter 3 3 13 and Attachment I of Locally Engaged Staff Human Resources Manual

3 4 8 Spouses/partners of APS employees on posting who are employed as LES (including those who are themselves APS employees on leave without pay) must comply with the LES Code of Conduct in place at their post However, this does not absolve such LES employees from the responsibility of complying with the relevant sections of the DFAT Code of Conduct for Overseas Service (so far as it applies to them as spouses/partners or as APS employees on leave without pay) or from complying with the APS Values and Employment Principles and the APS Code of Conduct (so far as they apply to them as APS employees)

3 4 9 HOMs/HOPs and SAOs have an important responsibility to promote the LES Code of Conduct and to set the ethical example by their own conduct

The Standard LES Code of Conduct

3 4 10 The standard LES Code of Conduct is as follows

1 An employee must at all times behave in a way that upholds the integrity and good reputation of the Embassy, High Commission, Consulate or Business Office

2 An employee's personal behaviour, including his or her behaviour outside office hours, must not compromise the good reputation of Australia or the post

3 An employee's dress and appearance should be in accordance with standards appropriate to his or her duties

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4. An employee should not be under the influence of alcohol, drugs or other prohibited or performance impairing substances in the workplace.

5. An employee must behave honestly and with integrity in connection with his or her employment with the Embassy, High Commission, Consulate or Business Office.

6. An employee must not use his or her official position to influence improperly or try to influence colleagues or members of the public by giving or receiving gifts or by entering into financial or other arrangements with them.

7. An employee must act with care and diligence in connection with his or her employment with the Embassy, High Commission, Consulate or Business Office.

8. In his or her duties an employee must:

   - be fair and impartial;
   - give persons likely to be affected by a decision an opportunity to have their case considered;
   - be prompt;
   - explain the reasons for action/decisions; and
   - at all times act according to local law and applicable Australian law.

9. An employee, when acting in connection with his or her employment with the Embassy, High Commission, Consulate or Business Office, must treat members of the public and colleagues with respect and courtesy, and without coercion or harassment of any kind.

10. An employee must:

    - treat members of the public and colleagues equitably and fairly, regardless of their sex, marital status, ethnicity, age, sexual orientation, disability or religious beliefs or any other similar ground;
    - be professional and courteous at all times; and
    - provide assistance to the public and to help them understand their entitlements and obligations.

11. An employee must comply with any lawful and reasonable direction given by a person in Embassy, High Commission, Consulate or Business Office who has the authority to give the direction.

12. Employees are at all times subject to the authority of the HOM/HOP and the staff member in charge of the section in which they are employed.

13. The relevant A-based or LES supervisor has the primary responsibility for ensuring that the required standards of conduct and work performance are met and maintained by LES.

14. An employee must maintain appropriate confidentiality including about information obtained during the course of his or her employment.

15. An employee must not disclose official information to any person unless authorised to do so in connection with his or her duties.

16. An employee must not misuse information obtained in connection with his or her duties, including taking advantage of another person on the basis of information held about the person in official records.

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17. An employee must disclose, and take reasonable steps to avoid, any conflict of interest, either real or apparent, in connection with his or her employment in the Embassy, High Commission, Consulate or Business Office, including in relation to any outside employment and/or business activities.

18. An employee must seek and obtain the permission of the HOM/HOP before engaging in outside employment.

19. The HOM/HOP may not grant permission to engage in outside employment which is incompatible with the employee's duties on behalf of the Embassy, High Commission, Consulate or Business Office.

20. An employee who has an interest, financial or otherwise, including in respect of family and friends, that could conflict with the proper performance of his or her duties must disclose this interest to his or her supervisor and take whatever action is necessary to avoid that conflict.

21. An employee must use the resources of the Embassy, High Commission, Consulate or Business Office in a proper manner.

22. An employee must be scrupulous in the use of official money, human and other resources.

23. An employee is required to avoid waste or extravagance in the use of the Embassy, High Commission, Consulate or Business Office's resources.

24. An employee has a responsibility to care for and maintain Embassy, High Commission, Consulate or Business Office property.

25. The property of the Embassy, High Commission, Consulate or Business Office is to be used for official purposes only, and is to be used efficiently and effectively.

26. An employee must not, in connection with his or her employment in the Embassy, High Commission, Consulate or Business Office, provide false or misleading information in response to a request for information that is made for official purposes.

27. An employee is expected to exercise reasonable care in giving written or oral information or advice and take reasonable steps to ensure that the information provided is accurate.

28. Where there are doubts about the reliability of information this should be checked with a supervisor.

29. Where the information being given is of an interim or conditional nature, this should be made clear.

30. An employee must not make improper use of inside information, or 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, including the acceptance of gifts, benefits, sponsored travel, hospitality, accommodation, hire car costs and entertainment.

31. These restrictions also apply to the families of employees, where the gift or benefit is a direct result of the official duties of the employee.

32. Gifts or benefits should generally not be accepted. In cases where not accepting the gift or benefit would cause offence to an extent that could adversely affect Australia's interests, a gift or benefit can be accepted only with the written approval of the HOM/HOP. Otherwise, the gift or benefit must be refused or returned.

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33 If in doubt about whether or not to accept a gift or benefit, the matter should be discussed with the employee's A-based supervisor

34 A bribe is a gift given or offer made with the intention of influencing an employee to take or not to take a specific action An employee who is found to have accepted a bribe will be subject to disciplinary action, including possible dismissal

35 Money must never be accepted as a gift

36 An employee in connection with his or her employment at the Embassy, High Commission, Consulate or Business Office must not promise, offer or give any bribe to colleagues with the aim of influencing a decision or influencing a colleague to commit misconduct or fraud

37 An employee must not promise, offer or give any bribe to colleagues connected with management, disbursement or collection of Embassy, High Commission, Consulate or Business Office funds with the intent of influencing a decision or action on any question or matter related to their functions, or influencing them to commit, aid or abet in committing any fraud.

38 An employee must not engage in deceitful actions aimed at gaining a benefit or avoiding a liability

39 An employee must not engage in fraudulent conduct This includes deceitful or other dishonest conduct, involving acts of omission or the making of false statements, orally or in writing, with the object of obtaining money or other benefit, or of evading liability, from the Embassy, High Commission, Consulate or Business Office

40 In particular, employees who are entrusted with the handling of Embassy, High Commission, Consulate, or Business Office funds or property must not

- accept any compensation or reward in connection with the performance of their duties other than their prescribed salary and entitlements,
- conspire or collude with any other person to defraud,
- permit or condone any violation of the law by any person,
- wilfully make or sign any false entry on any document or wilfully make or sign any false certificate or return, or
- demand, accept or attempt to collect directly or indirectly, for themselves or others, as payment or gift any sum of money, any benefit or any other thing of value

41 An employee must comply with any other requirement that is prescribed by the Embassy, High Commission, Consulate, or Business Office

42 An employee who is found to have breached this Code will be subject to disciplinary action, including possible dismissal

43 The rules for conduct which apply to employees are explained in detail in the Department of Foreign Affairs and Trade's Conduct and Ethics Manual, as amended from time to time The Manual is available on SATIN Low or from the SAO

*** This document is excerpted from the DFAT Conduct and Ethics Manual For the full manual please refer to this link http //dfat gov au/about-us/publications/corporate/conduct-ethics-manual/Pages/chapter-3-values-and-codes-of-conduct aspx#section-3-4 ***

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Annex 2 - Code of Conduct

Code of Conduct for Locally Engaged Staff

Introduction

The Department expects LES to observe the same high standard of conduct, honesty and integrity as that required of A-based officers. The Australian Embassy Jakarta is the official representative of the Australian government in Indonesia and consequently Australian principles and standards of conduct will apply in the workplace. The key underlying principles of such conduct are:

- to act in accordance with the local law and applicable Australian law;
- to deal equitably, honestly and in a professional manner with both the public and colleagues;
- to ensure there is no real or apparent conflict of interest; and
- to ensure their professional or personal behaviour does not bring the Australian Embassy or Australia into disrepute.

The LES Code of Conduct

An employee must at all times behave in a way that upholds the integrity and good reputation of the Australian Embassy.

An employee must behave honestly and with integrity in the course of their employment with the Embassy.

An employee must act with care and diligence in the course of their employment with the Embassy.

An employee, when acting in the course of their employment with the Embassy, must treat members of the public and colleagues with respect and courtesy, and without coercion or harassment of any kind.

An employee must comply with any lawful and reasonable direction given by a person in the Embassy who has the authority to give the direction.

An employee must maintain appropriate confidentiality including about information obtained during the course of their employment.

An employee must disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with their employment in the Embassy, including in relation to any outside employment and/or business activities.

An employee must use the Embassy's resources in a proper manner.

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An employee must abide by the instructions and guidelines stated in Office Circular **PO 02/2011: Using Internet Social Networks** while using internet social networking applications such as Facebook, Youtube, Twitter and My Space, blogs and internet chat rooms.

An employee must not, in the course of their employment in the Embassy, provide false or misleading information in response to a request for information that is made for official purposes.

An employee must 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, including the acceptance of gifts, sponsored travel, hospitality, accommodation, hire car costs and entertainment

An employee in the course of their employment at the Embassy must not promise, offer or give any bribe to colleagues or members of the public with the aim of influencing a decision or influencing a colleague to commit misconduct or fraud.

An employee must not engage in deceitful actions aimed at gaining a benefit or avoiding a liability.

An employee must comply with any other reasonable conduct requirement that is prescribed by the Embassy.

Application and Implementation

This code of conduct should form part of the conditions of engagement of LES and should be signed by LES to acknowledge that they have read and understood it. It is expected that continued adherence to the code will be reinforced through the use of the standard management tools of communication, feedback and regular performance appraisal.

Fixed-Term Employees are required to comply with these guidelines. This does not, however, absolve such employees from the responsibility of complying with the relevant sections of the "Code of Conduct for Overseas Service", is so far as it applies to them as a spouse, or from complying with the APS values as contained in relevant legislation and guidelines.

This code of conduct operates in conjunction with and does not override or supersede any agency specific guidelines.

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CORE PRINCIPLES

An employee must at all times behave in a way that upholds the integrity and good reputation of the Australian Embassy Jakarta.

- an employee's personal behaviour, including his or her behaviours outside office hours, must not compromise the good reputation of Australia and the post.
- an employee's dress and appearance should be in accordance with standards appropriate to an employee's duties.
- an employee should not be under the influence of alcohol, drugs or other prohibited or performance impairing substances in the work place.
- the Embassy is a smoke-free work environment

An employee must behave honestly and with integrity in the course of their employment with the Australian Embassy Jakarta.

An employee should not use their official position to improperly influence or try to influence colleagues or members of the public by giving them gifts or by entering into financial or other arrangements with them.

An employee must act with care and diligence in the course of their employment with the Australian Embassy Jakarta.

In the course of their duties an employee is required to:

- be fair and impartial
- give persons likely to be affected by a decision an opportunity to have their case considered.
- be prompt
- explain the reasons for action/decisions
- at all times act according to local law and applicable Australian law.

An employee, when acting in the course of their employment with the Australian Embassy Jakarta, must treat members of the public and colleagues with respect and courtesy, and without coercion or harassment of any kind.

Employees are required:

- to treat members of the public and colleagues equitably, regardless of their sex, marital status, ethnicity, age, sexual orientation, disability or religious beliefs or any other similar ground.
- to be professional and courteous
- to provide reasonable assistance to the public and to help then understand their entitlements and their obligations
- to deal with the public and colleagues in an equitable and fair manner

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An employee must comply with any lawful and reasonable direction given by a person in the Australian Embassy Jakarta who has the authority to give the direction.

LES are at all times subject to the authority of the Head of Mission/Head of Post and the officer in charge of the section in which he or she is employed.

- the relevant A-based or LES supervisor has the primary responsibility for ensuring that the required standards of conduct and work performance are met and maintained by LES.

An employee must maintain appropriate confidentiality including about information obtained during the course of their employment.

Official information must not be disclosed to any person unless an employee is authorised to do so in the course of their duties.

An employee must not misuse information obtained in the course of their duties, including taking advantage of another person on the basis of information held about the person in official records.

An employee must disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with their employment in the Australian Embassy Jakarta, including in relation to any outside employment and/or business activities.

An employee must seek the permission of the HOM before engaging in outside employment.

The HOM may not grant permission to engage in outside employment which is incompatible with the employee's duties on behalf of the Embassy.

An employee who has an interest, financial or otherwise, including in respect of family and friends, that could conflict with the proper performance of their duties must disclose this interest to his or her supervisor and take whatever action is necessary to avoid that conflict.

An employee must use the Australian Embassy Jakarta's resources in a proper manner.

An employee must be scrupulous in the use of official money, human and other resources.

An employee is required to avoid waste or extravagance in the use of the Embassy's resources.

An employee has a responsibility to care for and maintain Embassy property.

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The property of the Embassy is to be used for official purposes only and is to be used efficiently and effectively.

An employee must not, in the course of their employment in the Australian Embassy Jakarta, provide false or misleading information in response to a request for information that is made for official purposes.

An employee is expected
- to exercise reasonable care in giving written or oral information or advice and;
- to take reasonable steps to ensure that the information provided is accurate

Where there are doubts about the reliability of information this should be checked with a supervisor.

Where the information being given is of an interim or conditional nature, this should be made clear

An employee must 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, including the acceptance of gifts, sponsored travel, hospitality, accommodation, hire car costs and entertainment.

These restrictions also apply to the families of employees, where the gift or benefit is a direct result of the official duties of the employee.

Gifts or benefits generally should not be accepted. In cases where not accepting would cause offence to an extent that could adversely affect Australia's interests. a gift or benefit can only be accepted with the written approval of the HOM. Otherwise, the gift or benefit must be refused or returned.

If in doubt about whether or not to accept a gift the matter should be discussed with the employee's A-based supervisor.

A bribe is a gift given or offer made with the intention of influencing an employee to take or not to take a specific action. The acceptance of a bribe will result in disciplinary action being taken against the employee, including possible dismissal.

Money must never be accepted as a gift.

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An employee in the course of their employment at the Australian Embassy must not promise, offer or give any bribe to colleagues with the aim of influencing a decision or influencing a colleague to commit misconduct or fraud.

An employee must not promise, offer or give any bribe to colleagues connected with management, disbursement or collection of Embassy funds with the intent of:

- influencing a decision or action on any question or matter related to his/her functions, or
- influencing him/her to commit, aid or abet in committing any fraud.

An employee must not engage in deceitful actions aimed at gaining a benefit or avoiding a liability.

Employees must not engage in fraudulent conduct which is a course of action, including deceitful or other dishonest conduct, involving acts of omission or the making of false statements, orally or in writing, with the object of obtaining money or other benefit from, or of evading liability, to the Embassy.

In particular, employees who are entrusted with the handling of Embassy funds or property should not:

- accept any compensation or reward in connection with the performance of their duties other than their prescribed salary and entitlements
- conspire or collude with any other person to defraud
- permit or condone any violation of the law by any person
- wilfully make or sign any false entry on any document or wilfully make or sign any false certificate or return
- demand, accept or attempt to collect directly or indirectly, for themselves or others, as payment or gift any sum of money or other thing of value

An employee must comply with any other requirement that is prescribed by the Australian Embassy Jakarta.

Breaches of this code will be subject to disciplinary action, including dismissal.

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Annex 2- Code of Conduct

PERATURAN MENGENAI PERILAKU BAGI STAF LOKAL (LES)

Pendahuluan

Departemen mengharapkan bahwa LES memiliki standar perilaku, kejujuran dan integritas yang sama tingginya sebagaimana diharapkan dari para pejabat dari Australia. Kedutaan Besar Australia adalah perwakilan resmi dari Pemerintah Australia di Indonesia_dan oleh karena itu prinsip dan standar perilaku Australia berlaku di tempat kerja. Prinsip-prinsip yang mendasari perilaku itu adalah :

- untuk bertindak sesuai dengan hukum setempat dan Hukum Australia yang berlaku.
- bertindak secara adil, jujur dan profesional baik terhadap publik maupun dengan para rekan sekerja.
- memastikan bahwa tidak ada konflik kepentingan yang benar atau nyata; dan
- memastikan tingkah laku professional dan pribadi mereka tidak akan memberikan citra yang kurang baik kepada Kedutaan Besar Australia dan negara Australia.

Peraturan tentang Perilaku bagi LES

Seorang karyawan setiap waktu harus berperilaku menjunjung tinggi integritas dan reputasi baik dari Kedutaan Besar Australia.

Seorang karyawan harus berperilaku jujur dan memiliki integritas selama masa hubungan kerjanya dengan Kedutaan Besar.

Seorang karyawan harus bertindak dengan hati-hati dan rajin selama masa hubungan kerjanya dengan Kedutaan Besar.

Seorang karyawan, saat bertindak selama masa hubungan kerjanya di Kedutaan Besar Australia, harus memperlakukan para anggota masyarakat dan rekan sekerjanya dengan hormat dan sopan santun, dan tanpa paksaan atau pelecehan dalam bentuk apapun.

Seorang karyawan harus memenuhi setiap pengarahan yang sah dan masuk akal yang diberikan oleh seseorang di Kedutaan Besar Australia yang mempunyai kewenangan untuk memberikan pengarahan itu.

Seorang karyawan harus mempertahankan kerahasiaan sebagaimana mestinya termasuk tentang informasi yang diperoleh selama mereka dipekerjakan.

Seorang karyawan harus mengungkapkan, dan mengambil tindakan yang masuk akal untuk menghindari, setiap pertentangan kepentingan (yang benar-benar atau nyata) dalam hubungan dengan pekerjaan mereka di Kedutaan Besar Australia, termasuk dalam kaitannya dengan setiap pekerjaan dan/atau kegiatan usaha di luar.

Seorang karyawan harus mempergunakan sumber-sumber daya Kedutaan Besar Australia dengan cara yang pantas.

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Seorang karyawan harus mematuhi petunjuk dan pedoman yang tercantum dalam Surat Edaran PO 02/2011: Tata Cara Menggunakan Jaringan Sosial Internet saat menggunakan aplikasi jejaring sosial seperti Facebook, Youtube, Twitter dan My Space, blog dan ruang chatt.

Seorang karyawan tidak boleh, selama masa hubungan kerjanya di Kedutaan Besar Australia, memberikan informasi yang palsu atau menyesatkan dalam menjawab suatu permohonan atas informasi yang diajukan untuk maksud-maksud resmi.

Seorang karyawan tidak boleh menyalah gunakan :
(a) informasi internal; atau
b) tugas-tugas, status, kekuasaan atau wewenangnya,
untuk mendapatkan, atau berupaya mendapatkan satu manfaat atau keuntungan untuk diri sendiri, atau untuk setiap orang lainnya, termasuk penerimaan hadiah perjalanan yang dibiayai, perlakuan istimewa, akomodasi, biaya mobil sewa dan hiburan.

Seorang karyawan selama masa hubungan kerjanya di Kedutaan Besar Australia tidak boleh menjanjikan, menawarkan atau memberi suap kepada para rekan atau para anggota masyarakat dengan tujuan untuk mempengaruhi satu keputusan atau mempengaruhi seorang rekan untuk melakukan tindakan pelanggaran atau penipuan.

Seorang karyawan tidak boleh melakukan tindakan-tindakan yang tidak jujur yang ditujukan untuk mendapatkan suatu manfaat atau menghindari suatu tanggung jawab.

Seorang karyawan harus memenuhi setiap persyaratan perilaku yang masuk akal lainnya yang ditentukan oleh Kedutaan Besar Australia.

Penerapan dan Pelaksanaan

Peraturan perilaku ini harus termasuk bagian dari syarat syarat untuk mempekerjakan LES dan harus ditandatangani oleh LES untuk mengakui bahwa mereka telah membaca dan memahaminya. Diharapkan, bahwa kepatuhan yang berkesinambungan atas peraturan ini dapat diperkuat melalui penggunaan standar piranti manajemen berupa komunikasi, umpan balik dan penilaian kinerja secara teratur.

Karyawan yang diperjakan untuk jangka waktu tertentu diharuskan untuk memenuhi pedoman ini. Namun hal ini tidaklah membebaskan para karyawan tersebut dari tanggungjawab untuk mematuhi pasal-pasal terkait dalam "Peraturan tentang Perilaku untuk Pelayanan di Luar Australia", sejauh hal tersebut berlaku bagi mereka baik sebagai suami/istri, atau dalam mematuhi nilai-nilai APS (Pelayanan Publik Australia) seperti tercantum di dalam perundang-undangan dan pedoman yang terkait.

Peraturan tentang perilaku ini berlaku bersamaan dengan dan tidak mengesampingkan atau menggantikan pedoman tertentu apapun yang dikeluarkan oleh suatu instansi.

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PRINSIP - PRINSIP INTI

Seorang karyawan setiap saat harus berperilaku dengan cara yang menjunjung tinggi integritas dan reputasi baik dari Kedutaan Besar Australia di Jakarta.

- perilaku pribadi seorang karyawan, termasuk perilakunya di luar jam kantor, tidak boleh membahayakan reputasi baik dari Australia maupun Kedutaan Besar Australia.
- pakaian dan penampilan seorang karyawan harus sesuai dengan standar yang sesuai dengan tugas-tugas seorang karyawan.
- seorang karyawan tidak boleh berada di bawah pengaruh alkohol, obat-obatan atau bahan-bahan lain yang terlarang atau menganggu kinerja di tempat kerja.
- Kedutaan Besar Australia di Jakarta adalah lingkungan kerja tanpa asap rokok

Seorang karyawan harus berkelakuan jujur dan memiliki integritas selama masa hubungan kerjanya di Kedutaan Besar Australia di Jakarta.

Seorang karyawan hendaknya tidak mempergunakan kedudukan resminya untuk secara tidak layak mempengaruhi atau mencoba mempengaruhi para rekan atau anggota masyarakat dengan memberikan hadiah kepada mereka atau dengan mengadakan perjanjian keuangan atau perjanjian lainnya dengan mereka.

Seorang karyawan harus bertindak dengan hati-hati dan tekun selama masa hubungan kerjanya di Kedutaan Besar Australia di Jakarta.

Selama melakukan tugasnya seorang karyawan diharuskan untuk:

- bertindak adil dan tidak memihak.
- memberikan kepada orang yang mungkin akan dipengaruhi oleh suatu keputusan, suatu kesempatan agar kasus mereka dipertimbangkan.
- tepat waktu
- menerangkan alasan-alasan bagi suatu tindakan/ keputusan.
- setiap waktu bertindak sesuai dengan hukum setempat dan hukum Australia yang berlaku.

Seorang karyawan, apabila bertindak selama masa hubungan kerjanya di Kedutaan Besar Australia di Jakarta, harus memperlakukan para anggota masyarakat dan para rekan dengan hormat dan sopan santun, dan tanpa paksaan atau pelecehan dalam bentuk apapun.

Para karyawan diharuskan:

- untuk memperlakukan para anggota masyarakat dan para rekan dengan pantas tanpa memandang jenis kelamin, status perkawinan, latar belakang budaya, usia, orientasi seksual, keterbatasan fisik atau kepercayaan agama atau setiap alasan serupa lainnya.
- bertindak professional dan sopan santun
- memberikan bantuan yang masuk akal kepada masyarakat dan untuk menolong mereka memahami hak-hak dan kewajiban-kewajiban mereka.
- berurusan dengan masyarakat dan para rekan dengan cara yang pantas dan adil.

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Seorang karyawan harus memenuhi setiap petunjuk yang sah dan masuk akal yang diberikan oleh seseorang di Kedutaan Besar Australia di Jakarta yang mempunyai wewenang untuk memberikan petunjuk itu.

LES setiap waktu tunduk pada wewenang Duta Besar/Konsul Jenderal dan pejabat yang bertanggung jawab atas seksi tempat dia dipekerjakan.

- atasan langsung baik itu diplomat dari Australia atau LES memiliki tanggung jawab paling utama untuk memastikan bahwa standar perilaku dan pelaksanaan pekerjaan yang diperlukan terpenuhi dan dipertahankan oleh LES.

Seorang karyawan harus memelihara kerahasiaan sebagaimana mestinya termasuk informasi yang didapat selama mereka dipekerjakan.

Keterangan resmi tidak boleh diungkapkan kepada setiap orang kecuali apabila seorang karyawan diberi kewenangan dalam hal tersebut dalam menjalankan tugas-tugas mereka.

Seorang karyawan tidak boleh menyalahgunakan keterangan yang diperoleh selama melaksanakan tugas mereka, termasuk mengambil keuntungan dari seorang lain atas dasar informasi yang disimpan mengenai orang itu yang tercantum dalam catatan catatan resmi.

Seorang karyawan harus mengungkapkan, dan mengambil tindakan-tindakan yang masuk akal untuk menghindari setiap pertentangan kepentingan (yang benar-benar atau tampak) dalam hubungannya dengan pekerjaan mereka di Kedutaan Besar Australia di Jakarta, termasuk dalam hubungannya dengan setiap pekerjaan dan/atau kegiatan usaha di luar.

Seorang karyawan harus meminta izin dari HOM sebelum melakukan pekerjaan lain di luar kantor.

HOM memiliki kewenangan untuk memberikan izin untuk keterlibatan dalam pekerjaan lain di luar kantor yang bertentangan dengan tugas-tugas karyawan sebagai staff Kedutaan Besar.

Seorang karyawan yang mempunyai suatu kepentingan, secara finansial atau cara lain, termasuk yang berkaitan dengan keluarga dan teman-teman, yang dapat bertentangan dengan pelaksanaan dari tugas-tugas mereka harus mengungkapkan kepentingan ini kepada atasannya dan mengambil tindakan yang perlukan guna menghindari pertentangan itu.

Seorang karyawan harus mempergunakan sumber-sumber daya Kedutaan Besar Ausralia di Jakarta dengan cara yang pantas.

Seorang karyawan harus cermat dalam mempergunakan sumber-sumber daya resmi baik itu keuangan, manusia dan lain-lainnya.

Seorang karyawan diharuskan untuk menghindari pemborosan atau penggunaan yang berlebihan dari sumber-sumber daya Kedutaan Besar.

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Seorang karyawan mempunyai tanggungjawab untuk menjaga dan memelihara harta benda Kedutaan Besar.

Harta benda Kedutaan Besar hanya dipergunakan untuk maksud-maksud resmi dan dipergunakan secara efisien dan efektif.

Seorang karyawan, selama mereka masa hubungan kerjanya di Kedutaan Besar Australia di Jakarta, tidak boleh memberikan informasi yang palsu atau menyesatkan dalam menanggapi suatu permohonan untuk informasi yang diajukan untuk maksud-maksud resmi.
Seorang karyawan diharapkan

- untuk sewajarnya berhati-hati dalam memberikan informasi atau masukan tertulis atau lisan dan;
- mengambil langkah-langkah yang masuk akal untuk memastikan bahwa informasi yang diberikan itu adalah akurat.

Apabila ada keragu-raguan tentang kesahihan suatu informasi, hal ini harus dikonfirmasikan dengan atasanyang bersangkutan.

Apabila informasi yang diberikan bersifat sementara atau bersyarat, hal ini harus dijelaskan.

Seorang karyawan tidak boleh menyalah-gunakan:

(a) informasi internal; atau
(b) tugas-tugas, status, kekuasaan atau wewenang karyawan;

untuk mendapatkan, atau berusaha mendapatkan suatu manfaat atau keuntungan bagi karyawan, atau untuk setiap orang lain, termasuk penerimaan hadiah-hadiah, perjalanan yang dibiayai, perlakuan istimewa, akomodasi, biaya-biaya mobil sewaan dan hiburan.

Pembatasan-pembatasan ini juga berlaku bagi keluarga para karyawan, Apabila hadiah atau manfaat itu adalah hasil langsung dari tugas-tugas resmi karyawan yang bersangkutan.

Hadiah-hadiah atau manfaat-manfaat pada umumnya tidak boleh diterima. Apabila penolakaan hadiah dapat menyebabkan penghinaan sampai pada taraf dapat mempengaruhi/merugikan kepentingan-kepentingan Australia, hadiah atau manfaat itu hanya dapat diterima dengan persetujuan tertulis HOM. Jika tidak, hadiah atau manfaat harus ditolak atau dikembalikan.

Apabila ada keraguan mengenai apakah suatu hadiah harus diterima atau tidak, hal itu harus dibicarakan dengan para atasan diplomat dari Australia.

Penyuapan adalah suatu hadiah yang diberikan atau penawaran yang dilakukan dengan maksud mempengaruhi seorang karyawan untuk melakukan atau tidak melakukan suatu tindakan khusus. Penerimaan suatu suap akan berakibat dilakukannya tindakan disipliner terhadap karyawan bersangkutan, termasuk kemungkinan pemecatan.

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Uang jangan sekali-kali diterima sebagai suatu hadiah.

Seorang karyawan selama masa hubungan kerjanya di Kedutaan Besar Australia tidak boleh menjanjikan, menawarkan atau memberikan suap kepada para rekan dengan tujuan untuk mempengaruhi diambilnya suatu keputusan atau mempengaruhi seorang rekan untuk melakukan suatu tindakan yang buruk atau penipuan.

Seorang karyawan tidak boleh menjanjikan, menawarkan atau memberikan suap kepada para rekan yang berhubungan dengan manajemen, pengeluaran atau penagihan dana-dana Kedutaan Besar dengan maksud untuk:

- mempengaruhi diambilnya suatu keputusan atau tindakan mengenai sesuatu pertanyaan atau hal-hal yang bertalian dengan fungsi-fungsinya, atau
- mempengaruhinya untuk melakukan, membantu atau menghasut dalam melakukan suatu penipuan.

Seorang karyawan tidak boleh melakukan tindakan-tindakan penipuan yang bertujuan untuk mendapatkan suatu manfaat atau menghindari suatu tanggung jawab.

Para karyawan tidak boleh melakukan tindakan penipuan yang merupakan suatu rangkaian tindakan, termasuk tindakan penipuan atau tidak jujur lainnya, yang menyangkut tindakan kealpaan atau membuat pernyataan-pernyataan palsu, secara lisan maupun tertulis, dengan tujuan memperoleh uang atau manfaat lainnya dari, atau menghindari tanggung-jawab, terhadap Kedutaan Besar Australia di Jakarta.

Khususnya, para karyawan yang dipercaya untuk menangani dana-dana atau harta benda milik Kedutaan Besar hendaknya tidak boleh:

- menerima kompensasi atau imbalan apapun sehubungan dengan pelaksanaan tugas-tugas mereka selain gaji dan hak-hak mereka yang telah ditetapkan.
- bekerjasama atau mengadakan kolusi dengan setiap orang lain untuk menipu.
- mengizinkan atau memaafkan suatu pelanggaran hukum oleh seseorang.
- dengan sengaja membuat atau menandatangani suatu masukan yang salah dalam suatu dokumen atau dengan sengaja membuat atau menandatangani suatu sertifikat atau laporan palsu.
- menuntut, menerima atau mencoba untuk menagih secara langsung atau tidak langsung, untuk mereka sendiri atau orang lain, sebagai pembayaran atau hadiah sejumlah uang atau barang berharga lainnya.

Seorang karyawan harus memenuhi setiap persyaratan lainnya yang ditentukan oleh Kedutaan Besar Australia di Jakarta.

Pelanggaran terhadap peraturan ini akan dikenakan tindakan disipliner, termasuk pemecatan.

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s 22(1)(a)(ii)

From: s 22(1)(a)(ii) @dfat.gov.au> on behalf of Personnel Jakarta s 22(1)(a)(ii) @dfat.gov.au>
Sent: Thursday, 7 March 2019 10:44 AM
Subject: Annual Declaration of Conflict of Interest for LES [SEC=UNCLASSIFIED]
Attachments: AC0057_19 Annual Declaration of Conflict of Interest and Compliance with DFAT's Financial Framework.pdf; Disclosure of Private, Financial and Other Interests Form.pdf

UNCLASSIFIED

Dear DFAT Section Heads

In line with Admin Circular AC0057/19 regarding the Annual Declaration of Conflict of Interest and Compliance with DFAT's financial framework which, is available on the DFAT intranet, all LES whose responsibilities involve approving or managing procurement processes or vendor contract management must disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with their employment in the Australian Embassy Indonesia.

LES whose tasks directly involve procurement or vendor management activities must complete the attached form of disclosure of private, financial and other interest **before 15 March 2019** and submit the signed document to s 22(1)(a)(ii) @dfat.gov.au. **Section and Unit heads are responsible to identify LES in their unit** who have direct responsibilities in the activities above.

The form can be completed either electronically (by clicking the *'submit by email'* button in the form) or manually by scanning the signed hardcopy version of the form.

The complete set of Post's policies and regulations on Conflict of Interest can be found in this link: **Code of Conduct for Locally Engaged Staff**.

Should you have any query please contact s 22(1)(a)(ii) @dfat.gov.au for further information.

Thank you and kind regards

s 22(1)(a)(ii)
First Secretary (HR) and Consul
Australian Embassy Jakarta
Tel: s 22(1)(a)(ii) | Mobile: s 22(1)(a)(ii)
Email: s 22(1)(a)(ii)@dfat.gov.au
www.indonesia.embassy.gov.au | @DubesAustralia | Australian Embassy Jakarta

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Administrative Circular

AC0057/19

11 February 2019

Distribution	All Staff to see
Cc	-
EDRMS Reference	19/3499
Responsible Branch	People, Performance and Support Branch (http //dfatintranet titan satin lo/_layouts/listform aspx?PageType=4&ListId={1DBEB31A-ADCD-4BD0-B7CD-7455AACB1AF5}&ID=528&RootFolder=*)

Subject Annual Declaration of Conflicts of Interest and Compliance with DFAT's financial framework

All DFAT ongoing and non-ongoing Australian Public Service (APS) staff are required to complete the Annual Declaration of Conflicts of Interest and Compliance with DFAT s financial framework by **15 March 2019** Contractors are required to complete the Annual Declaration of Conflicts of Interest SES and SES equivalents must complete the Annual Disclosure of Private, Financial and Other Interests Form, (para 8 and Administrative Circular AC0049/19 refers)

2 To provide assurance that staff understand their responsibilities under the *Public Governance, Performance and Accountability Act 2013* and the Department's financial framework, employee acknowledgement is now captured in an Annual Declaration of Conflicts of Interest for all ongoing and non-ongoing APS employees

3 LES are not required to complete the Annual Declaration of Conflicts of Interest and Compliance with DFAT's financial framework However, HOMs/HOPs should establish a similar local annual declaration system for LES whose duties involve approving or managing procurement processes or vendor contract management Those employees should use Form A from the Conduct and Ethics Manual

Completion of declarations

4 Annual Declarations for APS staff and contractors are available via PeopleSoft **As a requirement of employment, all ongoing and non-ongoing DFAT employees, and contractors, are required to complete the relevant acknowledgement in PeopleSoft by 15 March 2019.** Please note you will need to have read Chapter 5 of the Conduct and Ethics Manual and for APS employees, reviewed the Secretary's Instructions (/support-services/delegations/part-b-financial-delegations-authorisations/Pages/secretarys-instructions aspx) regarding the PGPA Act, prior to completing the Declaration

5 Staff can access the Declaration through Peoplesoft by using the following links (please note there may be a slight delay while links are loading)
Annual Declaration of Conflicts of Interest and Compliance with DFAT's Financial Framework - APS Employees 2019 (Mandatory)
(http //peoplesoft titan satin lo 18101/psp/IH91PRD/EMPLOYEE/ELM/c/LM_SS_LEARNING LM_LEARNING_ITEMS GBL?
Page=LM_SS_ITM_DTL&Action=U&LM_ACT_ID=0&LM_CI_ID=6350&NAV=URL)

Annual Declaration of Conflicts of Interest - Contractors 2019 (Mandatory)
(http //peoplesoft titan satin lo 18101/psp/IH91PRD/EMPLOYEE/ELM/c/LM_SS_LEARNING LM_LEARNING_ITEMS GBL?
Page=LM_SS_ITM_DTL&Action=U&LM_ACT_ID=0&LM_CI_ID=6349&NAV=URL)

The Declaration can also be accessed through Peoplesoft by following these steps

a DFAT intranet > ESS PeopleSoft > My Learning
b Select *Find Learning*
c In the Search by keyword text field, type "**Annual Declaration of Conflicts of Interest**"
d Select the double arrow 'Search' button
Two courses will be listed in the results Select the course which is relevant to you (either APS employee, or contractor)
e Select the '**Enrol**' button and then select the '**Submit Enrolment**' button
f Select Launch > Launch again to begin
The course will open in a new window
g Complete the declaration, and then click exit

6 Any questions regarding the Annual Declaration should be emailed to s 22(1)(a)(ii) @dfat gov au (mailto s 22(1)(a)(ii) @dfat gov au) For assistance with any technical issues experienced in completing the declaration email s 22(1)(a)(ii) @dfat gov au s 22(1)(a)(ii) @dfat.gov au)

7 Supervisors should bring this Administrative Circular to the attention of staff who have been away from the office upon their return to work Staff who are unable to complete the online declaration by 15 March 2019 (for example, because of leave or travel to/from post) should do so as soon as possible on return to work

8 Staff should note that this Annual Declaration is a separate requirement to the Disclosure of Private, Financial and Other Interests form, which some staff are also required to complete (see Conduct and Ethics Manual Chapter 5 2 (https //dfat gov au/about-us/publications/corporate/conduct-ethics-manual/Pages/chapter-5-conflicts-of-interests aspx#section-5-2)) and which will continue to be processed as normal

Daniel Sloper
Chief People Officer

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FORM A – Disclosure of Private, Financial and Other Interests Form (Page 1/4)

Step 1 – Details

Name	Position Title	Section

Step 2 – Category of Staff (tick appropriate box)

☐ I am an SES employee, or an EL2 HOM/HOP, or an EL2 employee paid as SES, or an EL2 employee acting as SES for longer than three months or for an unknown period.
☐ I am a contractor engaged by DFAT.
☐ I am a non-SES APS employee to whom the Secretary considers the disclosure policy should apply because of my responsibilities and the nature of my work (i.e. I hold a **designated position**).
☐ I am an LES employee whose duties involve approving or managing procurement processes or vendor contract management.
☐ I am a non-SES APS employee or LES employee not in the other categories **who has a real or apparent conflict of interest**.
If none of these situations applies to you, you should not complete this form.

Step 3 – Private, Financial or Other Interests (tick appropriate box)

☐ I have **no personal, financial or other interests** that could or could be seen to influence the decisions or actions I am taking or the advice I am giving in connection with my official duties.
☐ I **have personal, financial or other interests** that could or could be seen to **influence** the decisions or actions I am taking or the advice I am giving in connection with my official duties.
☐ I have **no personal, financial or other interests** that could or could be seen to influence the decisions or actions I am taking or the advice I am giving in connection with my official duties. **However, I have decided to provide my current personal, financial or other interests.**

Step 4 – Private, Financial or Other Interests of Family Members (tick appropriate box)

☐ To my knowledge, **no member of my immediate family has personal, financial or other interests** that could or could be seen to influence the decisions or actions I am taking or the advice I am giving in connection with my official duties.
☐ **A member of my immediate family has the personal, financial or other interests** that could or could be seen to **influence** the decisions or actions I am taking or the advice I am giving in connection with my official duties.
☐ To my knowledge, **no member of my immediate family has personal, financial or other interests** that could or could be seen to influence the decisions or actions I am taking or the advice I am giving in connection with my official duties. However, I have **decided to provide my immediate family's current financial or other interests**.

Signature (type your name)	**Date**

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Step 5 – Disclosure of Relevant Private, Financial or Other Interests

If you ticked the first box at Step 3 and the first box at Step 4, skip this step and go to Step 6.

Please list your and/or your immediate family member's personal, financial or other interests that **could, or could be seen to, influence** the decisions or actions you take or the advice you provide in connection with your official duties. Please also state the reasons why you think these interests could or could be seen to influence the decisions or actions you take or the advice you provide in connection with your official duties.

The types of interests you may need to disclose include real estate investments, shareholdings, trusts or nominee companies, company directorships or partnerships, relationships with lobbyists, other significant sources of income, significant liabilities, gifts, private business, employment, voluntary, social or personal relationships.

Signature (type your name)

Date

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FORM A – Disclosure of Private, Financial and Other Interests Form (Page 3/4)

Step 6 – Declaration

I declare that:

- as a **DFAT APS** or **LES employee**, I am aware of my responsibilities under the APS Code of Conduct or the LES Code of Conduct in place at my post to:

  - behave honestly and with integrity in connection with DFAT employment;
  - to disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with DFAT employment;
  - not to make improper use of (a) inside information, or (b) my duties, status, power or authority, in order to gain, or seek to gain, a benefit or advantage for myself or for any other person;
  - at all times behave in a way that upholds APS Values and Employment Principles and the integrity and good reputation of DFAT and the APS, or (for LES) upholds the good reputation of the post and Australia;

OR

- as a contractor engaged by DFAT, I am aware of my obligations to maintain conduct consistent with the APS Values and Employment Principles and the APS Code of Conduct.

I declare that:

- I have read and understood the DFAT Policy on Conflict of Interest (Chapter 5 of DFAT's Conduct and Ethics Manual) which requires me to disclose any private, financial or other interests that could or could be seen to influence the decisions I am taking or the advice I am giving in connection with my official duties.
- I undertake to immediately inform the Secretary (for SES employees and equivalents), CPO CMG (for non-SES employees), the delegate responsible for my contract (for contractors) or my HOM/HOP (for LES employees) of any changes to my personal circumstances or work responsibilities that could affect the contents of this disclosure and to provide an amended disclosure/s using this pro forma.
- In doing so, I will take account of (a) the particular roles and responsibilities of DFAT and (b) my particular roles and responsibilities in DFAT.
- I undertake to disclose any private, financial or other interests of my immediate family that I am aware of, should circumstances arise in which I consider that they could or could be seen to influence the decisions I am taking or the advice I am giving in connection with my official duties.
- I understand that DFAT is collecting information on my and my family's private, financial and other interests in order to reduce the risk of conflict of interest or a breach of the APS Values and Employment Principles and the APS Code of Conduct. . I note that DFAT will not use or disclose my personal information outside the Department; unless an exception under the Privacy Act 1988 applies. I am aware that the Department's Privacy Policy describes how it protects and manages personal information, how I can access and seek to correct my personal information and how to make a privacy complaint. I consent to my personal information being collected.
- It is my responsibility to observe the requirements set out in the *PGPA Act 2013* in regard to the duties of officials and to comply with the department's financial framework, including exercising financial delegations, in accordance with any instructions.

Signature (type your name)	**Date**

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FORM A – Disclosure of Private, Financial and Other Interests Form (Page 4/4)

Step 7 – Declaration of Consent by Immediate Family Member to Disclosure of their Personal, Financial and Other Interests

If you ticked the first box at Step 4, skip this step and go to Step 8.

This declaration is to be completed by the immediate family member/s of the DFAT employee/contractor where the DFAT employee/contractor considers that the personal, financial and other interests of the family member/s could or could be seen to influence the decisions or actions he or she is taking or the advice he or she is giving in connection with his or her official duties.

Family member name

Relationship to employee/contractor

Employee/contractor name

I am aware that my information has been collected for the purpose of reducing the risk of conflict of interest or a breach of the APS Values and Employment Principles and the APS Code of Conduct. I note that DFAT will not use or disclose my personal information outside the Department; unless an exception under the *Privacy Act 1988* applies. I am aware that the Department's Privacy Policy describes how it protects and manages personal information, how I can access and seek to correct my personal information and how to make a privacy complaint. I consent to my personal information being collected.

Signature	Name of immediate family member	Date

Step 8 – Submit This Form

Submit by Email

SES employees and equivalents submit completed forms to the Secretary (via s 22(1)(a)@dfat.gov.au).

Contractors submit completed forms to the delegate responsible for the contract.

Non-SES APS employees submit completed forms to CPO CMG.

LES employees submit completed forms to HOM/HOP.

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s 22(1)(a)(ii)

From: s 22(1)(a)(ii)

@ausprd01.prod.outlook.com> on behalf of Jakarta Job Applications
s 22(1)(a)(ii) @dfat.gov.au>

Sent: Monday, 28 November 2016 9:11 AM
To: s 22(1)(a)(ii)
Subject: Employee details and required documents [SEC=UNCLASSIFIED]
Attachments: LES Policy and Procedure Acknowledgement Checklist.pdf; Prime Minister's Directive & engagement of spouse.pdf; Using Internet and Email.pdf; Gift and benefit policy.pdf; Code of Conduct Bilingual.pdf; Terms and Conditions agreement 2014-2017.pdf; Copy of Master Employee Details (LES)_Expat.xls; Offer letter - s 22(1)(a)(ii).pdf; contract s 22(1)(a)(ii).pdf; SATINform.pdf

Importance: High

UNCLASSIFIED

Dear s 22(1)(a)(ii)

Congratulations! We would like to offer you the position of s 22(1)(a)(ii) with the Australian Embassy in Jakarta. Please find attached for your acknowledgement:

1. **An offer letter. Grateful for your confirmation by COB Monday, 28 November 2016.**

2. **Contract of employment. We will provide the original on your first day.**

3. **Master Employee Details. Please complete the employee details (NOK will be used as the emergency contact).**

4. **Starter pack**

   Conditions of Service and Code of Conduct for your reading.

- ***Receipts of the Conditions of Service and Code of Conduct. You should sign and return them***.

5. **SATIN user form –please sign part 4**

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Grateful if you could please fill out and return a scanned copy to us no 1, 3, 5 ASAP as we need the documents to activate your SATIN account for tomorrow's start (as it normally takes a minimum of 24 hours).

Regards

s 22(1)(a)(ii)
HR Team Leader
Australian Embassy Jakarta

s 22(1)(a)(ii)
Email:s 22(1)(a)(ii) @dfat.gov.au | Web: indonesia.embassy.gov.au

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AUSTRALIAN EMBASSY
JAKARTA

LES Policy and Regulation Acknowledgement Checklist

Name:	Personnel ID#:

All employees are required to read and abide by policies and procedures during employment with **The Australian Embassy Jakarta**. The complete set of policies and regulations can be found on the Embassy's intranet portal and in hard copy upon request.

Please contact s 22(1)(a)(ii) (Staffing & Employee Development Manager) if you have any questions regarding these policies and regulations.

I have reviewed and I understand the contents of the following policies and regulations:

- ☐ The Prime Minister's Directive
- ☐ Code of Conduct for Locally Engaged Staff
- ☐ Gifts and Benefits Policy
- ☐ Acceptable use of internet and email system
- ☐ Terms and Conditions of Employment for Locally Engaged Staff 2014 – 2017
- ☐ Employment of Spouses, Partners, Family Members and Relatives at Post
- ☐ Confidentiality Statement

By signing below, I …….. (*insert full name*) as …… (*insert title*) acknowledge that I have read and understand the above policies and regulations, and agree to abide by the conditions of each while employed by **The Australian Embassy Jakarta**. I understand that failure to abide by any of the policies indicated above may result in corrective or disciplinary action, or in some cases, immediate dismissal.

Signature (required) …… Date ……

Witness (required) …… Date ……

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Doc. Number: 235/I/DF/XII-2016

CONTRACT OF EMPLOYMENT

This Contract of Employment is between the Australian Embassy, Jakarta as Employer, and s 22(1)(a)(ii) as an Employee, and is agreed to between both parties.

The Australian Embassy agrees to the employment of s 22(1)(a)(ii) s 22(1)(a)(ii) the Department of Foreign Affairs and Trade from s 22(1)(a)(ii) s 22(1)(a)(ii) subject to the following conditions:

(i) that the Employee's conduct, diligence and efficiency are satisfactory to the Australian Embassy during that period.

(ii) that salary will be paid at rate of IDR 250,000 per hour. Any excess hours or work performed before the hours of 7.00 am and after the hours of 7.00 pm Monday to Friday or on weekends or public holidays, irrespective of whether the required number of hours have been worked in the week, will be paid at the hourly rates stated above.

(iii) that salaries are gross salaries and there is no provision for payment of any income tax or social security payments by the Employer. Payment of taxation and social security obligations is a private matter that remains the personal responsibility of the Employee. It is the prerogative of the employer to report annual income to Indonesian Tax and/or Social Security authorities if requested to do so by the proper authorities. In the case of Australian residents, income (based on the Australian financial year) will be reported to Australian Tax Office on an annual basis.

(iv) that the Employer will pay superannuation guarantee payments for the Employee if the Employee provides evidence that the Employee is an Australian Resident for taxation purposes and completes the required documents for processing the payments by the first week of the month after commencement. The Employer is not liable to process the payment when all necessary documents have not been received.

(v) health and personal insurance are the responsibility of the Employee.

(vi) for non-diplomatic/official passport holders, obtaining or renewing work and residence permits in Indonesia are the responsibility of the employee and the period of employment is subject to the existence and validity of a current work permit. The Embassy will provide a supporting document confirming employment by the Embassy and reimburse up to a maximum amount of AUD 500 for the combined cost of work permit (IMTA) & stay permit (KITAS). The Embassy will also pay for any mandatory levies imposed by the Indonesian Government.

(vii) that there is no entitlement to any separation benefit, leave entitlements, lebaran bonus or other allowances as set down in the LES Terms and Conditions of Employment 2014-2017 due to the hourly rate of engagement.

(viii) this contract may be terminated by either party with two weeks' notice ; and

(ix) the Employee shall not be deemed as a permanent employee.

s 22(1)(a)(ii) , have read, understand and accept the terms and conditions set out in this Employment Contract and the associated LES Terms and Conditions of Employment 2014-2017 handbook. I realise that upon ceasing employment with the Australian Embassy, I have no claims against the Australian Embassy apart from any appropriate entitlements as set out in the above mentioned documents to which I hereby give my agreement.

s 22(1)(a)(ii)

s 22(1)(a)(ii)

Date: 25/1/16

s 22(1)(a)(ii)

Minister-Counsellor (Management) and
Consul-General

Date:
s 22(1)(a)(ii)

s 22(1)(a)(ii)

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Australian Embassy, Jakarta

OFFICE CIRCULAR

Distribution: All Staff

Date: 7 February 2011

Subject: Using Internet Social Networks

No: s 22(1)(a)(ii)

File No:

Summary: This office circular provides guidance on using internet social networking tools (e.g. Facebook, Youtube, Twitter and My Space), blogs and internet chat rooms.

Post management recognises the value of internet social networking tools (such as Facebook, YouTube, Twitter and MySpace) and the opportunities they provide to maintain contact with family and friends. It also recognises the right of staff to use these tools in a private capacity, as well as blogs and internet chat rooms. At the same time, A-based employees, LES employees and contractors have responsibilities when they use these media.

2. Posting text and images on internet social networking tools (such as Facebook, YouTube, Twitter and MySpace), blogs and internet chat rooms is considered to be public comment. Therefore staff should apply the same standards, and exercise the same judgment and caution, when posting text and images via these media as for any other form of public comment. This is to ensure that they do not compromise the reputation of the embassy. To do so may breach the APS Code of Conduct or the LES Code of Conduct and possibly the Crimes Act 1914.

3. A-based employees, LES employees and contractors must ensure that they do not disclose any official information (including personal information of individuals held by the embassy) on the internet. This includes staff details and movements, visits by ministers and officials, and photographs which may inadvertently capture post security features, such as locks, secure doors and alarm equipment on the inside of the chancery. Staff are reminded that photographs must not be taken in the embassy without permission.

4. Staff should consider their own and others' security and personal safety when placing information on the internet. They should be circumspect about identifying themselves as embassy staff on the internet. They should not place inappropriate or personally embarrassing material on the internet. They should ensure their use of these media on official computers is not excessive, and does not affect or conflict with their official duties. Due to limitations on server bandwidth, extended connection to the internet must be avoided.

5. Staff seeking ethical advice on appropriate use of internet social networking tools, blogs and internet chat rooms may contact the Human Resource Section in Administration.

6. To assist staff further, case studies on internet social networking tools, blogs and internet chat rooms are on page 2. The advice contained in these case studies does not constitute legal advice, nor does post management guarantee the completeness of advice contained therein.

s 22(1)(a)(ii)

Minister-Counsellor (Management)

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Using Internet Social Networking Tools, Blogs and Internet Chat Rooms Examples	Possible Response	Possible Remedy
I have a www.facebook.com account and identified that I am employed with the embassy. I am thinking about posting my views about how the current government is dealing with certain social issues. I am currently working on a project that is related to this issue.	The fact that you have declared your employment may suggest to the audience that your comments are made in your capacity as an embassy staff member.	Remove any mention of your employment status so it is clear your views are as a private citizen. You must also ensure that you do not include official / classified information that you have access to.
I hosted a Christmas party at my residence with friends, work colleagues and guests from the diplomatic corps. All had a great time and the fancy dress theme was a great hit. Is it inappropriate to publish some party photos on my personal blog?	No, but it is important that the pictures are in good taste and do not have the potential to embarrass yourself or the embassy, and should respect the privacy of your guests. It is also important to think about whether your personal security or that of your friends may be jeopardized by posting the photos.	Ensure the people in the photos are not named and there is no mention of the embassy or any staff. The photos would be better distributed through a more secure medium such as personal e-mail.
I was reading a news web blog about a political issue and have strong views about the blog's content. Is it inappropriate for me to publish a reply to the article on the blog?	No, but you should not make mention of your employment status with the embassy	Ensure the content in the reply doesn't include any information that would identify you as an embassy staff member.
I noticed that a news blog quoted information that was incorrect. Due to my role in the embassy I know the real facts. Can I reply to the blog and identify who I am?	No. You may inadvertently be disclosing official information that is not for public release.	Notify your supervisor about your concerns.
I am an A-based officer at post and my partner keeps a blog about our experiences in our host country. My partner has occasionally written about official functions we've attended and about conversations we've had with senior members of the host government at these functions. Is it OK for my partner to do this.	Household members of APS employees serving overseas are not covered directly by the Code of Conduct for Overseas Service, nor are they subject to any departmental directions in relation to conduct. However, the high visibility of household members as part of an Australian official community means you and your partner need to exercise judgment and caution about the material on your partner's blog. Even where there is no material on the blog which could be construed as official information, indiscreet comments about prominent citizens in your host country could damage the reputation of the department, the embassy and Australia.	In accordance with the Code of Conduct for Overseas Service you must take all reasonable steps to ensure that your partner's blog does not inadvertently damage the reputation of the department, the embassy and Australia.

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Conduct and ethics manual - Chapter 6: Gifts, benefits, hospitality, sponsored travel and sponsorship

6.1 Gifts and Benefits
6.2 Hospitality
6.3 Sponsored Travel
6.4 Corporate Sponsorship

This chapter sets out the department's policy on accepting and declaring gifts, benefits, hospitality, sponsored travel and sponsorship.

Staff should contact the Conduct and Ethics Unit at conduct@dfat.gov.au if they require clarification on the contents of this Manual or if they are uncertain about the ethical implications of a proposed course of action.

6.1 Gifts and Benefits



6.1.1 All employees (APS and LES) and contractors must exercise judgment and caution in regard to any gifts or benefits they may be offered in connection with their official duties or because of their position in the department. Gifts refer to physical items with a monetary value, including cash, goods, services or vouchers for goods and services. Benefits refer to prizes, special offers or customer-specific discounts on goods, services or other assets.

6.1.2 As a general rule, employees and contractors should, wherever possible, **not** accept gifts or benefits offered in connection with their official duties or because of their position in the department. Doing so may give rise to conflicts of interest or perceived conflicts of interest– for example, if offered by a company seeking business with the department. Improperly accepting gifts or benefits may also compromise Australia's reputation, as well as the department's reputation for impartiality and professionalism.

6.1.3 Under the APS Code of Conduct and the standard LES Code of Conduct, employees must not make improper use of inside information, or their duties, status, power or authority in order to gain, or seek to gain, a benefit or advantage for themselves, or for any other person. Contractors must behave similarly in accordance with provisions in their contracts.

6.1.4 At the same time, the department recognises that circumstances arise, particularly overseas, where no conflict of interest could reasonably be inferred from accepting a gift or benefit, or where refusing a gift or benefit may cause offence to a degree which may place the department, the post or Australia in a poor light.

Reportable and Non-Reportable Gifts

6.1.5 Staff may retain certain gifts for personal use without seeking official approval. These gifts are called "non-reportable"gifts and include:

- *bona fide* gifts of appropriate value from relatives or personal friends, for example, to mark a birthday or celebratory event;
- items of little or no commercial value, including perishable items such as flowers or chocolates; seasonal or promotional items such as calendars, pens, paperweights; or items which, while they may have local cultural significance, are of negligible commercial value in Australian terms, such as souvenir items.

6.1.6 HOMs/HOPs may issue additional guidance to staff, based on local custom and practice, elaborating on this list of non-reportable gifts. In setting local standards in this way, HOMs/HOPs should aim to reinforce the intent of the department's policy on gifts and benefits, which is to ensure no real or perceived conflicts of interest and to preserve the reputation of Australia, the post and the department.

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6.1.7 All other gifts are "reportable". All employees and contractors must report all such gifts accepted in connection with their official duties in accordance with the procedures set out in sections 6.1.16-20 of this Manual. These gifts must be reported regardless of their value.

6.1.8 **Employees and contractors must never accept money** as a gift in connection with their official duties or because of their position in the department. In extraordinary circumstances, involving particular cultural sensitivity where receipt of money as a gift is unavoidable, the recipient must fully report the gift and the circumstances of the gift in accordance with the procedures set out in sections 6.1.16-20 of this Manual, regardless of the value. The gift must **not** be retained by the recipient, but receipted as "Administered Revenue" (see section 6.1.25 of this Manual).

6.1.9 Staff should contact the Conduct and Ethics Unit at s 22(1)(a)(ii) @dfat.gov.au (mailto:conduct@dfat.gov.au) if they require clarification on what constitutes a reportable gift.

Reportable and Non-Reportable Benefits

6.1.10 Staff may accept certain benefits for personal use without seeking official approval. These benefits are called "non-reportable" benefits and include:

- low-value prizes won in open competition at work-related social events; and
- discounts on goods or services which are generally available to members of the public or the diplomatic community.

6.1.11 HOMs/HOPs may issue additional guidance to staff, based on local custom and practice, elaborating on this list of non-reportable benefits. In setting local standards in this way, HOMs/HOPs should aim to reinforce the intent of the department's policy on gifts and benefits, which is to ensure no real or perceived conflicts of interest and to preserve the reputation of Australia, the post and the department.

6.1.12 All other benefits are "reportable". All employees and contractors must report all such benefits accepted in connection with their official duties to designated approvers in accordance with the procedures set out in sections 6.1.16-20 below. These benefits must be reported regardless of their value.

6.1.13 Reportable benefits include:

- customer-specific discounts on goods, services or other assets which are not generally available to others;
- prizes offered at events attended in an official capacity;
- high-value prizes won in open competition at work-related social events;
- promotional offers, free travel or discounts offered in connection with officially-funded travel – these will remain property of the Commonwealth;
- honorary club memberships – these may be accepted where they have a demonstrated representational value.

6.1.14 **Employees and contractors must never accept discounts on liquid assets** (such as shares) as a benefit in connection with their official duties or because of their position in the department.

6.1.15 Staff should contact the Conduct and Ethics Unit s 22(1)(a)(ii) @dfat.gov.au (mailto:conduct@dfat.gov.au) if they require clarification on what constitutes a reportable benefit.

How to Report Gifts and Benefits to Designated Approvers

6.1.16 All employees (APS and LES) and contractors must report all reportable gifts and benefits regardless of their value using the Gift / Benefit / Hospitality / Sponsored Travel Report Form (Form C at the end of this Manual). They must send a hard or electronic copy of the completed Report Form to their designated approver within 14 days of accepting the gift or benefit. Designated approvers are listed in Schedule A at the end of this Manual.

6.1.17 When completing Form C, staff must describe the gift or benefit, the circumstances in which it was received and why it was not refused. They must propose whether to retain the gift or benefit for personal use or whether the gift or benefit should become the property of the Commonwealth (i.e. public property).

6.1.18 Form C also requires staff to provide a value for the gift or benefit in Australian dollars and (where relevant) local currency. When valuing a gift or benefit, the following principles apply:

- gifts and benefits received overseas are to be valued at the local wholesale rate (free of duty and tax) and converted to Australian dollars using the **weekly exchange rate published by the department**; and
- gifts and benefits received in Australia should be valued at the current wholesale price including GST.

6.1.19 Staff may provide an informal estimate where they are satisfied that the wholesale value of the gift or benefit from an official source is below AUD500 or from a private source below AUD200. The designated approver may request a formal valuation, where he or she is not satisfied with the informal valuation and the recipient seeks to retain the gift or benefit for personal use.

6.1.20 Where the wholesale value of the gift or benefit is likely to be higher than the limits set out in section 6.1.19 and the recipient seeks to retain the gift or benefit for personal use, the recipient must provide a formal valuation with Form C. A current published valuation for the gift or benefit (such as a buyer's guide or a commercial catalogue) is sufficient for this purpose. Where a current published valuation is not available and an independent valuation is required, staff may deduct the cost of that valuation from the assessed wholesale value of the gift.

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Retaining a Gift or Benefit for Personal Use

6.1.21 A designated approver may permit the recipient to retain a reported gift or benefit for personal use if he or she is satisfied that the wholesale value of the gift or benefit is below AUD500 (from an official source) or below AUD200 (from a private source).

6.1.22 Where the wholesale value of a reported gift or benefit is higher than the limits set out in section 6.1.21, a designated approver may permit the recipient to retain it for personal use on the condition that the recipient pays to the department the difference between the allowable limit and the wholesale value of the gift or benefit, plus GST on the difference (see example below). The recipient's divisional coordinator (for staff based in Australia), SAO (for staff at post) or STO administration (for staff at STOs) will raise a debt for the recipient against general ledger code 19500 and internal order 240540.

Example:	**Wholesale value**	**$650**
	Less cost of independent valuation	($50)
	Less allowable limit	($500) (government source)
	Balance	$100
	+ GST on the difference	$10
	Total payable by recipient	$110

6.1.23 Regardless of its value, a designated approver may refuse a request to retain a reported gift or benefit for personal use if the circumstances in which the gift or benefit was accepted may give rise to a real or perceived conflict of interest, or if those circumstances may compromise the reputation of Australia, the department or the post.

Official Use, Storage or Disposal of Gifts or Benefits

6.1.24 If a designated approver determines that a reported gift or benefit is not to be retained by the recipient for personal use, the gift or benefit becomes the property of the Commonwealth (i.e. public property). Public property is to be used, stored and disposed in accordance with instructions in the department's Finance Management Manual (FMM). This includes (but is not limited to) the requirement to record all gifts or benefits valued at AUD2,000 or over in the Asset Register, and to post the value of the item to general ledger code 14010 ("Resources Received Free of Charge").

Gifts of Money and Proceeds from the Sale of Gifts or Benefits

6.1.25 There are **no** circumstances in which a gift of money or the proceeds from the sale of a gift or benefit may be retained by the recipient. The department classifies these as a windfall to the Commonwealth. Consistent with section 74 of the Public Governance, Performance and Accountability Act 2013 (PGPA Act) and Public Governance, Performance and Accountability Rule 27, gifts of money and proceeds from the sale of gifts or benefits should not be retained by the department or individual work units, but receipted as"Administered Revenue".

Return and Storage of Completed Report Forms

6.1.26 Once a designated approver has made a decision on how a reported gift or benefit should be treated, the recipient should be advised of the outcome and be given a copy of the decision.

6.1.27 If payment for excess value of the gift or benefit, the designated approver must advise the recipient's divisional coordinator (for staff based in Australia), SAO (for staff at post) or STO administration (for staff at STOs) to raise a debt for the recipient against general ledger code 19500 and internal order 240540.

6.1.28 Completed Report Forms are auditable documents. All designated approvers must maintain a file in which original completed Report Forms and relevant correspondence are kept.

CASE STUDY - GIFTS AND HOSPITALITY

I have observed colleagues accepting gifts and hospitality from contractors engaged by DFAT, including invitations to sporting events and meals at expensive restaurants. Are they in breach of the APS Code of Conduct?

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If your colleagues did not report the gifts and hospitality, they may be in breach of the APS Code of Conduct.

In accordance with DFAT's policy on gifts and benefits, employees and contractors should, whenever possible, not accept gifts offered in connection with their official duties. When this is unavoidable, the procedures set out in DFAT's policy on gifts and benefits should be followed. This is to avoid any real or perceived conflict of interest.

In this case, your colleagues should have reported the gifts to their designated approver within 14 days of receipt by completing a Gift / Benefit / Hospitality / Sponsored Travel Report Form (Form C at the end of this Manual). They should have set out details of the gifts, the donors, why it was not refused and the value of the gifts.

Given that the hospitality was in expensive restaurants and there is a commercial relationship between DFAT and the hosts, your colleagues should have reported the hospitality to their designated approver by completing a Report Form and they should have made every effort to do so before accepting the offer of hospitality.

6.2 Hospitality



6.2.1 Hospitality refers to invitations to work-related meals, social functions or sporting or cultural events where the costs are met wholly or substantially by the host. The term work-related refers to events where an invitation is based on the recipient's official position with the department rather than on an exclusively personal relationship or connection.

6.2.2 The offer and return of hospitality is an integral part of conducting business overseas and in Australia. Nevertheless, employees and contractors must exercise judgment and caution about offers of hospitality.

6.2.3 This is particularly important in the case of offers of hospitality from private or commercial sources. Accepting *inappropriate*offers of hospitality may give rise to conflicts of interest or perceived conflicts of interest – for example, where the host is tendering for a contract with the Commonwealth or is seeking an Australian visa for a relative. Accepting inappropriate offers of hospitality may also compromise the reputation of Australia, the department or the post.

6.2.4 Employees (APS and LES) and contractors should, wherever possible, avoid hospitality which carries an implication that a favour is expected in return, or which falls outside the normal pattern of hospitality appropriate to their official position and responsibilities.

6.2.5 As a general rule, employees and contractors may accept moderate hospitality from official sources such as an international or intergovernmental agency, another government, another Australian government agency, an educational institution, a non-profit humanitarian organisation or a broad-based industry group without reporting it to their designated approver.

Reporting and Approving Offers of Significant Hospitality

6.2.6 All employees (APS and LES) and contractors must report offers of significant hospitality they wish to accept by using the Gift / Benefit / Hospitality / Sponsored Travel Report Form (Form C at the end of this Manual). They must send a hard or electronic copy of the completed Report Form to their designated approver wherever possible in advance of receiving the hospitality, but in any case within 14 days of receiving the hospitality. Designated approvers are listed in Schedule A at the end of this Manual.

6.2.7 Because the value of hospitality often cannot be determined, the criteria for deciding whether hospitality offered is significant and whether it should be accepted are:

- whether the hospitality offered would fall outside the normal pattern of hospitality appropriate to a staff member's position and responsibilities;
- whether it could give rise to a real or perceived conflict of interest; or
- whether it might compromise the reputation of Australia, the department or the post.

Due to the risks involved, offers of hospitality from private or commercial sources should be considered more strictly than offers of hospitality from official sources.

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6.2.8 Hospitality in the form of a gift (for example, tickets to sporting or cultural events) or in the form of sponsored travel should be reported in accordance with the relevant procedures in section 6.1 and section 6.3 of this Manual.

6.2.9 Once a designated approver has made a decision on whether hospitality should be accepted, the relevant staff member should be advised of the outcome and be given a copy of the decision.

6.2.10 Completed Report Forms are auditable documents. All designated approvers must maintain a file in which original completed Report Forms and relevant correspondence are kept.

6.3 Sponsored Travel



6.3.1 Sponsored travel refers to cases where, in order to enable work undertaken for the department, the costs of transport, accommodation and/or travel/living expenses are met from sources other than official funds or a staff member's own resources. (It does not refer to situations where a staff member is seconded to or provides a specific service to a body or organisation and cost recovery is appropriate. It does not refer to situations where a contractor's own company pays for travel to enable work undertaken for the department.) As with any other gift or benefit staff may be offered in connection with their official duties or because of their position in the department, all employees (APS and LES) and contractors must exercise judgment and caution in regard to any offers of sponsored travel.

6.3.2 As with any other gift or benefit, improperly accepting offers of sponsored travel may give rise to conflicts of interest or perceived conflicts of interest, and may compromise the reputation of Australia, the department or the post. As a general rule, **employees and contractors should not accept offers of sponsored travel**, particularly from private or commercial sources. This policy on sponsored travel is based on the principles set out in Chapter 12 of the APSC's APS Values and Code of Conduct in Practice, namely that:

- the Commonwealth should meet the expenses associated with work undertaken on its behalf by its staff;
- APS agencies and their staff should avoid a conflict of interest or the appearance of such conflicts; and
- private organisations which cannot afford to sponsor travel for staff of APS agencies should not be placed at a disadvantage to those who can.

6.3.3 Under the APS Code of Conduct and the standard LES Code of Conduct require, employees must not make improper use of inside information, or their duties, status, power or authority in order to gain, or seek to gain, a benefit or advantage for themselves, or for any other person. Contractors must behave similarly in accordance with provisions in their contracts.

6.3.4 At the same time, the department recognises that circumstances arise, particularly overseas, where no conflict of interest could reasonably be inferred from accepting an offer of sponsored travel, or where there may be operational benefit in accepting an offer of sponsored travel.

Reporting and Approving Offers of Sponsored Travel

6.3.5 All employees (APS and LES) and contractors must report offers of sponsored travel they wish to accept by using the Gift / Benefit / Hospitality / Sponsored Travel Report Form (Form C at the end of this Manual). They must send a hard or electronic copy of the completed Report Form to their designated approver before accepting the offer of sponsored travel. **They must not undertake the sponsored travel before a decision from their designated approver.** Designated approvers are listed in Schedule A at the end of this Manual.

6.3.6 Sponsored travel may be approved when offered by reputable official sources such as an international or intergovernmental agency, another government, another Australian government agency, an educational institution, a non-profit humanitarian organisation or a broad-based industry group. For example, there are some recognised instances where travel opportunities are offered on a general rather than an individual basis, such as industry familiarisation tours, or where an organisation such as the World Health Organisation sponsors participants in a seminar.

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6.3.7 Due to the risks involved, stricter criteria apply to offers of sponsored travel from private or commercial sources. APS and LES employees should generally **not** accept offers of sponsored travel from private or commercial sources – where the Commonwealth can pay for official travel, it should pay. Contractors should generally **not** accept offers of sponsored travel from private or commercial sources – where the Commonwealth or the contractor's own company can pay for the travel, they should pay.

6.3.8 However, sponsored travel offered by private or commercial sources may be approved where:

- accepting the offer is in the Government's interests (for example, sponsored travel in relation to the inauguration of travel services or opening ceremonies at new commercial or industrial undertakings overseas);
- practical alternative means of the proposed travel at official expense are not available (for example, travel to a remote locality on a company aircraft where no commercial air link exists);
- there is no scope for the perception of "personal benefit" for the staff member offered the sponsored travel; and
- every effort is made by the relevant work unit in the department to make an appropriate contribution to the costs involved – the designator approver should provide direction on what is an appropriate contribution (for example, the cost of accommodation and travel expenses are met by the relevant work unit, where a private or commercial source provides the transport).

6.3.9 Criteria for approving all sponsored travel are whether:

- the proposed activity is consistent with the Government's or the department's objectives;
- there is a clear Australian national interest involved;
- there is a specific contribution the individual travelling can make to meeting the Government's or the department's objectives for the trip;
- any real or perceived personal benefit to the individual travelling is minimised;
- the possibility that other relevant entities (particularly Australian companies) may be competitively disadvantaged by accepting the offer is minimised; and
- there remains sufficient capacity in the relevant work unit to meet the interests of other relevant entities (particularly Australian companies) in the absence of the individual travelling.

6.3.10 Once a designated approver has made a decision on whether an offer of sponsored travel should be accepted, the relevant staff member should be advised of the outcome and be given a copy of the decision.

6.3.11 Where sponsored travel is approved, the designated approver must advise Financial Operations Section (FOS) (for staff based in Australia), SAO (for staff at post) or STO administration (for staff at STO) to ensure any necessary adjustments are made to allowances paid to the travelling staff member.

6.3.12 Completed Report Forms are auditable documents. All designated approvers must maintain a file in which original completed Report Forms and relevant correspondence are kept.

6.4 Corporate Sponsorship



6.4.1 Corporate sponsorship can be a valuable source of income for the department, particularly for our public diplomacy and trade advocacy activities. Nevertheless, all employees (APS and LES) and contractors must exercise judgment and caution when seeking or accepting corporate sponsorship.

6.4.2 Seeking or accepting inappropriate corporate sponsorship may give rise to conflicts of interest or perceived conflicts of interest – for example, where the source of the sponsorship is seeking business with the department or the Government. Inappropriate corporate sponsorship may also compromise the reputation of Australia and the department – for example, where the source of the sponsorship is engaged in activities which do not meet community standards, or are in conflict with government policy, such as a tobacco company.

6.4.3 All employees and contractors must comply with the department's policy on sponsorship as set out in Chapter 8 of the department's Finance Management Manual (FMM).

- Chapter 5 (/human-resources/conduct-ethics/conduct-ethics-manual/Pages/conduct-ethics-manual-chapter-5.aspx)
- Table of contents (/human-resources/conduct-ethics/conduct-ethics-manual/Pages/conduct-ethics-manual-contents.aspx#)
- Chapter 7 (/human-resources/conduct-ethics/conduct-ethics-manual/Pages/conduct-ethics-manual-chapter-7.aspx)

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Date modified: 19 January 2015

Responsible line area: WTO Regional and Free Trade Agreements Section (http://dfatintranet.titan.satin.lo/_layouts/listform.aspx?PageType=4&ListId={1DBEB31A-ADCD-4BD0-B7CD-7455AACB1AF5}&ID=288&RootFolder=*)

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Australian Government

Department of Foreign Affairs and Trade

Conduct and Ethics Manual

Employee Conduct and Ethics Section
October 2019
Version 11

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Introduction

We must all have a strong commitment to our professional conduct, with each of us sharing a responsibility to support and promote a culture that ensures an ethical and safe workplace. The Conduct and Ethics Manual is an important tool to help us meet this important objective and I commend it to you.

We cannot tolerate unethical or inappropriate behavior and I expect all of us to call it out wherever we see it. This includes behaviour that contravenes the APS Code of Conduct, Values and Employment Principles and DFAT's Anti-bullying, Harassment and Discrimination Policy, Values Statement, Code of Conduct for Overseas Service and Locally Engaged Staff (LES) Codes of Conduct at overseas posts.

All Australian Public Servants (APS), LES and contractors play an important role in advancing Australia's security and prosperity in a more contested and competitive world.

It is the clear expectation of the Government, the Australian community, as well as my own, that we all maintain the highest standards of professionalism, probity, accountability and ethical practice in the course of our work.

DFAT takes very seriously allegations of misconduct, including bullying, harassment and discrimination. Such allegations will be investigated effectively and fairly and sanctions imposed when breaches have occurred.

The Manual is the principal source of departmental guidance and policy on conduct and ethics issues for all categories of DFAT employees. It is reviewed regularly to ensure its provisions remain current and relevant, and I welcome ongoing comment on how it may be improved.

In addition to the Manual, the department's Employee Conduct and Ethics Unit (EES) is a valuable source of advice available to all staff.

Frances Adamson
Secretary
17 October 2019

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Document Revision History

Version Number	Date	Revised by (name & position)	Changes (location & nature)
1	16/12/09	DIR MCS	
2	08/10	A/g DIR MCS	• Revised version of Chapter 11 • New guidance on managing requests from Ministers' offices (Chapter 8)
3	10/10	EO MCS	Revised Ch 8 to take account of APSC/Ethics Advisory Committee comments.
4	12/10	Ethics Committee	Manual revised and Versions 2 approved and released.
5	03/11	EO MCS	Revision to Whistleblowing in DFAT section 10.2.12
6	11/11	EO MCS	Amendments to sections 11.1.25; 11.1.45 11.1.52(a) to clarify operation of these provisions.
7	04/12	EO MCS	Amendments to Chapter 8 (8.4 and 8.5) consistent with APSC Circular 2012/1: Revisions to the Commission's guidance on making public comment and participating online.
8	06/13	MCS	Amendments throughout to reflect amendments to *Public Service Act 1999* and *Public Service Regulations 1999* as provided in the *Public Service Amendment Act 2013*.
9	10/14	MCS	Amendments throughout to reflect the integration of AusAid, international Climate Change and Tourism functions; amendments to the *Privacy Act 1988* and the Australian Public Service Code of Conduct; and introduction of the *Public*

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			Governance, Performance and Accountability Act 2013 and the *Public Interest Disclosure Act 2013*. Changes also reflect updates to DFAT policy on public comment.
10	12/15	MCS	Amendments to: Introduction and Chapter 3.2 to reflect the DFAT Values statement; Chapter 5.3 on the process around Outside Employment requests; Chapter 5.4 relating to departmental policy on employment after leaving the department.
11	01/17	MCS	New chapter on child protection
12	10/17	EES	Update Section names
13	20/17	EES	New Secretary Introduction
14	02/18	EES	Update to Sexual Harassment Policy
15	10/19	EES	Amendments to: Chapter 5 on Conflicts of Interest and Chapter 12 on Managing Alleged Misconduct in DFAT
16	10/19	EES	Update to the Conflicts of Interest form to reflect the change in definition from 'real apparent or potential' to 'real or apparent' conflicts of interest

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Document Archive

The original version of this Manual and all superseded versions of this Manual are archived in EES.

The Administrative Circulars replaced by the original version of this Manual were:

P0308	Public Service Act 1999 – New Departmental Procedures for Determining Breaches of the APS Code of Conduct
P0352	Making a Whistleblowing Disclosure and Protection for Whistleblowers
P0397	Acceptance of Gifts or Other Benefits: Sponsored Travel
P0400	Reporting Fraud or Misconduct
P0458	Procedures for Dealing with Gifts, Benefits and Hospitality
P0526	Outside Employment for APS Employees and Locally-Engaged Staff
P0591	Revised Code of Conduct for Overseas Service
P0704	Conduct and Ethics: Use of Department-Licensed Computer Software for Work Purposes at Home
P0826	Conduct and Ethics: Revised Policy Guidelines on Conflicts of Interest
P0830	Code of Conduct: Movement of APS Staff between Agencies
P0861	Use of Internet Social Networking Tools by Departmental Staff
P0950	Lobbying Code of Conduct and Post-Separation Employment
N625/09	APSC Ethics Advisory Service and DFAT Conduct and Ethics Unit.

Other documents replaced by the original version of this Manual were:

Human Resources Manual Volume 1 Chapter 13

Locally Engaged Staff Management: A Better Practice Guide Chapter 14.

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Chapter 1: About This Manual

This Chapter provides information about the Conduct and Ethics Manual, its contents, who the Manual applies to and how it is amended. Staff should contact the Employee Conduct and Ethics Section s 22(1)(a)(ii) @dfat.gov.au) if they require clarification on the contents of this Manual or if they are uncertain about the ethical implications of a proposed course of action.

1.1 What is in this Manual?

1.1.1 This Manual, as amended from time to time, is the principal source of departmental guidance and policies on conduct and ethics issues. It replaces all Administrative Circulars on conduct and ethics issues previously maintained by Management Strategy, Conduct and Diversity Section (MCS) and the Employee Conduct and Ethics Section (EES).

1.1.2 There are also a number of Administrative Circulars and other departmental policy documents with relevance to conduct and ethics which are *linked* to this Manual. While these documents are maintained by units in the department Other than EES, they operate in conjunction with this Manual.

1.1.3 In the event of any inconsistency between this Manual and the *Public Service Act 1999* or the *Public Service Regulations 1999* or *The Australian Public Service Commissioner's Directions 2013*, the Act, Regulations and Directions will apply.

Case Studies

1.1.4 To guide staff, this Manual also contains case studies about conduct and ethics issues. A sample follows. The advice contained in these case studies does not constitute legal advice, and the department does not guarantee the completeness of the advice they contain. Staff should note that different solutions and outcomes may apply in individual circumstances. For further guidance on how to interpret conduct and ethics policies as they relate to individual circumstances, staff should contact EES.

CASE STUDY - SAMPLE CONDUCT AND ETHICS ISSUE

Each case study poses a problem or question relevant to a particular conduct and ethics policy.

The case study then sets out a possible response, including an explanation.

Remember that for further guidance on how to interpret conduct and ethics policies as they relate to individual circumstances, staff should contact EES.

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1.2 Does this Manual Apply to Me?

1.2.1 This Manual applies to **all categories of staff in the department** – APS (i.e. A-based) employees, LES employees and contractors. Where the Manual expressly directs staff to carry out an action or to refrain from specified forms of behaviour, they must comply.

1.2.2 This Manual allows employees and contractors to understand how the department's conduct and ethics policies apply to them; what they can do to comply with those policies; and what action may be taken against an individual who fails to comply with those requirements.

APS Employees

1.2.3 APS employees of the department – ongoing, non-ongoing, those on probation and those on secondment from other APS agencies – are bound by the APS Values and Employment Principles and the APS Code of Conduct (sections 10, 10A and 13 of the *Public Service Act 1999*) as part of their conditions of service. Under the APS Code of Conduct, they must comply with any lawful and reasonable direction given by the Secretary or someone in the department who has authority to give the direction (section 13(5) of the *Public Service Act 1999*). The directions contained in this Manual and any DFAT policy documents linked to this Manual constitute lawful and reasonable directions in this regard. Failure to comply with these directions may constitute a breach of the APS Code of Conduct, for which sanctions may apply, and may also be considered in the context of performance management.

LES Employees

1.2.4 Under the Prime Minister's Directive on the Guidelines for the Management of the Australian Government Presence Overseas the Department of Foreign Affairs and Trade is the employer of all LES at DFAT-managed posts, except for Austrade LES.

1.2.5 LES are not APS employees. However, the department expects its LES to observe the same high standards of conduct, ethics, probity and integrity as that required of all other employees and contractors. LES employed by DFAT are obliged as part of their conditions of service to comply with the LES Code of Conduct in place at their post. Under the standard LES Code of Conduct, they must comply with any lawful and reasonable direction given by a person at post who has the authority to give the direction. HOMs/HOPs should ensure that LES are aware that the directions relating to LES contained in the Manual, and in any DFAT policy documents linked to this Manual, are lawful and reasonable directions for the purposes of their LES Code of Conduct. Failure to comply with these directions may constitute a breach of the applicable LES Code of Conduct for which sanctions may apply, and may also be considered in the context of performance management.

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Contractors

1.2.6 For the purposes of this Manual, a contractor is defined as an individual engaged in Australia to perform specific services for the department in Australia or overseas under a contract, including

(a) specified personnel nominated under a head agreement/contract (or Deed of Standing Offer) with an intermediary company to which payment is made; or

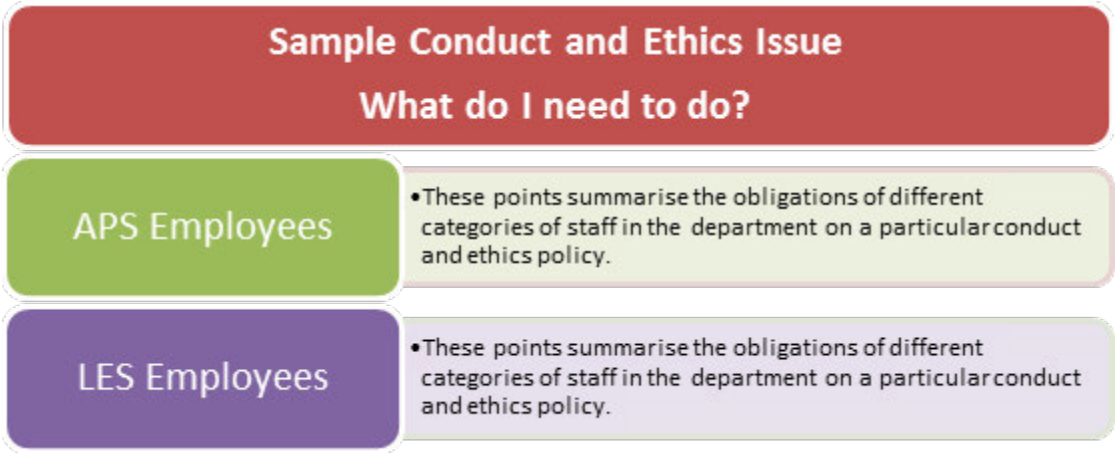
(b) individual contractors who are directly engaged as the service provider (including sole traders).

1.2.7 Contractors are not APS employees. However, the standard terms and conditions of DFAT contracts include a specific obligation that contractors or labour hire companies who provide staff to the department ensure they / their personnel comply with its practices, policies, procedures and reasonable directions, including the APS Values and Employment Principles, the APS Code of Conduct and the DFAT Code of Conduct for Overseas Service. The directions contained in the Manual and any departmental policy documents linked to the Manual constitute lawful and reasonable directions in this regard. Failure to comply with these directions may constitute a failure to meet contract obligations, for which sanctions may apply.

1.2.8 To help ensure contractors understand their obligations, a summary of directions contained in this Manual as they apply to contractors in the department is at Schedule B. This summary should be attached as a schedule to all head agreements, contracts or deeds of standing offer.

1.3 How do I Know Which Policies Apply to Me?

1.3.1 To make it easier for users of this Manual to understand their obligations, tables summarising the obligations of different categories of staff are included at the start of many sections. A sample follows.



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1.4 Amendments to this Manual

1.4.1 This Manual is maintained by EES, with additional guidance and oversight from the Ethics Committee. All changes to this Manual must be authorised by CPO CMG. Significant changes to this Manual are announced through Administrative Circulars. All superseded versions of this Manual are archived in EES.

1.5 Summary of this Manual

1.5.1 Following is a summary of key guidance and policies in this Manual. Staff should of course refer to the relevant chapters for complete guidance and policies, including as they apply to different categories of staff in the department.

Policies, Values and Codes of Conduct (Chapters 1 and 3)

DFAT staff (APS employees, LES employees and contractors) must comply with all departmental policies and directions which apply to them, including directions in this Manual, as amended from time to time. APS employees and contractors must maintain conduct consistent with the APS Values and Employment Principles and APS Code of Conduct. When performing duties overseas for DFAT, they must maintain conduct consistent with the DFAT Code of Conduct for Overseas Service. LES employees must maintain conduct consistent with the LES Code of Conduct in place at their post.

Employee Conduct and Ethics Section (Section 2.1) / Conduct and Ethics Training (Chapter 4)

EES provides advice on conduct and ethics issues, investigates allegations of misconduct, and refers allegations of criminal behaviour to relevant law enforcement authorities. **EES ethical advisory role is central to its work.** Staff and work units are encouraged to contact EES if they are uncertain about the *ethical* implications of a proposed course of action or about whether they have a real or apparent conflict of interest. This is good risk management practice, and consistent with DFAT's culture of appropriate reflection, disclosure and discussion on ethical issues.

EES provides conduct and ethics training in Canberra, as well as training tools to posts and STOs. DFAT staff should take conduct and ethics training at induction, before long-term postings overseas and in any case at least once every three years.

Conflicts of Interest (Chapter 5)

DFAT staff must take reasonable steps to avoid real or apparent conflicts of interest in connection with their duties, as well as situations where their private, financial or other interests (or those of immediate family members) could or could be perceived to conflict with their duties. They must not allow their interests to influence the decisions they make, the actions they take or the advice they provide in connection with their duties in DFAT. They must regularly assess whether their interests could or could be perceived to

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influence the decisions they make, the actions they take or the advice they provide in connection with their duties in DFAT. They must disclose any real or potential conflicts of interest to their supervisors as soon as they arise.

All SES and contractors and some non-SES APS and LES employees (see section 5.2 of this Manual) must complete a "Disclosure of Private, Financial and Other Interests Form" on initial engagement with DFAT, annually thereafter and additionally if their circumstances change resulting in a new conflict of interest.

Gifts, Benefits, Hospitality and Sponsored Travel (Chapter 6)

DFAT staff should, wherever possible, avoid accepting gifts or benefits offered in connection with their duties or because of their position with DFAT. They must report certain gifts and benefits (see section 6.1 of this Manual) accepted in connection with their duties or because of their position with DFAT. DFAT staff must **never** accept money as a gift in connection with their duties or because of their position with DFAT. They must **never** accept discounts on liquid assets (such as shares) as a benefit in connection with their duties or because of their position with DFAT.

DFAT staff may be offered hospitality in connection with their duties in DFAT or because of their position with DFAT. They should, wherever possible, avoid hospitality carrying an implication that a favour is expected in return, or falling outside normal patterns of hospitality appropriate to their position and responsibilities in DFAT. They must report offers of significant hospitality they wish to accept.

DFAT staff should generally not accept offers of sponsored travel. Sponsored travel refers to cases where the costs of transport, accommodation and/or travel/living expenses to enable work undertaken for DFAT are met from sources other than official funds or a staff member's own resources. DFAT staff must report offers of sponsored travel they wish to accept.

Appropriate Use of Official Information and Official Resources (Chapter 7)

DFAT staff (including A-based and LES employees at Posts) must at all times collect, use, disclose and store official information (including personal information held by DFAT) appropriately. They must protect against and not make unauthorised disclosures of official information. Official information should only be collected, used, accessed or made available to staff who have a legitimate need to know in order to perform their duties. Unauthorised disclosure of official information is an offence under the *Crimes Act 1914*. Inappropriate handling of personal information of individuals which is held by DFAT may constitute a breach of the *Privacy Act 1988* and Codes of Conduct.

DFAT staff must at all times use official resources appropriately. They must comply with the *Public Governance, Performance and Accountability Act 2013* and *DFAT's Financial Management Manual*(FMM) which govern the appropriate use of Commonwealth resources. Misuse of official resources may constitute fraud which is an offence against the Commonwealth under the *Crimes Act 1914*.

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Upholding the Reputation of the Department and Australia (Chapter 8)

DFAT staff have a responsibility to uphold the reputation of DFAT at all times and perform their functions in an impartial and professional manner. Staff performing duties overseas for DFAT must at all times behave in a way that upholds the good reputation of Australia. Any public comments they make in a private capacity, including on the internet, must not undermine DFAT's or Australia's reputation.

Misconduct including Child Welfare Notifications (Chapters 9 - 12)

DFAT takes misconduct very seriously and investigates alleged misconduct promptly and fairly (see procedures in Chapter 11). Misconduct can include failure to comply with departmental policies and directions (including Codes of Conduct); criminal and other unlawful behaviour; harassment, bullying and discrimination; fraud and offering bribes. Sanctions may apply to staff found to have committed misconduct.

Misconduct in DFAT should only be reported to authorised persons (as set out in section 11.1.4-7 of this Manual), including the EES at s 22(1)(a)(ii) @dfat.gov.au. DFAT recognises the legitimacy of public interest disclosures, and assists and protects disclosers who are acting in good faith when reporting alleged misconduct to authorised persons in accordance with the *Public Interest Disclosure Act 2013*.

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Chapter 2: Corporate Governance in DFAT and the Australian Public Service

The department has an overarching corporate governance framework to foster and support ethical behaviour and to limit, monitor and manage the occurrence of misconduct. This chapter sets out the role of units and committees in the department which make up this framework. It also provides information on the Australian Public Service Commission and its Ethics Advisory Service. Staff should contact the Employee Conduct and Ethics Section (s 22(1)(a)(ii)@dfat.gov.au) if they require clarification on the contents of this Manual or if they are uncertain about the ethical implications of a proposed course of action.

2.1 Employee Conduct and Ethics Section

2.1.1 The Employee Conduct and Ethics Section (EES) in CMG provides advice on conduct and ethics issues, investigates allegations of misconduct, and refers allegations of criminal behaviour in the department to relevant law enforcement authorities.

2.1.2 EES actively promotes the APS Values and Employment Principles, APS Code of Conduct, LES Code of Conduct and the DFAT Code of Conduct for Overseas Service by:

- providing and supporting conduct, ethics and fraud training in Canberra, at STOs and at posts overseas; and
- providing advice to staff and work units on conduct and ethics, conflicts of interest and fraud management policy; and on possible responses to identified or alleged misconduct in the workplace.

2.1.3 **EES's ethical advisory role is central to its work.** Staff and work units are encouraged to contact EES if they are uncertain about the *ethical* implications of a proposed course of action or about whether they have a real or apparent conflict of interest. This is good risk management practice, and consistent with the department's culture of appropriate reflection, disclosure and discussion on ethical issues.

2.1.4 In addition to its advisory role, EES investigates allegations of misconduct in the department in response to reports from staff, members of the public, media and other sources (including anonymous reports). It also refers allegations of criminal or other unlawful behaviour in the department to relevant law enforcement authorities. Staff wishing to report alleged misconduct should contact EES.

2.1.5 Staff can be assured that any information provided to EES in good faith will be treated confidentially in accordance with relevant Commonwealth legislation.

2.1.6 Staff may contact EES on ext s 22(1)(a)(ii) , or by e-mail at s 22(1)(a)(ii)@dfat.gov.au (or s 22(1)(a)(@dfat.gov.au for conflict of interest issues). EES is located at Ground Floor, 44 Sydney Avenue.

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2.2 Ethics Committee

2.2.1 The department's Ethics Committee generally meets four times a year to oversee and make recommendations on the development and implementation of the department's conduct and ethics policies. It has an important responsibility to promote the highest standards of conduct and ethics.

2.2.2 The Committee's terms of reference are to:

- promote high standards of ethical behaviour;
- prevent misconduct;
- ensure that investigations are carried out fairly and promptly; and
- provide clear and consistent guidance on standards of conduct.

2.2.3 EES is the secretariat for the Ethics Committee. Because of the sensitive issues it often considers, the Committee operates on a basis of strict confidentiality.

2.2.4 The current membership of the Ethics Committee can be viewed on the DFAT Corporate Intranet.

2.2.5 When vacancies arise, staff from all levels and areas in the department are invited to submit nominations. Committee members are appointed for a maximum term of two years. All membership decisions are made by the Chair.

2.3 Fora for Discussing Ethical Issues at Post

2.3.1 Posts are not obliged to have their own ethics committees. However, it is good practice for post management to set aside a regular agenda item in one of their staff meetings for discussion of conduct and ethics issues and implementation of conduct and ethics policies at their post.

2.4 Audit and Risk Committee

2.4.1 The Audit and Risk Committee provides independent assurance and advice to the Secretary and Departmental Executive on the department's risk management and fraud control arrangements, internal control framework, public accountability responsibilities and internal and external audit activities. The Committee reports directly to the Secretary and Departmental Executive.

2.4.2 The Committee consists of a maximum of eight members appointed by the Secretary with a Deputy Secretary appointed as Chair. A minimum of two members of the Committee are independent members. The Secretary; Chief People Officer, People Division (CPO PPD); Chief Finance Officer (CFO); Chief Information Officer (CIO); Assistant Secretary, Executive Branch (AS EXB); and Chief Auditor, are not members of the Committee, but may attend meetings as observers. Representatives of the Australian National Audit Office are also invited to attend all meetings as observers.

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2.4.3 Further information on the Audit and Risk Committee can be found on the DFAT intranet.

2.5 The Australian Public Service Commission

2.5.1 The Australian Public Service Commission (APSC) is an APS agency which provides policy advice on accountability, ethics, probity and openness, and promotes systems and approaches to deliver these objectives.

2.5.2 The APSC actively promotes the APS Values and Employment Principles and the APS Code of Conduct and has a significant role in contributing to public interest disclosure legislation and information law.

2.5.3 The APSC's website (www.apsc.gov.au) provides a range of useful publications relevant to the APS Values and Employment Principles and the APS Code of Conduct.

APSC Ethics Advisory Service

2.5.4 The APSC's Ethics Advisory Service complements the services and arrangements the department has in place (including EES) to promote ethical behaviour and manage conduct and ethics issues in the APS.

2.5.5 The Ethics Advisory Service is available to all APS employees, including agency heads and SES staff, who wish to discuss and seek advice on ethical issues that occur in the workplace and who wish to make sound decisions around these issues. The Ethics Advisory Service includes a call and e-mail centre where APS employees can seek advice on ethical issues, on a confidential basis if necessary. The call and e-mail centre is open Monday-Friday 0830-1700 AEST. Its contact details are:

Phone: 02 6202 3737
E-mail: ethics@apsc.gov.au
Website: www.apsc.gov.au/ethics

2.5.6 The Ethics Advisory Service can provide advice on:

- the application and interpretation of the APS Values and Code of Conduct; Sections 10and 13 of the *Public Service Act 1999*;
- strategies and techniques for ethical decision making in the APS; and
- interpretation of the misconduct provisions of the Public Service Act 1999; as well as advice on related policy and good practice.

2.5.7 Full details about the Ethics Advisory Service and how it operates can be found at its website: www.apsc.gov.au/ethics . The website also contains useful resources and publications on ethical practice in the APS.

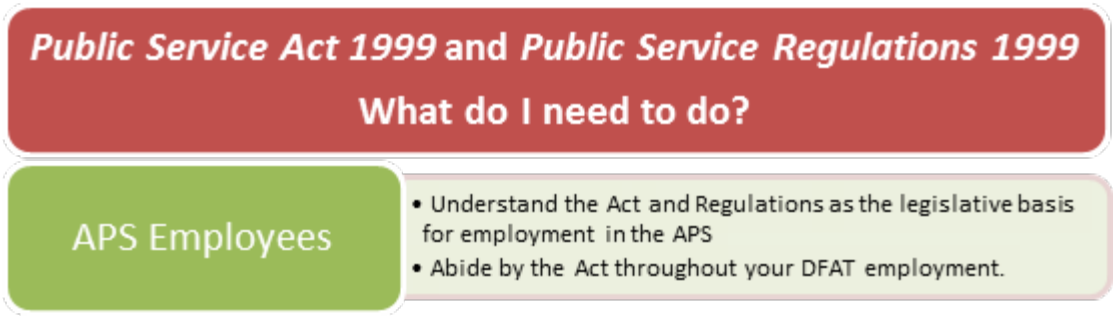
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Chapter 3: Values and Codes of Conduct

This chapter sets out the basis for conduct and ethics standards in the department: the Public Service Act 1999 and Public Service Regulations 1999, APS Values and Employment Principles, APS Code of Conduct, LES Code of Conduct, DFAT Code of Conduct for Overseas Service, and other Australian Government Codes of Conduct.

Staff should contact the Employee Conduct and Ethics Section at s 22(1)(a)(ii) @dfat.gov.au if they require clarification on the contents of this Manual or if they are uncertain about the ethical implications of a proposed course of action.

3.1 Public Service Act 1999 and Public Service Regulations 1999



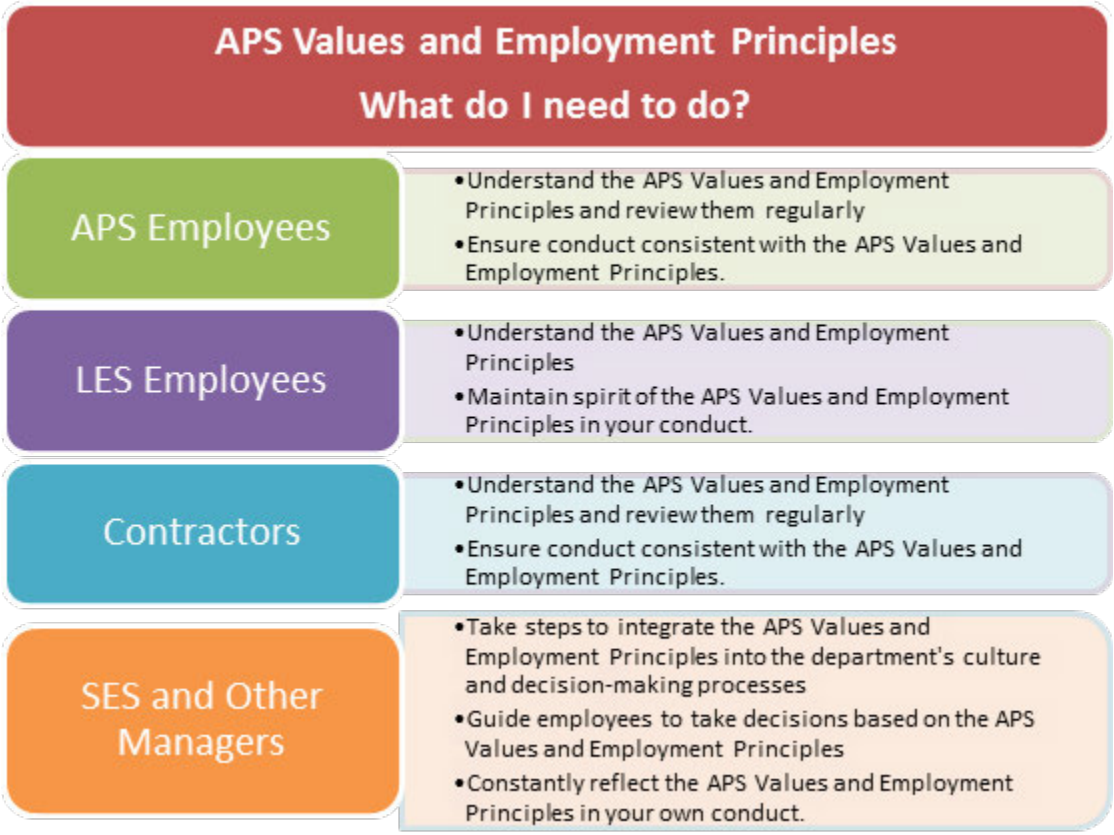
3.1.1 The *Public Service Act 1999* and *Public Service Regulations 1999* provide the legislative basis for employment in the Australian Public Service. All APS employees must abide by the Act throughout their employment in the department.

3.1.2 The *Public Service Act 1999* sets out:

- the standard of behaviour expected of APS employees through the APS Values and Employment Principles (contained in sections 10 and 10A of the *Public Service Act 1999*) and the APS Code of Conduct (contained in section 13 of the *Public Service Act 1999*);
- the sanctions which may be imposed on APS employees found to have breached the APS Code of Conduct (contained in section 15(1) of the *Public Service Act 1999*); and
- all the rights, duties and powers of an employer (assigned to the Secretary) in relation to APS employees in the department (contained in section 20 of the *Public Service Act 1999*).

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3.2 APS Values and Employment Principles



About the APS Values and Employment Principles

3.2.1 The APS Values and Employment Principles should not be seen simply as aspirational targets – they have a clear practical and legal application. They serve as the basis for the department's rules and procedures as well as DFAT's own values statement and help to create a strong ethical working environment which encourages equal opportunity, workplace diversity, honesty, disclosure, accountability and professionalism.

3.2.2 APS employees should review the APS Values and Employment Principles regularly and must ensure that their conduct is consistent with the APS Values and Employment Principles. Failure to uphold the APS Values and Employment Principles may be regarded as a breach of the APS Code of Conduct and attract sanctions as set out in section 15(1) of the *Public Service Act 1999*.

3.2.3 Contractors must uphold the APS Values and Employment Principles in accordance with enforceable provisions of their contracts. They should review the APS Values and Employment Principles regularly and ensure that their conduct is consistent with the APS Values and Employment Principles. Failure to uphold the APS Values and Employment Principles may be regarded as a failure to meet their contractual obligations and may result in the termination of their contract.

3.2.4 LES employees should understand the APS Values and Employment Principles as the basis for the conduct and ethics policies which apply to them – including the LES

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Code of Conduct at their post. They should seek to maintain the spirit of the APS Values and Employment Principles in their conduct.

3.2.5 The Senior Executive Service and other managers in the department have an important responsibility to promote the APS Values and Employment Principles and to set the ethical example by their own conduct. The Australian Public Service Commissioner is empowered to evaluate the extent to which agencies incorporate and uphold the APS Values and Employment Principles.

The APS Values

3.2.6 The APS Values are set out in section 10 of the *Public Service Act 1999* and are as follows:

Committed to service

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

Ethical

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

Respectful

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

Accountable

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

Impartial

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

3.2.7 Chapter 1 of the *Australian Public Service Commissioner's Directions 2013* sets out what an individual must do to uphold each of the APS Values:

Committed to service

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-focussed service delivery;

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(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.

Ethical

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;

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(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.

Respectful

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.

Accountable

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;

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(g) being answerable for individual performance through performance management systems.

Impartial

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.

The APS Employment Principles

3.2.8 The APS Employment Principles are set out in section 10A of the *Public Service Act 1999* and are as follows:

(1) 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 APS employee; and

(c) makes decisions relating to engagement and promotion that are based on merit; and

(d) requires effective performance from each employee; and

(e) provides flexible, safe and rewarding workplaces where communication, consultation, cooperation and input from employees on matters that affect their workplaces are valued; and

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(f) provides workplaces that are free from discrimination, patronage and favouritism; and

(g) recognises the diversity of the Australian community and fosters diversity in the workplace.

Decisions based on merit

(2) For the purposes of paragraph (1)(c), a decision relating to engagement or promotion is based on merit if:

(a) all eligible members of the community were given a reasonable opportunity to apply to perform the relevant duties; and

(b) an assessment is made of the relative suitability of the candidates to perform the relevant duties, using a competitive selection process; and

(c) the assessment is based on the relationship between the candidates' work-related qualities and the work-related qualities genuinely required to perform the relevant duties; and

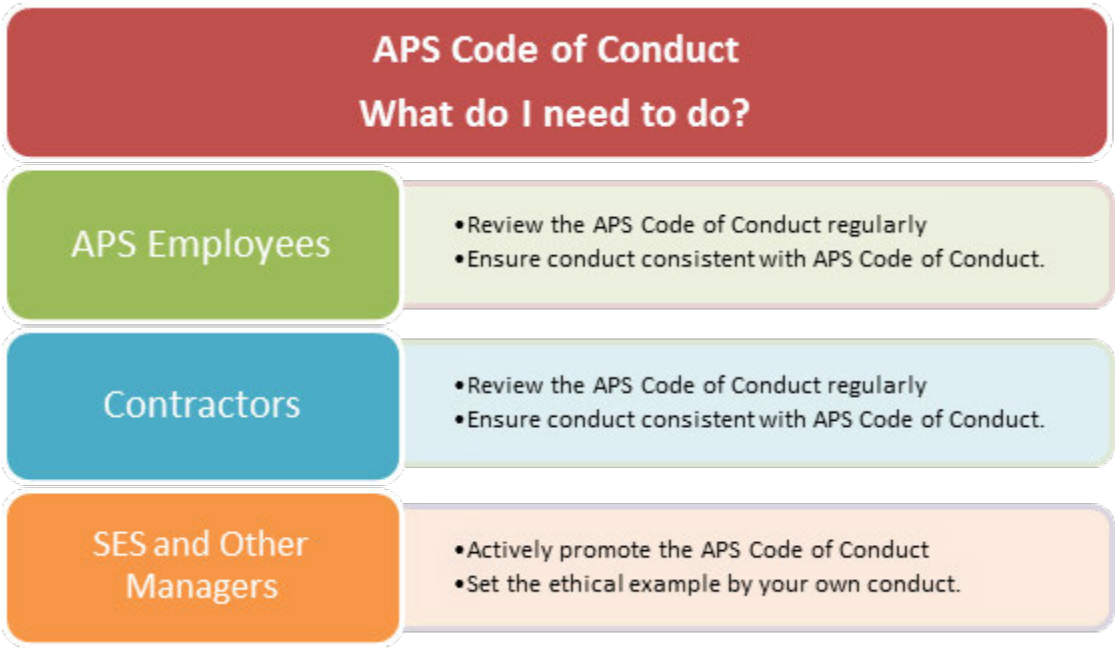
(d) the assessment focuses on the relative capacity of the candidates to achieve outcomes related to the relevant duties; and

(e) the assessment is the primary consideration in making the decision.

3.2.9 Chapters 2.1 and 2.2 of the *Australian Public Service Commissioner's Directions 2013* set out the scope or application of APS Employment Principle 10A(1)(c) ("the merit principle in engagement and promotion") and the circumstances in which it may be modified.

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3.3 APS Code of Conduct



About the APS Code of Conduct

3.3.1 The APS Code of Conduct defines the relationship between the Government, the Parliament, the public and agencies within the APS. As with the APS Values and Employment Principles, the APS Code of Conduct serves as the basis for the department's rules and procedures and they help to create a strong ethical working environment.

3.3.2 APS employees must maintain conduct consistent with the APS Code of Conduct in accordance with their employment under the *Public Service Act 1999*. They should review the APS Code of Conduct regularly. Breaches of the APS Code of Conduct may attract sanctions as set out in section 15(1) of the *Public Service Act 1999*.

3.3.3 Note that the department can investigate alleged breaches of the APS Code of Conduct by current *and former* APS employees (section 15 of the *Public Service Act 1999*). Note also that a current or former APS employee may be taken to have breached the Code of Conduct if he or she is found to have, *before being engaged as an APS employee*, knowingly provided false or misleading information, wilfully failed to disclose relevant information or otherwise failed to behave honestly and with integrity in connection with his or her engagement as an APS employee (section 15(2A) of the *Public Service Act 1999*).

3.3.4 Contractors must maintain conduct consistent with the APS Code of Conduct and should review the APS Code of Conduct regularly. Breaches of the APS Code of Conduct may be regarded as failure to meet their contractual obligations and may result in the termination of their contract.

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3.3.5 LES employees have their own code of conduct – the LES Code of Conduct, which is based on the APS Code of Conduct.

3.3.6 The Senior Executive Service and other managers in the department have an important responsibility to promote the APS Code of Conduct and to set the ethical example by their own conduct.

CASE STUDY - APS CODE OF CONDUCT

I am based at a DFAT State Office and recently attended staff drinks at a local pub. Things got a bit rowdy and I made some inappropriate comments of a sexual nature to a work colleague. I am assuming this is not a breach of the APS Code of Conduct because it happened outside of work hours and the office. Is this correct?

Your behaviour may be a breach of the APS Code of Conduct, even though you were out of the office and outside of work hours. The APS Code of Conduct requires that an APS employee must at all times behave in a way that upholds the APS Values and Employment Principles and the integrity and good reputation of the employee's agency and the APS (section 13(11) of the Public Service Act 1999).

Courts and tribunals have provided guidance on when misconduct by an employee outside of work is the legitimate concern of the employer. The Australian Industrial Relations Commission has upheld termination of employment in circumstances where there was a clear connection between the employee's out of hours conduct and their employment, and where the conduct was incompatible with the employee's duty as an employee or was likely to cause serious damage to the employment relationship.

The APS Code of Conduct

3.3.7 The APS Code of Conduct is set out in section 13 of the *Public Service Act 1999* and is as follows:

(1) An APS employee must behave honestly and with integrity in connection with APS employment.

(2) An APS employee must act with care and diligence in connection with APS employment.

(3) An APS employee, when acting in connection with APS employment, must treat everyone with respect and courtesy, and without harassment.

(4) An APS employee, when acting in connection with APS employment, must comply with all applicable Australian laws. For this purpose, Australian law means:

(a) any Act (including the *Public Service Act 1999*), or any instrument made under an Act; or

(b) any law of a State or Territory, including any instrument made under such a law.

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(5) An APS employee must comply with any lawful and reasonable direction given by someone in the employee's Agency who has authority to give the direction.

(6) An APS employee must maintain appropriate confidentiality about dealings that the employee has with any Minister or Minister's member of staff.

(7) An APS employee must:

a) take reasonable steps to avoid any conflict of interest (real or apparent) in connection with the employee's APS employment; and

b) disclose details of any material personal interest of the employee in connection with the employee's APS employment.

(8) An APS employee must use Commonwealth resources in a proper manner and for a proper purpose.

(9) An APS employee must 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) An APS employee must not improperly use inside information or the employee's duties, status, power or authority:

(a) to gain, or seek to gain, a benefit or an advantage for the employee or any other person; or

(b) to cause, or seek to cause, detriment to the employee's Agency, the Commonwealth or any other person.

(11) An APS employee must at all times behave in a way that upholds:

(a) the APS Values and APS Employment Principles; and

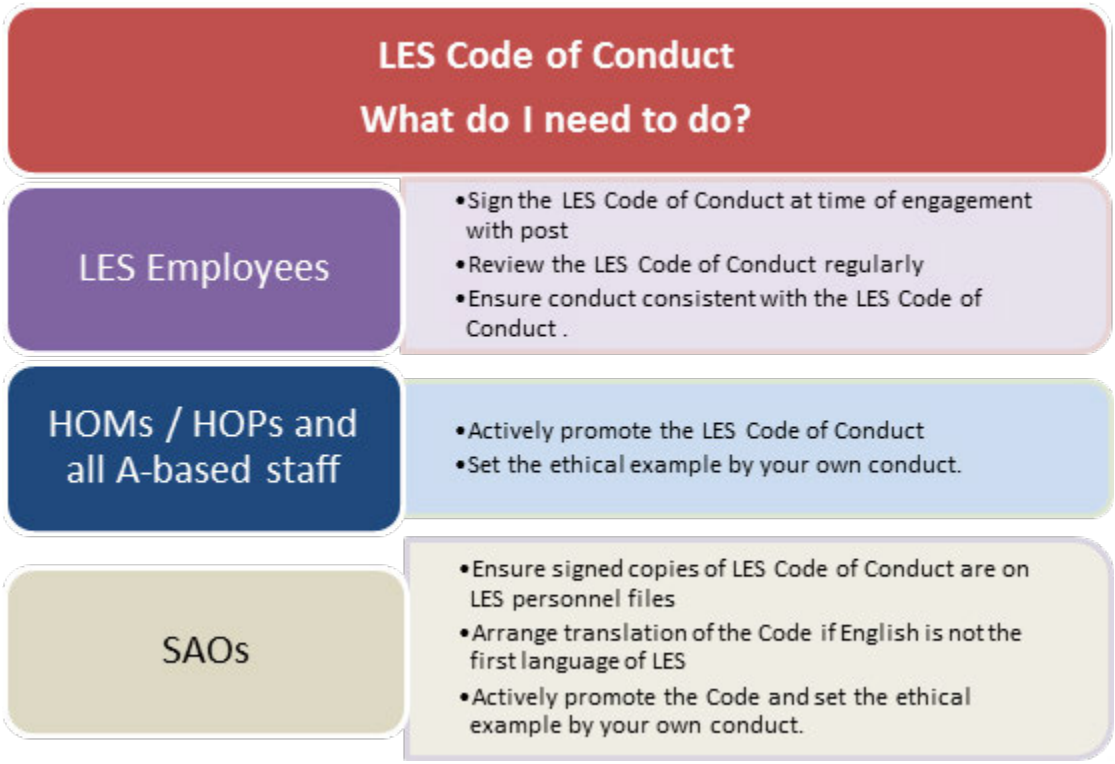
(b) the integrity and good reputation of the employee's agency and the APS.

(12) An APS employee on duty overseas must at all times behave in a way that upholds the good reputation of Australia.

(13) An APS employee must comply with any other conduct requirement that is prescribed by the regulations.

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3.4 LES Code of Conduct



About the LES Code of Conduct

3.4.1 An Australian Embassy, High Commission, Consulate or Business Office is the official representative office of the Australian Government. Australian principles and standards of conduct apply in that workplace. The department expects LES to observe the same high standard of conduct, honesty and integrity as that required of APS employees. The key underlying principles of such conduct are:

- to act in accordance with the local law and applicable Australian law;
- to deal equitably, honestly and in a professional manner with both the public and colleagues;
- to ensure there is no real or apparent conflict of interest; and
- to ensure professional or personal behaviour does not bring the Embassy, High Commission, Consulate, Business Office or Australia into disrepute.

The LES Code of Conduct at each DFAT-managed post is an expression of these principles.

3.4.2 The LES Code of Conduct at each DFAT-managed post applies to all LES employed by DFAT. The department is the employer of all LES at DFAT-managed posts, except for Austrade LES. Austrade has developed its own LES code of conduct, which is similar to DFAT's LES Code of Conduct.

3.4.3 The LES Code of Conduct is issued under the authority of HOM / HOP. Each post may vary its LES Code of Conduct according to local laws and customs. This allows

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posts to take into account variations in the legal and cultural context in which they operate while still maintaining the high standards of conduct and ethics that are expected from all staff in the department. The standard elements of the LES Code of Conduct are set out in section 3.4.10 of this Manual. The standard LES Code of Conduct is based on the principles contained in the APS Code of Conduct and the DFAT Code of Conduct for Overseas Service. LES may be assured that the same standards apply to both groups of employees. The LES Code of Conduct operates in conjunction with, and does not override or supersede, any agency-specific guidelines.

3.4.4 The LES Code of Conduct forms part of the conditions of employment of LES. LES employed by DFAT must read the LES Code of Conduct in place at their post and sign it on engagement with the post. This is to acknowledge that they have read and understood the LES Code of Conduct, and will abide by its contents. It may therefore be appropriate to have the LES Code of Conduct translated into the LES' native language where English is not the first language. SAOs must ensure that signed copies of the LES Code of Conduct are retained on posts' personnel files.

3.4.5 LES must maintain conduct consistent with the LES Code of Conduct as a condition of employment and should review the LES Code of Conduct regularly.

3.4.6 Adherence to the LES Code of Conduct should be reinforced through the use of the standard management tools of communication, feedback and regular performance appraisal. Information on the core principles that form the basis of LES conditions of employment are found in Locally Engaged Staff Human Resources Manual.

3.4.7 Interns and volunteers engaged by posts are also required to abide by the LES Code of Conduct in place at post. SAOs should ensure that they are provided a copy of the post's LES Code of Conduct when they begin their internships or volunteer work with post. Further advice on interns is found in Chapter 3.3.13 and Attachment I of Locally Engaged Staff Human Resources Manual

3.4.8 Spouses/partners of APS employees on posting who are employed as LES (including those who are themselves APS employees on leave without pay) must comply with the LES Code of Conduct in place at their post. However, this does not absolve such LES employees from the responsibility of complying with the relevant sections of the DFAT Code of Conduct for Overseas Service (so far as it applies to them as spouses/partners or as APS employees on leave without pay) or from complying with the APS Values and Employment Principles and the APS Code of Conduct (so far as they apply to them as APS employees).

3.4.9 HOMs/HOPs and SAOs have an important responsibility to promote the LES Code of Conduct and to set the ethical example by their own conduct.

The Standard LES Code of Conduct

3.4.10 The standard LES Code of Conduct is as follows:

1. An employee must at all times behave in a way that upholds the integrity and good reputation of the Embassy, High Commission, Consulate or Business Office.

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2. An employee's personal behaviour, including his or her behaviour outside office hours, must not compromise the good reputation of Australia or the post.

3. An employee's dress and appearance should be in accordance with standards appropriate to his or her duties.

4. An employee should not be under the influence of alcohol, drugs or other prohibited or performance impairing substances in the workplace.

5. An employee must behave honestly and with integrity in connection with his or her employment with the Embassy, High Commission, Consulate or Business Office.

6. An employee must not use his or her official position to influence improperly or try to influence colleagues or members of the public by giving or receiving gifts or by entering into financial or other arrangements with them.

7. An employee must act with care and diligence in connection with his or her employment with the Embassy, High Commission, Consulate or Business Office.

8. In his or her duties an employee must:

- be fair and impartial;
- give persons likely to be affected by a decision an opportunity to have their case considered;
- be prompt;
- explain the reasons for action/decisions; and
- at all times act according to local law and applicable Australian law.

9. An employee, when acting in connection with his or her employment with the Embassy, High Commission, Consulate or Business Office, must treat members of the public and colleagues with respect and courtesy, and without coercion or harassment of any kind.

10. An employee must:

- treat members of the public and colleagues equitably and fairly, regardless of their sex, marital status, ethnicity, age, sexual orientation, disability or religious beliefs or any other similar ground;
- be professional and courteous at all times; and
- provide assistance to the public and to help them understand their entitlements and obligations.

11. An employee must comply with any lawful and reasonable direction given by a person in Embassy, High Commission, Consulate or Business Office who has the authority to give the direction.

12. Employees are at all times subject to the authority of the HOM/HOP and the staff member in charge of the section in which they are employed.

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13. The relevant A-based or LES supervisor has the primary responsibility for ensuring that the required standards of conduct and work performance are met and maintained by LES.

14. An employee must maintain appropriate confidentiality including about information obtained during the course of his or her employment.

15. An employee must not disclose official information to any person unless authorised to do so in connection with his or her duties.

16. An employee must not misuse information obtained in connection with his or her duties, including taking advantage of another person on the basis of information held about the person in official records.

17. An employee must disclose, and take reasonable steps to avoid, any conflict of interest, either real or apparent, in connection with his or her employment in the Embassy, High Commission, Consulate or Business Office, including in relation to any outside employment and/or business activities.

18. An employee must seek and obtain the permission of the HOM/HOP before engaging in outside employment.

19. The HOM/HOP may not grant permission to engage in outside employment which is incompatible with the employee's duties on behalf of the Embassy, High Commission, Consulate or Business Office.

20. An employee who has an interest, financial or otherwise, including in respect of family and friends, that could conflict with the proper performance of his or her duties must disclose this interest to his or her supervisor and take whatever action is necessary to avoid that conflict.

21. An employee must use the resources of the Embassy, High Commission, Consulate or Business Office in a proper manner.

22. An employee must be scrupulous in the use of official money, human and other resources.

23. An employee is required to avoid waste or extravagance in the use of the Embassy, High Commission, Consulate or Business Office's resources.

24. An employee has a responsibility to care for and maintain Embassy, High Commission, Consulate or Business Office property.

25. The property of the Embassy, High Commission, Consulate or Business Office is to be used for official purposes only, and is to be used efficiently and effectively.

26. An employee must not, in connection with his or her employment in the Embassy, High Commission, Consulate or Business Office, provide false or misleading information in response to a request for information that is made for official purposes.

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27. An employee is expected to exercise reasonable care in giving written or oral information or advice and take reasonable steps to ensure that the information provided is accurate.

28. Where there are doubts about the reliability of information this should be checked with a supervisor.

29. Where the information being given is of an interim or conditional nature, this should be made clear.

30. An employee must not make improper use of inside information, or 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, including the acceptance of gifts, benefits, sponsored travel, hospitality, accommodation, hire car costs and entertainment.

31. These restrictions also apply to the families of employees, where the gift or benefit is a direct result of the official duties of the employee.

32. Gifts or benefits should generally not be accepted. In cases where not accepting the gift or benefit would cause offence to an extent that could adversely affect Australia's interests, a gift or benefit can be accepted only with the written approval of the HOM/HOP. Otherwise, the gift or benefit must be refused or returned.

33. If in doubt about whether or not to accept a gift or benefit, the matter should be discussed with the employee's A-based supervisor.

34. A bribe is a gift given or offer made with the intention of influencing an employee to take or not to take a specific action. An employee who is found to have accepted a bribe will be subject to disciplinary action, including possible dismissal.

35. Money must never be accepted as a gift.

36. An employee in connection with his or her employment at the Embassy, High Commission, Consulate or Business Office must not promise, offer or give any bribe to colleagues with the aim of influencing a decision or influencing a colleague to commit misconduct or fraud.

37. An employee must not promise, offer or give any bribe to colleagues connected with management, disbursement or collection of Embassy, High Commission, Consulate or Business Office funds with the intent of influencing a decision or action on any question or matter related to their functions, or influencing them to commit, aid or abet in committing any fraud.

38. An employee must not engage in deceitful actions aimed at gaining a benefit or avoiding a liability.

39. An employee must not engage in fraudulent conduct. This includes deceitful or other dishonest conduct, involving acts of omission or the making of false statements, orally or in writing, with the object of obtaining money or other benefit, or of evading liability, from the Embassy, High Commission, Consulate or Business Office.

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40. In particular, employees who are entrusted with the handling of Embassy, High Commission, Consulate, or Business Office funds or property must not:

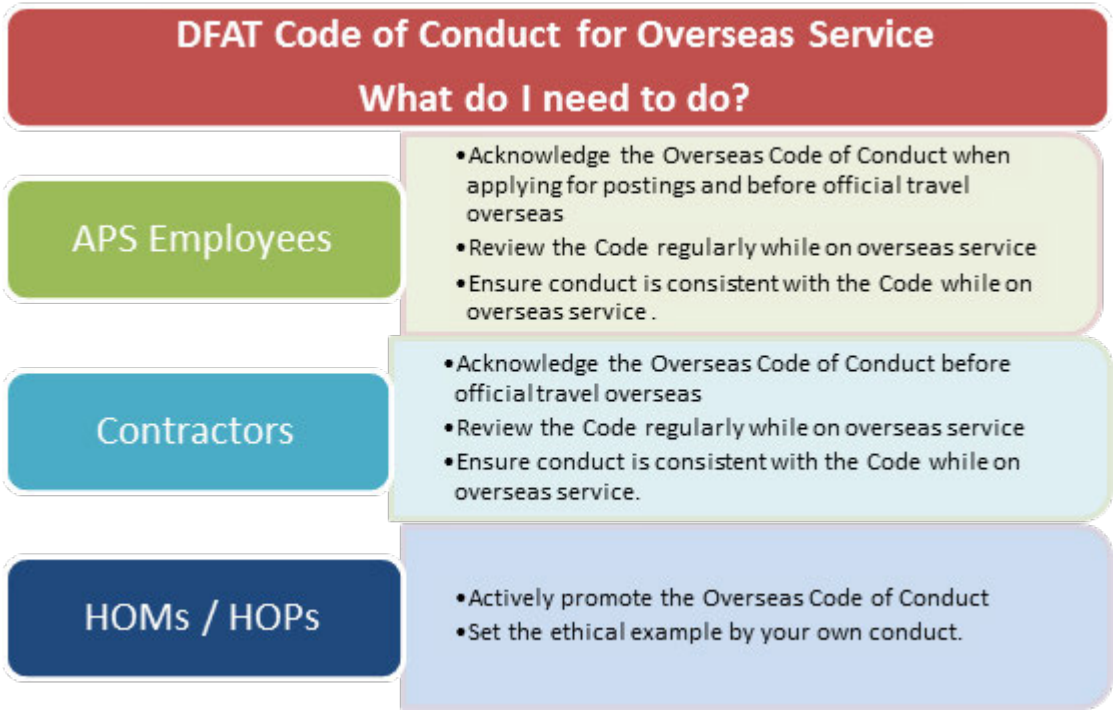
- accept any compensation or reward in connection with the performance of their duties other than their prescribed salary and entitlements;
- conspire or collude with any other person to defraud;
- permit or condone any violation of the law by any person;
- wilfully make or sign any false entry on any document or wilfully make or sign any false certificate or return; or
- demand, accept or attempt to collect directly or indirectly, for themselves or others, as payment or gift any sum of money, any benefit or any other thing of value.

41. An employee must comply with any other requirement that is prescribed by the Embassy, High Commission, Consulate, or Business Office.

42. An employee who is found to have breached this Code will be subject to disciplinary action, including possible dismissal.

43. The rules for conduct which apply to employees are explained in detail in the Department of Foreign Affairs and Trade's Conduct and Ethics Manual, as amended from time to time. The Manual is available on SATIN Low or from the SAO.

3.5 DFAT Code of Conduct for Overseas Service



About the DFAT Code of Conduct for Overseas Service

3.5.1 Promoting and maintaining Australia's good reputation abroad is central to the department's work. Due to the high degree of public scrutiny that DFAT's activity and conduct attracts in Australia and internationally, all departmental staff operating overseas

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have a duty to act in a manner that upholds the reputation of Australia, the post and the department at all times.

3.5.2 Accordingly, the department has developed the DFAT Code of Conduct for Overseas Service. The DFAT Code of Conduct for Overseas Service is based on the principles in the APS Code of Conduct and in particular Section 13(12) of the *Public Service Act 1999*, which states that "an APS employee on duty overseas must at all times behave in a way that upholds the good reputation of Australia".

3.5.3 The duty to uphold the good reputation of Australia is fundamental and underlies the principles for conduct overseas elaborated in the DFAT Code of Conduct for Overseas Service. These principles include: respect for the law of the host country; cultural awareness and sensitivity; appropriate personal behaviour; employee responsibility for the behaviour of household members; respect for the opinions of others; integrity in the use of diplomatic and consular privileges; and the authority of the Head of Mission.

3.5.4 The DFAT Code of Conduct for Overseas Service applies to all APS employees and contractors of the department serving overseas in an official capacity. It does not apply to LES employees who are bound by the LES Code of Conduct at their post. Nor does it apply to honorary consuls and their staff, who are bound by *Guidelines for Australian Honorary Consuls* contained in the Consular Handbook.

3.5.5 The DFAT Code of Conduct for Overseas Service does not apply to APS employees of other agencies operating at post. However, under the Prime Minister's Directive on the Guidelines for the Management of the Australian Government Presence Overseas, the Head of Mission has overarching authority on all conduct issues at post, including as it affects relations with host governments, post administration and the good reputation of the post or Australia.

APS Employees and the Overseas Code

3.5.6 The DFAT Code of Conduct for Overseas Service applies to all APS employees of the department serving overseas in an official capacity. This includes those on long-term postings and short-term missions and visits, those on leave without pay, and those who are temporarily attached to non-APS bodies such as international organisations, foreign government agencies, non-government organisations and private-sector corporations.

3.5.7 As part of the long-term postings application process in PeopleSoft ESS, APS employees must acknowledge that they have read the DFAT Code of Conduct for Overseas Service. As part of the pre-departure processes for any official travel overseas, they must sign an undertaking to comply with the DFAT Code of Conduct for Overseas Service. APS employees must maintain conduct consistent with the DFAT Code of Conduct for Overseas Service while on service overseas and should regularly review the DFAT Code of Conduct for Overseas Service while on service overseas. In addition to section 3.5.14 of this Manual, the DFAT Code of Conduct for Overseas Service is available at http://www.dfat.gov.au..

3.5.8 Breaches of the DFAT Code of Conduct for Overseas Service by APS employees are regarded as breaches of section 13(12) of the *Public Service Act 1999* and may attract sanctions as set out in section 15(1) of the *Public Service Act 1999*.

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3.5.9 Unless they are staff members of the department themselves, household members of APS employees serving overseas are not covered directly by the DFAT Code of Conduct for Overseas Service. Nor are they subject to any obligations under the *Public Service Act 1999* or departmental directions in relation to conduct. However, the high visibility of household members as part of an Australian official community means that any inappropriate behaviour or violation of the host country's laws by a household member can damage the reputation of the department, the post and Australia (clause 6.2 DFAT Code of Conduct for Overseas Service). Consequently, incidents of misconduct by household members could result in an APS employee's posting being terminated (clause 6.3 DFAT Code of Conduct for Overseas Service).

3.5.10 Article 37 of the Vienna Convention on Diplomatic Relations (VCDR) provides members of the family of a diplomatic agent with privileges and immunities. Because of this provision, household members must respect the laws and regulations of the receiving State in accordance with Article 41 of the VCDR. Articles 53 and 55 of the Vienna Convention on Consular Relations (VCCR) are relevant in this regard to members of consular posts.

CASE STUDY - CODE OF CONDUCT FOR OVERSEAS SERVICE

I am currently on a posting and my 15 year old son has been repeatedly drinking under age and taking illegal drugs. Can I be investigated because of his behaviour?

The APS Code of Conduct and the DFAT Code of Conduct for Overseas Service do not directly extend to cover members of your household. However, under the Overseas Code, members of an employee's household are expected to uphold Australia's reputation overseas.

As a posted employee, you are obliged to take all reasonable steps to ensure that members of your household are aware of local laws, culture and customs. If any member of your household engages in any activity that brings or may bring the mission or Australia into disrepute, you must take all reasonable steps to ensure that the behaviour ceases. If such behaviour continues, you must inform your HOM/HOP of the incidents. There is a possibility you might be requested to return home from your posting as part of a management action rather than a conduct and ethics-related decision. If you are recalled from the posting as a result of your son's actions, this would not impact negatively on your career prospects within the department.

Contractors and the Overseas Code

3.5.11 The DFAT Code of Conduct for Overseas Service also applies to contractors serving overseas in an official capacity and performing duties overseas for the department. For the purposes of the DFAT Code of Conduct for Overseas Service, "employee" also means a contractor in the department serving overseas in an official capacity and performing duties overseas for the department. Contractors must maintain conduct consistent with the DFAT Code of Conduct for Overseas Service while on service overseas in accordance with enforceable provisions of their contracts. They should regularly review the DFAT Code of Conduct for Overseas Service while on service overseas. In addition to section 3.5.14 of this Manual, the DFAT Code of Conduct for Overseas Service is available.

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3.5.12 Breaches of the DFAT Code of Conduct for Overseas Service by contractors may be regarded as failure to meet their contractual obligations and may result in the termination of their contract.

HOMs/HOPs

3.5.13 HOMs/HOPs have an important responsibility to promote the DFAT Code of Conduct for Overseas Service and to set the ethical example by their own conduct.

The DFAT Code of Conduct for Overseas Service

3.5.14 The DFAT Code of Conduct for Overseas Service is as follows:

Introduction

1.1 Employees of the Department of Foreign Affairs and Trade ("the Department") travelling overseas on official business, including those on long-term postings, are required to comply with the Code of Conduct for Overseas Service ("the Code"), which is underpinned by the Australian Public Service (APS) Code of Conduct. The Code provides guidance to employees on their obligations under Section 13(12) of the *Public Service Act 1999*, which states that: "An APS employee on duty overseas must at all times behave in a way that upholds the good reputation of Australia."

1.2 All APS employees, because they serve the Government and the community at large, assume a position of trust together with ethical obligations. Australians have a right to expect from their representatives overseas a wholehearted and scrupulous commitment to the highest standards of behaviour. APS employees overseas are required to comply with the applicable laws of Australia and with all applicable regulations, directions and guidelines relating to their official and personal conduct.

1.3 The Code provides guidelines for employees' behaviour overseas, both personal and professional. In conducting themselves overseas, employees are expected to use their good judgment and common sense. If any employee is in any doubt about aspects of the Code or unsure about how to proceed, they are encouraged to seek guidance from senior colleagues or from the Employee Conduct and Ethics Section (EES). Staff may also wish to consult the Australian Public Service Commission's website (www.apsc.gov.au) for a range of topical publications.

1.4 In the Code the term "employee" means an APS employee under the *Public Service Act 1999*. The Code applies to employees on long-term postings, including Heads of Mission, those who are overseas on short-term missions and visits and those on leave without pay. It applies to employees who are temporarily attached to non-APS bodies such as international organisations, foreign government agencies, non-government organisations and private-sector corporations.

1.5 The Code does not apply to honorary consuls and their staff, or to locally-engaged staff (LES) at Australian diplomatic or consular missions. Honorary consuls and their staff are expected to observe the provisions in the *Guidelines for Australian Honorary Consuls* contained in Chapter 3 of the Consular Handbook. Separate guidelines on

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conduct for locally-engaged staff are issued under the authority of the Head of Mission in each location.

1.6 Breaches of the Code are regarded as a breach of Section 13(12) of the *Public Service Act 1999* and will be handled in accordance with departmental procedures for handling breaches of the APS Code of Conduct. All management actions taken to address conduct issues in accordance with the Code will be subject to the normal requirements of procedural fairness.

Upholding Australia's Reputation

2.1 APS employees working overseas are seen as representatives of Australia, not only in the performance of their official functions but also in the manner in which they conduct themselves as private individuals. Regardless of their formal roles or responsibilities, their visibility and status as foreign officials means that their actions will be subject to a greater degree of scrutiny and public interest than they would be at home, and that an adverse perception of those actions may have an impact on Australia's reputation. Furthermore, Australian officials abroad may face dilemmas in the area of conduct and ethics which do not arise in Australia, in a range of social, cultural, financial or personal settings.

2.2 Employees who are on duty overseas have a duty to act at all times in a manner which upholds the good reputation of Australia, and which contributes to the good reputation of the Department and any Australian mission with which they are associated. The duty to uphold the good reputation of Australia is fundamental, and underlies the approach to particular principles of conduct overseas elaborated under the sub-headings below. Members of an employee's household are also expected to uphold Australia's reputation overseas.

Respect for the Law

3.1 In accordance with the Vienna Conventions on diplomatic and consular relations, an employee overseas must respect the law of the country to which he or she is posted, or in which he or she is travelling. An employee must comply with any lawful and reasonable directions, and take into account any guidance issued by the Department and the Head of Mission, concerning the operation of local laws and regulations. Such directions and guidance will be of special relevance where there is a major difference between the requirements of local law and the law applying in Australia. Employees must give particular attention to laws and directions concerning bank accounts, currency dealings, purchase and disposal of motor vehicles and traffic infringements. Employees should also make arrangements to clear all outstanding locally incurred financial debts prior to completing their posting.

3.2 An Employee overseas must inform the Head of Mission as soon as practicable if the employee, or a member of his or her household, comes to the notice of the local law enforcement authorities, except in matters of minor traffic infringements. Where the employee is not attached to an Australian mission, he or she must also inform the Department. Where there appears to be a breach of local law, excluding minor traffic infringements, the Head of Mission should inform the Department immediately. These requirements will apply in all cases, including where the employee may, but for diplomatic or consular status, have been charged with an offence.

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3.3 Amendments to the *Crimes (Overseas) Act 1964* extend the scope of the Act to apply extraterritorially to Australian diplomatic and consular employees (and their family members) serving overseas who have immunity from prosecution under local law. As a result, an employee (or family member) who has committed a crime overseas could, in certain circumstances, be prosecuted in Australia rather than under local law. An Australian prosecution could only be commenced where: a similar crime exists in Australia; the person's immunity from local jurisdiction has not been waived by the Minister for Foreign Affairs; and the Attorney-General (following consultation with the Minister for Foreign Affairs) has provided consent. The legislation also contains safeguards to ensure that individuals do not face prosecution for the same crime both overseas and in Australia. The amendments came into effect on 1 July 2003.

Cultural Sensitivity

4.1 Employees living and working overseas need to be culturally sensitive to the people of the host country and to be understanding of local customs, including those relating to personal behaviour.

4.2 An employee overseas must respect laws and customs which are protective of local cultural property. An employee must not purchase or export, or make arrangements in respect of the purchase or export of, any item of cultural property other than in accordance with local regulations, and with the knowledge and consent of the host authorities where this is required. The term "cultural property" includes any antiquity, artefact, document, work of art or other chattel which is of national, historical, scientific, literary or artistic importance, and also includes any property the sale or export of which is, or may be, subject to local regulation.

4.3 The APS and Australia have a reputation for integrity which must not be undercut by any perception that an employee might be influenced by bribes, gifts or other benefits. Subject to paragraph 4.4, an employee overseas and members of his or her household must not accept gifts, benefits or hospitality or advantages that are offered in connection with the employee's duties, status, power or authority.

4.4 Where refusal of a gift is likely to give offence to an extent that could adversely affect Australia's interests, the employee may accept the gift, but must promptly report it in accordance with Departmental procedures [see Chapter 6 of the Manual] and advise the Head of Mission. The gift is regarded as the property of the Commonwealth until the Secretary's delegate determines its disposal [see Schedule A of this Manual]. Gifts retained for any reason must be recorded in a register maintained for the purpose at the mission. Employees may retain gifts that exceed the value limits set for gifts from government or private sources subject to payment to the Department of the difference between the allowable limit and the wholesale value of the gift plus GST. An item classified as having little or no commercial value may be retained without the approval of the delegate, but the employee must ensure that it falls within that classification as determined by the delegate. Money must never be accepted as a gift.

Appropriate Personal Behaviour

5.1 An employee must not engage in behaviour at any time which is likely to affect adversely an employee's ability to perform his or her duties, or the ability of his or her

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mission to achieve its objectives, or which is likely to bring the mission or Australia into disrepute. In particular, employees should be aware that sexual behaviour and use of alcohol and other substances are areas of particular sensitivity, where conduct may more easily be seen as offensive or be misinterpreted, and where particular attention to appropriate personal behaviour in the local context is therefore required. Where an employee, including a Head of Mission, is in any doubt as to the applicability of this principle, he or she should seek advice from a supervisor and, if necessary, the EES.

5.2 Where an employee is engaged in any personal relationship which might have any of the adverse effects set out in Para 5.1, he or she must inform the Head of Mission. Heads of Mission must treat any information they receive in relation to such matters in accordance with the *Privacy Act 1988*, including, where appropriate, disclosure of information to CPO CMG.

5.3 An employee must comply with the age of consent requirements specified for sexual activity in the law of the host country or the age of consent under the law of the Australian Capital Territory (16 years), whichever sets the greater age.

5.4 An employee must not use, or be required to use, mission office facilities, staff or resources for the purpose of arranging or facilitating access to sex workers by any person, including visitors to the mission.

5.5 An employee's personal conduct towards his or her domestic staff and locally-engaged staff must not be exploitative or be such as to lead reasonably to a perception of exploitation. This provision also applies to members of an employee's household. If a sexual relationship occurs, the employee must inform the Head of Mission or, in the case of a Head of Mission, the CPO CMG.

Household Members

6.1 An employee must notify the Head of Mission or, in the case of a Head of Mission, the CPO CMG, if he or she is planning to change the composition of his or her household. (A household includes the employee's family and other dependants as defined in Volume Two of the Human Resources Manual). This does not replace the employee's obligation, in conformity with the Security Instructions, to inform Diplomatic Security Branch of any change to their circumstances which may affect them or their security clearance.

6.2 Accompanying household members are not covered directly by the Code or subject to any obligations under the *Public Service Act 1999* or Departmental directions in relation to conduct. It is nonetheless the case that because of their visibility and identity as part of an Australian official community, the actions of household members can have an impact on the reputation of Australia or of an Australian mission, and on the ability of Employees to perform their duties.

6.3 An employee overseas must take all reasonable steps to ensure that members of his or her household are aware of local laws, culture and customs. In the event of behaviour by a household member which would breach paragraph 5.1 if committed by the employee, the employee must take all reasonable steps to ensure that the behaviour ceases. If the behaviour persists, the employee must consult the Head of Mission. In cases involving members of the Head of Mission's household, Heads of Mission should consult with the

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CPO CMG. Incidents of such behaviour may, for operational reasons, require recall to Australia and possibly termination of the employee's posting. In such an event, no blame will attach to the employee by reason only of the behaviour of the member of his or her household.

Respect for Others and Tolerance of their Opinions

7.1 As in Australia, employees overseas have a duty to contribute to the effective functioning of the workplace by treating their colleagues and the public with respect. Even more than in Australia, this will require particular attention to the possibly very different cultural backgrounds, beliefs and opinions of the people encountered in the workplace and outside it. This principle is central to good relations with locally-engaged staff and domestic staff, and is important to effective performance in all overseas environments.

7.2 Employees overseas must respect the cultural background of colleagues in the workplace (including locally-engaged staff), clients and domestic staff; not discriminate against, or harass such persons or any other person because of their sex, marital status, ethnicity, age, sexual orientation, disability or religious beliefs, or upon any similar ground; and respect the privacy of individuals when dealing with personal information.

Integrity in the Use of Diplomatic and Consular Status and Privileges

8.1 Diplomatic or consular status and privileges are conferred on an employee overseas to facilitate the operation of the diplomatic or consular mission with which he or she is associated, and not for the personal benefit of the employee or members of the employee's household. An employee must act with integrity in relation to any privilege he or she may have (such as exemption under international law from the payment of taxes or duties) as a diplomatic or consular representative. Goods obtained without the payment of duty under privilege are for personal use only, and must not be sold or used as payment of any kind to persons who do not have the relevant privilege. An employee must not be required to use diplomatic privileges in a manner that would undermine the integrity of those privileges.

8.2 Employees overseas must not seek either to invoke or to waive diplomatic or consular immunity, which is a matter for decision by the Minister for Foreign Affairs. Employees should be aware that consular immunity can exist only in respect of consular acts.

8.3 It is important to note that employees and members of their households have no immunity in relation to any professional or commercial activity in which they may engage outside of their official functions. Where a member of his or her household is planning to engage in any private gainful occupation, an employee must consult the Head of Mission, who may decide that the Department and/or the host government be consulted. Where a member of the Head of Mission's household is planning to engage in any private gainful occupation, the Head of Mission should consult with the CPO CMG.

8.4 An employee must take all reasonable steps to ensure that any activities by a member of his or her household who is carrying on a private gainful occupation do not give rise to a conflict or the perception of a conflict between the official duty of the employee and the private interest of either the person or a member of his or her household. For example,

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they must not use the mission's address as that of their place of business. In cases where the mission address is the sole address, household members should use a private PO Box for carrying on a private business.

Authority of the Head of Mission

9.1 An employee overseas must comply with any lawful and reasonable directions issued by the Head of Mission and must consult the Head of Mission about any personal or professional issue that gives rise to concerns relating to the operation of the mission in accordance with paragraph 5.1 above. In the event of a difference between an employee and the Head of Mission over the lawfulness or reasonableness of a direction, either may refer the matter to the CPO CMG for decision. Pending the Department's decision, the employee is expected to comply with the written directions of the Head of Mission.

9.2 An employee of an agency different to that employing the Head of Mission is subject to the overall management and control of his or her agency while overseas, but is subject to the direction of the Head of Mission on any matters within that employee's area of responsibility that could affect Australia's bilateral relations with the host government, the administration of the mission or the good reputation of the mission or Australia in the host country.

9.3 In the event of any difference between a Head of Mission and any such employee concerning the extent of the Head of Mission's authority, either may request their employing agency to take up the matter with the employing agency of the other. Pending the resolution of any such differences by those agencies, the employee is expected to comply with the written directions of the Head of Mission.

Implementation

10.1 An undertaking indicating knowledge of and willingness to comply with the Code is a condition of approval for travel overseas, whether on short or long-term assignment, for all employees.

10.2 Employees have an obligation to report apparent or alleged breaches of the Code to the Head of Mission and, where appropriate, to the CPO CMG or, if they prefer, directly to the EES. Reporting of apparent or alleged breaches may alternatively be made as 'public interest disclosures' to authorised officers under the *Public Interest Disclosure Act 2013*. Employees making public interest disclosures may be immune from criminal and civil liability or disciplinary action and may be subject to protection from reprisal. Employees can contact an authorised officer by email at PID@dfat.gov.au. . Employees should also consult relevant departmental instructions on reporting breaches, for example, the 'Procedures for Handling Public Interest Disclosures'.

10.3 Where an employee becomes aware of serious criminal misconduct, by another Australian who is not an APS employee, the employee should report the matter to the Head of Mission, who will, in turn, consider the most appropriate course of action, including reporting the matter to local law enforcement authorities or the Australian Federal Police. Employees should be aware of potential conflict of interest where the person involved may subsequently become a consular client. Chapter 12 of the Consular Handbook on managing child sex complaints provides useful guidance in this respect.

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10.4 Any failure to comply with the Code will be handled in accordance with departmental procedures for handling breaches of the APS Code of Conduct. In serious cases, an employee may, for operational reasons, be recalled to Australia pending the outcome of an investigation. This would not be disciplinary action. Where an allegation relates to a Head of Mission, a report must be made to the CPO CMG.

10.5 The making of an allegation which is found to be without substance and which is knowingly false, vexatious or malicious may be treated as a breach of the APS Code of Conduct.

10.6 In accordance with longstanding practice, the Department will pass to the Australian Federal Police any information which it can reasonably be suspected relates to an offence under applicable Australian law.

3.6 Other Australian Government Codes of Conduct

Statement of Standards for Ministerial Staff

3.6.1 The Australian Government has a Statement of Standards for Ministerial Staff. The Statement of Standards for Ministerial Staff applies to individuals employed under the *Members of Parliament (Staff) Act 1984* (MoP(S) Act). Staff of the department who have been granted leave without pay to work in Ministers' and Parliamentary Secretaries' offices on MoP(S) contracts must abide by the Statement of Standards for Ministerial Staff.

3.6.2 The Statement of Standards for Ministerial Staff does **not** apply to Departmental Liaison Officers, who remain subject to the conduct provisions of the *Public Service Act 1999*. Nor does it apply to APS employees generally, who are also subject to the conduct provisions of the Public Service Act 1999. However, given the important relationship between Ministerial staff and the department, and the movement of staff between the department and Ministers' and Parliamentary Secretaries' offices, all APS employees should familiarise themselves with the Statement of Standards for Ministerial Staff.

3.6.3 The Statement of Standards for Ministerial Staff sets out the standards of personal integrity; professionalism and behaviour that are expected of Ministerial staff and recognises the important role Ministerial staff play in providing advice and assistance to Ministers in the performance of their functions. It covers all Ministerial and Parliamentary Secretary employees, including personal and electorate staff, as well as consultants engaged by Ministers and Parliamentary Secretaries.

3.6.4 The Prime Minister's Office and the Government Staffing Committee are responsible for implementing the Statement of Standards for Ministerial Staff. Any sanctions imposed under the Statement of Standards for Ministerial Staff will be determined, after consultation with the relevant Minister, by the Chief of Staff of the Prime Minister, acting on advice from the Government Staffing Committee.

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Lobbying Code of Conduct

3.6.6 The Australian Government has a Lobbying Code of Conduct.

3.6.7 The Lobbying Code of Conduct applies restrictions on lobbying activities of SES employees and equivalents (EL2 HOM/HOPs, EL2 employees paid as SES and EL2 employees acting as SES for 12 months or longer) for a 12 month period after separation from the department. It also requires APS employees and contractors in Australia to find out the interests a lobbyist is representing when the lobbyist seeks to influence government policy or decisions.

3.6.8 More detailed information on the Lobbying Code of Conduct and how it is applied in the department is set out at section 5.4 and section 5.5 of this Manual.

Indigenous Art Code

3.6.9 The Australian Government has an Indigenous Art Code. The purpose of the Indigenous Art Code is to regulate the conduct of participants in the Indigenous art industry to ensure:

- fair and ethical trade with artists;
- transparency with the promotion and sale of artwork;
- a fair and equitable dispute resolution system for disputes arising under this code.

3.6.10 When purchasing items of art and promoting art dealers and galleries to third parties, posts and other relevant work units in the department should only enter into relations with Australian commercial entities which are signatories to the Indigenous Art Code.

3.6.11 The Cultural Diplomacy Section of the department's Consular, Public Diplomacy and Parliamentary Affairs Division can provide staff more detailed guidance on the application of the Indigenous Art Code, as it relates to the work of the department.

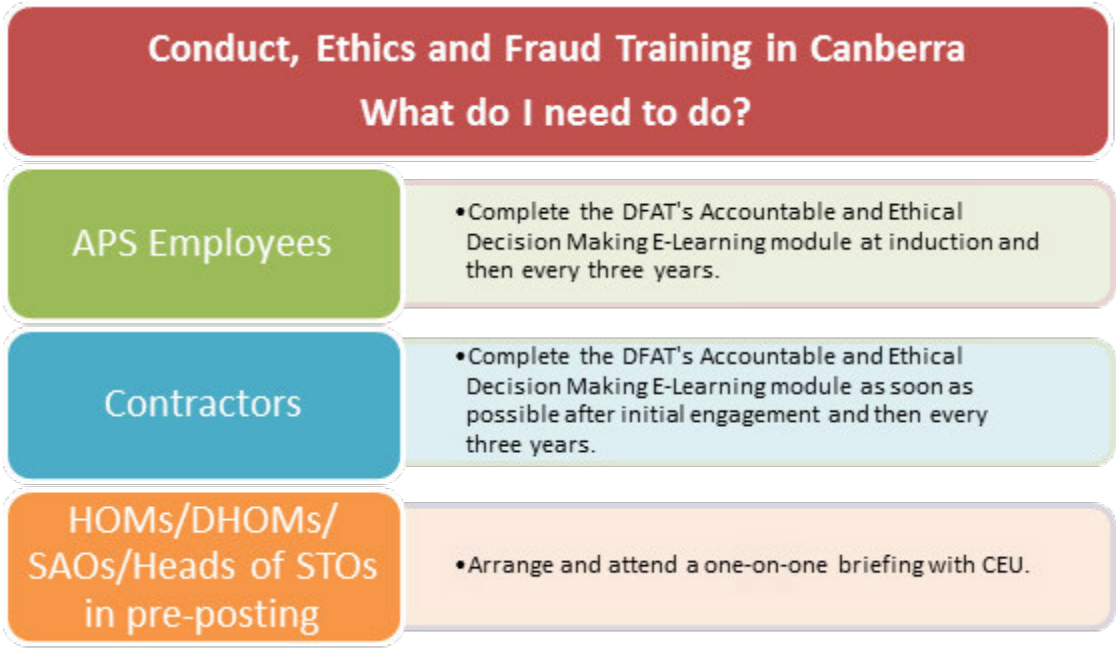
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Chapter 4: Conduct, Ethics and Fraud Training

This chapter sets out the training provided and supported by the Employee Conduct and Ethics Section. It offers guidance on provision of conduct, ethics and fraud training at posts and state/territory offices. It also contains two conduct and ethics training tools – the discussion paper "What Do We Mean by Ethics?" and the ReFLECT Model of Decision-Making.

Staff should contact the Employee Conduct and Ethics Section at s 22(1)(a)(ii) @dfat.gov.au if they require clarification on the contents of this Manual or if they are uncertain about the ethical implications of a proposed course of action.

4.1 Conduct, Ethics and Fraud Training in Canberra



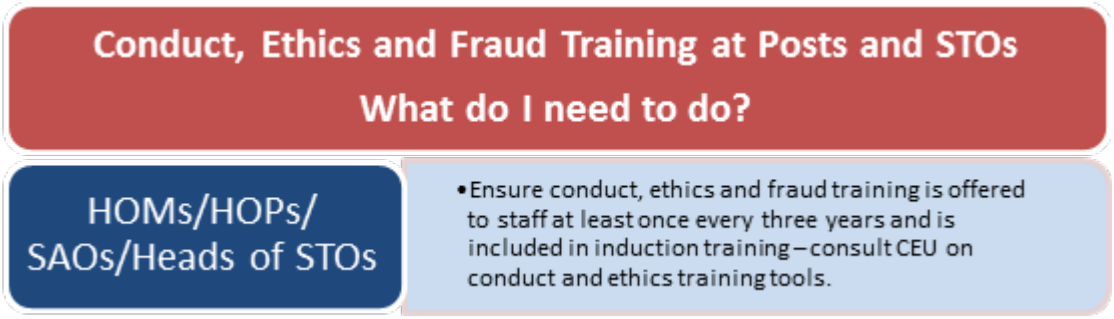
4.1.1 The Employee Conduct and Ethics Section (EES) provides conduct, ethics and fraud training to APS employees and contractors in Canberra. The Accountable and Ethical Decision Making E-Learning Module is mandatory for all APS employees at induction, before a long-term posting overseas and in any case at least once every three years. APS employees can enrol in the course via PeopleSoft ESS. Contractors with PeopleSoft access and who are issued with a security pass to the R G Casey building should complete the Accountable and Ethical Decision Making E-Learning Module as soon as possible following their initial engagement with the department and at least once every three years. The contract manager should arrange this training. Further information about the EES

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courses available and how to enrol can be obtained from EES or Diplomatic Academy (DAC).

4.1.2 EES also provides one-on-one pre-posting conduct, ethics and fraud briefings for outgoing HOMs/HOPs, DHOMs/DHOPs, SAOs and heads of state/territory offices. These briefings are mandatory as part of pre-posting briefings and can be arranged by contacting EES.

4.2 Conduct, Ethics and Fraud Training at Posts and State/Territory Offices



4.2.1 EES provides conduct, ethics and fraud training at posts and state/territory offices as opportunities allow. Posts and state/territory offices should nevertheless ensure that all staff with PeopleSoft access have completed the Accountable and Ethical Decision Making E- Learning Module. A specific module for LES staff is available. All employees at posts and state/territory offices should have conduct, ethics and fraud training at least once every three years. A conduct, ethics and fraud training component should be included in the induction training for all new employees at posts and state/territory offices. EEScan provide department-tailored conduct, ethics and fraud training tools to posts and state/territory offices.

4.3 Conduct and Ethics Training Tools

4.3.1 In addition to the policies and case studies contained in this Manual, "What Do We Mean By Ethics?" (a discussion paper prepared by EES) and the ReFLECT Model for Decision-Making (a system developed by the Australian Public Service Commission) are tools which work units can use to guide discussion on conduct and ethics issues.

What Do We Mean By Ethics? A Discussion Paper

Personal ethics

Most people are familiar with the everyday, non-philosophical meaning of the term "ethics". This usually means personal ethics: the private set of rules and standards that we each hold to, which help us decide what we should or should not do in different situations. Personal ethical values are usually derived consciously or unconsciously from those of

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our parents and from the culture in which we were raised. We may take our own personal ethical values for granted and may not have thought about them in detail.

Can you think of examples of personal ethical values or principles? By values, we usually mean ideals that we aspire to which we can express in a word or two, e.g. honesty. Principles are short statements that describe the rules we will live by, e.g. the ten commandments.

Our personal ethical values and principles and the strength with which they are held become most obvious to us when they come into conflict with some other law, rule or principle. Can you think of an example of something which may be legal or socially acceptable, but which you would not do because it conflicts with your personal values?

Ethical principles provide a framework which enables us to examine objectively existing rules and practices. Can you think of an example of a social norm, political position or perhaps even a law that you disagree with because it conflicts with your ethical principles?

Professional Ethics

Professional ethics, on the other hand, refer to a set of values and/or principles by which members of a particular profession or occupation regulate their behaviour. They set the standards for that occupation. They also help to define the workplace culture: "how things are done around here". They can even be said to define membership of a profession: for example, a journalist who breaks his or her professional code by revealing sources could be disowned by the profession and by those sources.

The values and principles within a code of professional ethics often encapsulate the many rules and procedures that a profession has found necessary to develop over the years. When rules are distilled and simplified in this way, they can appear similar to those that form our own private ethics. They may include ideas such as "act with care and diligence", "behave with honesty and integrity", etc. Sometimes, though, professional ethical principles can be more specialised. Can you think of examples of ethical principles that are unique to the Australian Public Service, DFAT or your post?

Ethical Dilemmas

The set of values and principles that make up either your personal or professional ethics help you to decide what you ought to do in the many and varied situations that arise each day. However, ought is not a black and white or purely factual concept though, and whether you do what you ought to do is another matter again.

The process of ethical decision-making is often not straightforward. Sometimes situations arise where conflicting or competing ethical principles are involved. Can you think of a situation where one personal ethical principle conflicts with another? For example, is it best in all situations to tell the truth?

The usual way to resolve an ethical conflict is to decide which ethical principle outweighs the other in a particular situation. You might decide that the consequences of telling the truth in a particular situation would be so negative that they outweigh your scruples about

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lying. Sometimes there is no one right answer in ethics. However, we should strive for a good answer and to be able to justify our decision.

Personal dilemmas can be more difficult to resolve than professional ones. In personal ethics, our dilemmas can be complicated by the need to challenge and perhaps revise our ethical principles. Personal ethics can also be complicated by the fact that we only have our own limited personal experience to help us resolve ethical dilemmas.

However, in professional ethics, the values and principles we must abide by and upon which we base our judgements are fixed and are decided for us by our profession.

For APS employees of the department, they are set out in the APS Values and Employment Principles, the APS Code of Conduct, and the DFAT Code of Conduct for Overseas Service. For LES employees, these principles are set out in the LES Code of Conduct in place at their post. (While LES Codes of Conduct vary from post to post, to take account of local custom and employment law, all share the same core principles, which are essentially the same as those that apply to A-based staff.) For contractors engaged by the department, they are set out in the APS Values and Employment Principles, the APS Code of Conduct and the DFAT Code of Conduct for Overseas Service, which contractors must observe in accordance with enforceable provisions in their contracts.

Knowledge of our Codes of Conduct provides us with in-built "ethical antennae", alerting us to the danger of unethical behaviour, misconduct or fraud. This knowledge and form the basis for our decisions on how to proceed.

There is also ample policy advice in DFAT to support our codes of professional ethics and to help us resolve common ethical dilemmas.

This advice includes the department's Conduct and Ethics Manual, DFAT Administrative Circulars, the Financial Management Manual, the Human Resources Manual, as well as direct advice from relevant policy areas to aid our decision-making. There will always be situations that the various policy guidelines and circulars do not cover. There will be times when we must apply our own judgment and our knowledge of the APS Values and Employment Principles and relevant Codes of Conduct to a particular situation and decide for ourselves what the best course of action is. When faced with conflicting ethical principles in a situation that is not covered by existing policy, the answer is often to refer to an overriding principle, such as "preserving the consistency and integrity of existing policy" or "protecting the good reputation of the department".

For example, the natural approach taken by staff in conduct, conditions of service or staffing policy areas is to "universalise" an option, and to ask themselves: "what if this decision were applied to everyone? Would it set a precedent that we would not want to repeat? Does the decision undermine an existing policy position that we want to maintain?" This might be called the "Administrative Circular test": how would our proposed decision look as the basis of an Administrative Circular providing guidance to future conduct for all staff?

Another way to choose the right option is to ask yourself the "newspaper question". How might this decision be interpreted and portrayed by a critical outside observer, such as

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journalist? Even if nothing dishonest is intended, what effect might an unfavourable perception of this decision have on the good reputation of the department?

Both approaches involve the need to stand back from our choices and see them as part of a bigger picture

The ReFLECT Model of Decision-Making

Re 1. Recognise a potential issue or problem

Ask yourself:

- do I have a gut feeling that something is not right? Do I feel this is a risky situation?

Recognise the situation as one that may involve tensions:

- between two or more parts of the relevant Code of Conduct; between the relevant Code of Conduct and personal values.

F 2. Find relevant information

Find the relevant information and gather the facts:

- what was the trigger and what are the circumstances? Identify the relevant legislation, policies and guidance; identify the rights and responsibilities of relevant stakeholders; identify any precedents or previous decisions.

L 3. Linger at the "Fork in the Road"

Linger at the "Fork in the Road"; pause to consult:

- supervisors and managers; the Employee Conduct and Ethics Section; respected colleagues or peers; or support services—remember privacy.

Talk it through; use intuition and analysis; listen and reflect.

E 4. Evaluate the options

Evaluate options; identify consequences; look at the processes:

- identify the risks; discard unrealistic options; apply the accountability test—would the decision stand up to public scrutiny/independent review? be prepared to explain the reasons for your decision.

C 5. Come to a decision

Come to a decision

- act on it and make a record if necessary.

T 6. Take time to reflect

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Take time to reflect and review

- how did it turn out for all concerned? learn from your decision; if you had to do it all over again, what would you do differently?

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Chapter 5: Conflicts of Interests

- Chapter 5: Conflicts of Interests
  - 5.1 What is a Conflict of Interest?
  - 5.2 Avoiding, Disclosing and Managing Conflicts of Interest
  - 5.3 Outside Employment and Substantive Voluntary Work
  - 5.4 Employment after Leaving the Department
  - 5.5 Dealing with Lobbyists
  - 5.6 Conflict of Interest Case Studies and Possible Remedies

This chapter sets out the department's policy on avoiding, disclosing and managing conflicts of interest. It also sets out the department's policies on outside employment and substantive voluntary work, employment after separation and dealing with lobbyists.

Staff should contact the Employee Conduct and Ethics Section (EES) at s 22(1)(a)@dfat.gov.au if they require clarification on the contents of this chapter or if they are uncertain about the ethical implications of a proposed course of action.

5.1 What is a Conflict of Interest?

5.1.1 A conflict of interest arises where a public official has private interests which may or do improperly influence the performance of their official duties and responsibilities. Conflicts of interest can arise in relation to financial interests such as shareholdings, employment opportunities, real estate and trusts, as well as private interests such as relationships and other interests that can conflict with public duties and responsibilities. Conflicts can include not only the interests of individual employees and contractors, but also the interests of their immediate family (such as spouses, children or other dependents) and the interests of their business partners or associates.

5.1.2 Conflicts of interest are either real or apparent:

- **Real**: A real conflict of interest relates to a personal interest belonging to you and/or your immediate family members that could influence your decisions, actions or advice given in the course of your public or official duties. A conflict of interest does not have to exist at present for it to be real — a real conflict of interest might arise where your personal interests are not yet in, but could come into, conflict as a result of your official duties.
- **Apparent**: An apparent conflict of interest relates to a personal interest belonging to you and/or your immediate family members that could be seen to influence your decisions, actions or advice given in the course of your public or official duties, even though this is not in fact the case. An apparent conflict of interest differs from a real conflict of interest in that there is no actual conflict that could arise, although the nature of the person's public duties are such that there is, or may be, a reasonable perception by the public that a conflict of interest could in fact arise.

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Obligations of Staff

5.1.3 Australian Public Service (APS) employees, Locally Engaged Staff (LES) and contractors have an important duty to uphold and promote the good reputation of Australia, the government, the department and (where relevant) the post. This reputation can be compromised by a real or apparent conflict of interest. For this reason, there are direct and indirect references to conflicts of interest in the APS Code of Conduct, the standard LES Code of Conduct (3.4.10 of the Conduct and Ethics Manual) and the duties of officials set out in the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

5.1.4 The APS Code of Conduct requires APS employees to:

- behave honestly and with integrity in connection with APS employment;
- take reasonable steps to avoid any conflict of interest (real or apparent) in connection with the employee's APS employment;
- disclose details of any material personal interest of the employee in connection with the employee's APS employment; and
- not improperly use inside information or the employee's duties, status, power or authority:
    - to gain, or seek to gain, a benefit or an advantage for the employee or any other person; or
    - to cause, or seek to cause, detriment to the employee's Agency, the Commonwealth or any other person.

Contractors must act in a manner that is consistent with the APS Code of Conduct as set out in their contractual obligations.

5.1.5 The standard LES Code of Conduct requires LES employees to:

- behave honestly and with integrity in connection with their employment with the Embassy, High Commission, Consulate or Business Office;
- disclose, and take reasonable steps to avoid, any conflict of interest, either real or apparent, in connection with their employment in the Embassy, High Commission, Consulate or Business Office, including in relation to any outside employment and/or business activities; and
- not make improper use of inside information, or 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, including the acceptance of gifts, sponsored travel, hospitality, accommodation, hire car costs and entertainment.

5.1.6 The PGPA Act sets out the duties of officials (APS employees, LES and certain contractors), including to:

- act with care and diligence;
- act in good faith and for a proper purpose, including to manage or use public resources in an efficient, effective, economical and ethical manner;
- not make improper use of inside information or their position to gain an advantage for themselves or another person, or cause detriment to DFAT or another person;
- disclose material personal interests.

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5.1.7 All staff (APS employees, LES and contractors) must take reasonable steps to avoid situations where their private, financial or other interests (or those of immediate family members, such as spouses/partners, children or other dependents) and the interests of their business partners or associates could or could be perceived to conflict with their official duties. They must not allow these interests to influence the decisions they make, the actions they take or the advice they provide in connection with their official duties. If their interests and duties are in conflict, or could be perceived to be in conflict, they must disclose any such conflict to the department.

5.1.8 Conflicts of interest can arise, or be perceived to arise, during dealings with former DFAT officers. Upon termination of employment, former DFAT officers are restricted from working on or advising in relation to a contract or grant agreement to which DFAT is, or is proposed to be, a party and

- in which they were substantially involved in the design, preparation, appraisal, review, and or daily management while at DFAT; or
- which substantially involves any employee of DFAT with whom they had significant contact or connection in the course of their employment within the 12 months prior to their separation from DFAT,

for a period of nine (9) months after their separation from DFAT, unless unless the Chief People Officer/other position has approved the engagement on behalf of DFAT. All staff should ensure that dealings with former DFAT officers are in accordance with this restriction and assess whether any real or apparent conflicts of interest arise as a result of their dealings.

5.2 Avoiding, Disclosing and Managing Conflicts of Interest

Declaring Conflicts of Interest

5.2.1 Each year, in around February/March, all non-SES employees, LES and contractors will be asked to acknowledge, in PeopleSoft, whether they have any real or apparent conflicts of interest. If they acknowledge any conflicts, they will be required to complete a Declaration of Conflicts of Interest form.

5.2.2 All SES employees, EL2 heads of mission/post and EL2 employees acting in an SES position in Australia for three months or longer must complete a declaration form in the following circumstances and time periods:

SES employees must complete a Declaration of Conflicts of Interest form:

- within fourteen days of commencing in a new position at the SES level in the department; and
- within fourteen days of any change in personal or family circumstance that could involve a new real or apparent conflict of interest, or where a previously declared conflict no longer exists; and
- otherwise, every year in February/March.

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EL2 level employees acting in an SES position in Australia for three months or longer must complete a Declaration of Conflicts of Interest form within fourteen days of commencing in that SES position.

EL2 level HOMs and HOPs must complete a Declaration of Conflicts of Interest form:

- within fourteen days of announcement by the Minister for Foreign Affairs of their HOM/HOP position; and
- within fourteen days of any change in personal or family circumstance that could involve a new real or apparent conflict of interest, or where a previously declared conflict no longer exists; and
- otherwise, every year in February/March where they remain a HOM/HOP at the EL2 level.

All other staff who have been directed to complete a Declaration of Conflicts of Interest **form** must do so:

- if they have stated during the annual PeopleSoft acknowledgment process they have one or more real or apparent conflicts of interest; and
- every year in February/March if, after having completed this form initially, they remain in the same position and their real or apparent conflicts of interests remain extant; and
- within fourteen days of any change in personal or family circumstance that could involve a new real or apparent conflict of interest, or where a previously declared conflict no longer exists.

What Type of Interests Do I Need to Declare?

5.2.3 Staff only need to provide information about private, financial and other interests that **could, or could be seen to, influence** the decisions or actions they take or the advice they provide in connection with their official duties. Other interests need not be disclosed.

5.2.4 The types of interests that may need to be disclosed include:

- **Financial interests** such as other employment, real estate investments, shareholdings, trusts or nominee companies, company directorships or partnerships, other significant sources of income, significant liabilities and gifts.
- **Non-financial interests** such as relationships with lobbyists, family relationships, intimate relationships or social or personal relationships formed through work or engagement with the local community, including sporting, social, cultural or voluntary activities, board and advisory roles. This also includes staff who sit on a body corporate.

5.2.5 Staff can seek advice from EES about conflicts of interest by contacting EES via e-mail at s 22(1)(a)@dfat.gov.au. EES is located on the ground floor of 44 Sydney Avenue, Barton.

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Interest Disclosures for Immediate Family Members

5.2.6 Where staff disclose information about private, financial or other interests of an immediate family member, the individual should seek the consent of that family member to disclose the information, and should declare that they have done so in the Declaration of Conflicts of Interest form.

Managing Conflicts of Interest

5.2.7 While avoiding conflicts is generally preferable, in practice there may be some situations in which a conflict of interest cannot be wholly avoided and needs to be managed in a way which maintains confidence that the decisions they make, the actions they take or the advice they provide in connection with their official duties has not been influenced.

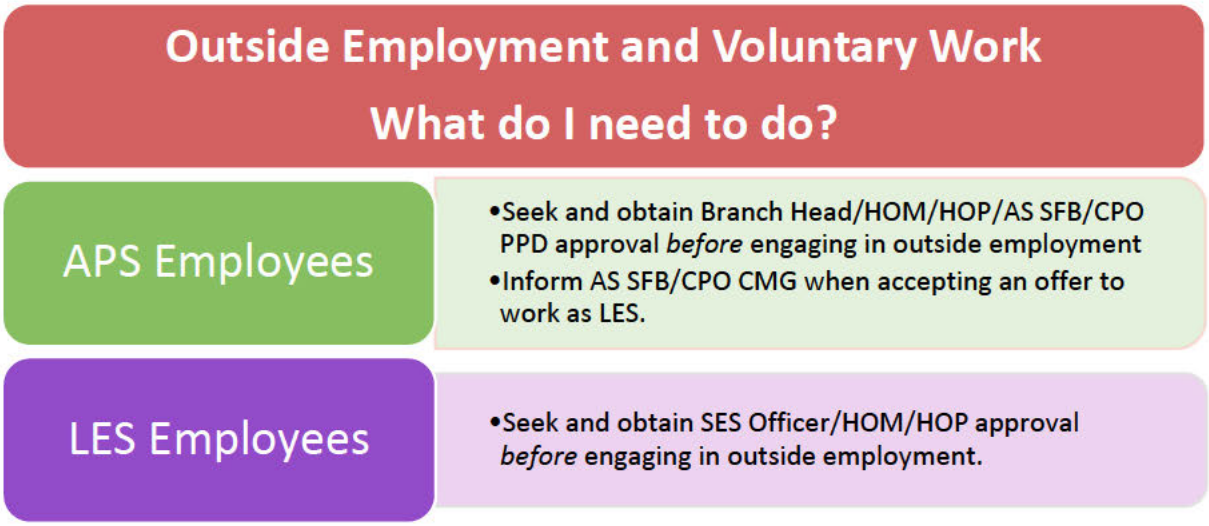
5.2.8 Supervisors must review all Declaration of Conflicts of Interest forms and consider whether a real or apparent conflict of interest exists. Supervisors, in collaboration with the individual, are responsible for identifying strategies to manage the conflict. Staff can seek advice from EES on management strategies.

5.2.9 Managing a real or apparent conflict of interest should take into account the circumstances of the individual, including the role and responsibilities that the person performs for the department and the nature and extent of the conflict. These could include:

- seeking the person's agreement to divest themselves of conflicting interests;
- altering the person's duties so they are no longer performing the role which may potentially put them in a conflict situation; or
- allowing the person to continue in the same role but for the department to implement appropriate safeguards which address the real or apparent conflict of interest.

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5.3 Outside Employment and Voluntary Work



What is Outside Employment?

5.3.1 Outside employment means undertaking employment, including paid work, self-employment and substantial voluntary (i.e. unpaid) work with an organisation outside the department while still employed by the department, including during periods of paid and unpaid leave. Outside employment includes, for example, appointments to non-government boards, directorships, and study in situations where an employee receives funding or financial support to study from an organisation other than the department or post. The department's policy on outside employment applies to both APS employees and Locally Engaged Staff (LES).

Employment as LES at DFAT-Managed Posts

5.3.2 APS employees on leave without pay wishing to work as LES at DFAT-managed overseas posts are not required to seek prior approval to do so. However, they **must** inform AS SFB (for non-SES employees) or CPO PPD (for SES employees) at the earliest opportunity that they have accepted an offer of employment as an LES at a DFAT-managed overseas post. They must separately contact Security Clearances and Investigations Section (SCI) should they require re-activation of their security clearance to undertake this work.

Voluntary Work

5.3.3 Some types of voluntary work may still conflict with, or adversely affect the performance of, official duties in similar ways to paid outside employment: for example, where the relevant voluntary organisation has interests or aims in relation to or in conflict with policies or programs of the government or the department; or where the number of hours and frequency of the voluntary work are substantial. Voluntary work (including during periods of paid leave) is considered outside employment, and APS employees and LES employees **must** first seek and obtain approval before engaging in voluntary work.

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Directorships and Appointments to Non-Government Boards

5.3.4 Directorships and appointments to non-government boards (including private sector, academic and charitable organisations) are considered outside employment regardless of whether the positions are paid or unpaid. APS employees and LES employees **must** first seek and obtain approval before accepting such positions.

5.3.5 In examining requests to assume directorships and appointments to non-government boards, approvers will give particular consideration to whether the organisation in question is in a contractual relationship with, or has received or is likely to receive financial assistance from the Commonwealth; whether its primary role is to lobby ministers or government; whether it is regulated by a government agency; or whether it would give another similar organisation reasonable grounds to perceive a conflict of interest.

5.3.6 Ex-officio appointments to boards (i.e. appointments to boards which follow directly from the official positions employees may hold) also need to be carefully assessed. Senior employees (notably HOMs/HOPs) are often invited to take up roles as honorary directors or board members with charitable or educational institutions. The department recognises that these roles create goodwill and make a positive contribution to relations with host countries or to other departmental aims. Where approval is granted, there are a number of possible ways in which a conflict of interest relating to board appointments may be managed, including removing the employee from any decision-making role in relation to any financial relationship the department has or may have with the organisation; and restricting the employee's access to certain relevant information.

Appointments to Government Boards

5.3.7 Employees who sit on department-related foundations, councils and institutes should be guided on conflict of interest issues by the APS Code of Conduct and the DFAT Code of Conduct for Overseas Service. Staff who sit on other government boards and committees can find useful guidance on the APSC website.

Seeking Approval for Outside Employment

5.3.8 APS employees and LES wishing to engage in outside employment **must** seek and obtain approval before engaging in that employment and abide by conditions attached to that approval (if any). This ensures both the employee and the department can take steps to avoid or manage any conflicts of interest arising out of the proposed outside employment. In circumstances where identified conflicts present unacceptable risks to the department, the proposed outside employment will not be approved. APS employees and LES should bear in mind that outside employment must not adversely affect the performance of the employee's official duties — as the main employer, the department has first call on their availability to perform work.

5.3.9 An outside employment permission form can be found at Form B at the end of this Manual. For employees in Australia, non-SES APS employees must seek approval from an SES officer in their work area. Employees at post (non-SES and LES) must seek approval from their SES officer/HOM/HOP at post. SES employees must seek approval from the Chief People Officer (CPO), People Division (PPD). Any employee who does

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not currently have a supervisor (e.g. is on LWOP, accompanying a spouse to post, on maternity leave, is offline for another reason) and wishes to undertake outside employment, other than as an LES at a DFAT-managed post, should submit their application to Assistant Secretary, Staffing Branch (AS SFB) for approval. LES who do not currently have a supervisor should submit their application to an SES officer/HOM/HOP at post.

5.3.10 Where an employee wishes to take leave without pay to undertake the proposed outside employment, the completed outside employment form should be forwarded to Director, Staffing Operations Section (SFS).

5.3.11 Where the prospective employer is in, or is about to enter into a contractual, financial or other relationship with the Commonwealth, the applicant should seek a statement from an SES officer in the line area of the department with primary responsibility for managing the relationship with the prospective employer commenting on whether the proposed outside employment is likely to give rise to a real or apparent conflict of interest with the applicant's work.

5.3.12 APS employees must provide their approved outside employment permission form to their staffing team leader and to the Security Clearances and Investigations Section (SCI) in the Diplomatic Security Division for recording on the employee's security personnel file. LES employees must provide their approved outside employment permission form to their SAO at post for recording on their personnel file.

5.3.13 Employees given approval to engage in outside employment must also inform the approving SES or HOM/HOP (for non-SES APS employees), CPO PPD (for SES employees) or SES Officer/HOM/HOP (for LES employees) if the nature or circumstances of the outside employment changes or if their official duties change in a way which could give rise to a real or apparent conflict of interest with the outside employment. If an employee moves to a different work area, they should advise their new supervisor and relevant SES officer of the nature of their outside employment. In some cases, it may be necessary to seek new approval from the new line area.

5.3.14 Any approval to engage in outside employment may be rescinded if an any conflict of interest arises or if the outside employment starts to adversely affect official duties (for example, fatigue or limited availability).

Guidance for Approvers of Applications for Outside Employment

5.3.15 In deciding whether it is appropriate for an employee to engage in outside employment, a balance needs to be struck between the department’s interests and those of the employee. The overriding principle is the need to maintain public confidence in the integrity and administration of the government, the department and Post.

5.3.16 Approvers must consider whether the proposed employment presents any real or apparent conflict of interest with official duties (and whether these can be managed) and whether it will adversely affect the performance of official duties. An approver must consider:

- the nature of the employee’s role in the department;

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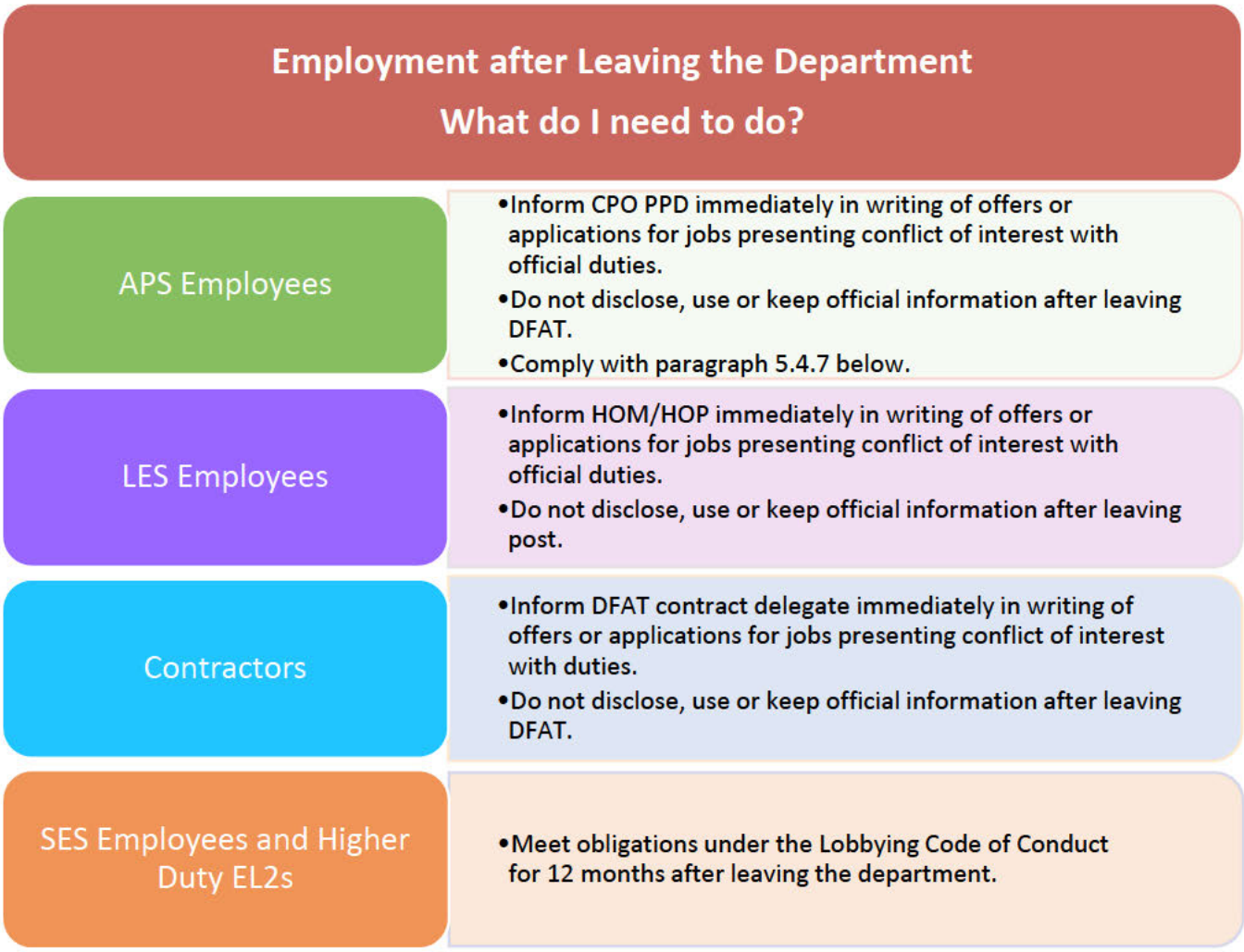
- the effort and/or time required to undertake the proposed employment, and whether this could adversely affect the performance of official duties;
- whether the proposed employment will be undertaken during normal work hours (unless special circumstances exist, this will not be approved – during work hours an employee's responsibility is to concentrate on their role as a DFAT employee);
- whether the proposed employment will be undertaken during a period of paid or unpaid leave;
- the potential for the proposed employment to damage the reputation of the department; and the nature of the outside employer and its relationship to the government, department or Post. In particular, whether the outside employer concerned is in, or is entering into, a contractual or funding relationship with the government.

5.2.17 Australian Public Service Commission (APSC) guidance states that an inherent conflict exists between the interests of the department and those of a company or organisation with which it has a contractual or funding relationship. While the interests of the department and the company or organisation may align for the purposes of delivering the contract or funded project, generally the interests of the department and those of the company or organisation will be different. This means that the duties employees owe to the department as public servants, and those they may owe to an outside employer in a contractual or funding relationship with the department may conflict. Unless special circumstances exist, applications for approval to undertake outside employment with a company or organisation which has, or is about to enter into, a contractual or funding relationship with the department will generally not be approved.

5.3.18 Approvers may grant approval to undertake outside employment with conditions (for example, with a requirement to limit the number of hours or the times at which work is undertaken, or with undertakings to not assist the outside employer with any procurement process involving the Australian Government).

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5.4 Employment after Leaving the Department



5.4.1 Real and apparent conflicts of interest can arise between current official duties and proposed future employment.

5.4.2 For this reason, APS employees, LES and contractors must inform the department in writing immediately if they are approached with a formal offer of employment or if they apply for employment, where a real or apparent conflict of interest between their current official duties and the proposed future employment could arise.

5.4.3 APS employees should inform the CPO. LES should inform their HOM/HOP. Contractors should inform the delegate responsible for their contract. HOMs/HOPs and delegates responsible for contracts should seek advice from EES if they believe there is a real or apparent conflict of interest.

5.4.4 If the CPO, HOM/HOP or the delegate responsible for the contract (as appropriate) decides that a real or apparent conflict of interest exists, the department will implement a plan to manage access to official information and resources pending a decision by the

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relevant staff member on the employment offer, the outcome of the application process and/or the separation by the staff member from the department or the post.

5.4.5 Former APS employees, LES and contractors should refrain from working on or advising in relation to a contract or grant agreement to which DFAT is, or is proposed to be, a party and

- in which they were substantially involved in the design, preparation, appraisal, review, and or daily management while at DFAT; or
- which substantially involves any employee of DFAT with whom they had significant contact or connection in the course of their employment within the 12 months prior to their separation from DFAT,

for a period of nine (9) months after their separation from DFAT (or any other maximum period contained under the terms and conditions of their engagement), unless DFAT has approved the engagement. Contact EES for more information.

5.4.6 It is an offence under Division 122 of the *Criminal Code Act 1995* for 'Commonwealth officers' (which for the purposes of Division 122 includes APS employees, LES and contractors) to publish or communicate without authorisation official information which comes to their knowledge or possession by virtue of employment or engagement with the department. It is also an offence for *former* APS employees, LES employees and contractors to publish or communicate without authorisation official information which *came* to their knowledge or possession by virtue of employment or engagement with the department.

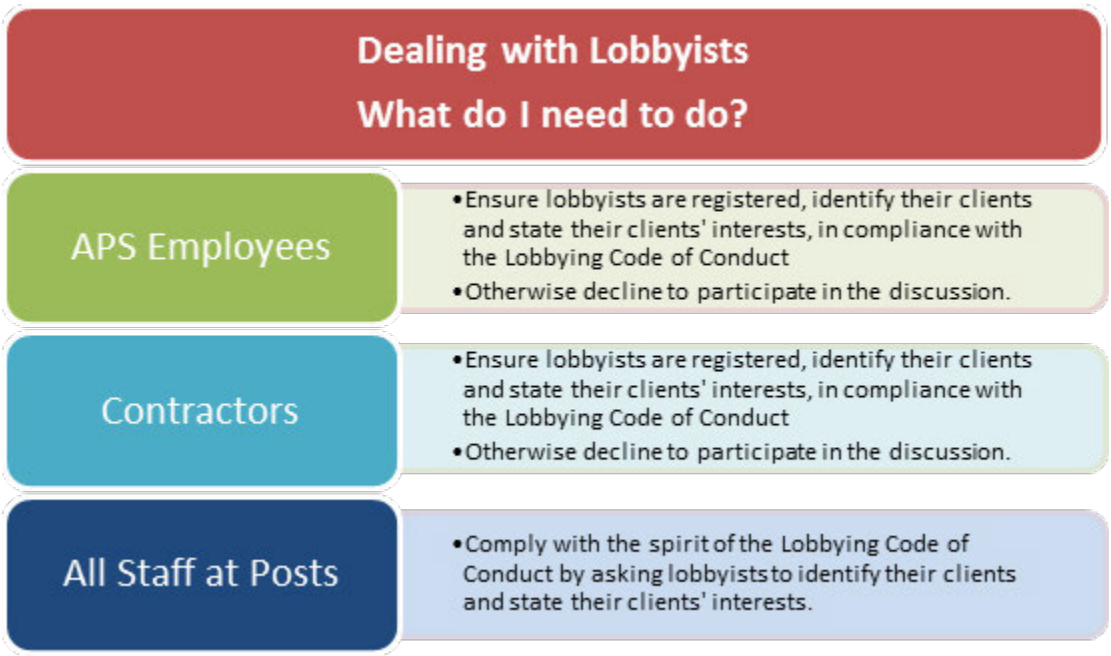
Engaging in Lobbying after Separating from the Department or Post

5.4.7 A further component of the department's post-separation employment policy relates to engaging in lobbying activities. Under the government's Lobbying Code of Conduct, SES employees and equivalents (EL2 HOM/HOPs, EL2 employees paid as SES and EL2 employees acting as SES for 12 months or longer) must not for a 12 month period engage in lobbying government representatives on any matters on which they have had official dealings as public servants over their last 12 months of employment with the department. This restriction also extends to former staff employed in the offices of ministers or parliamentary secretaries at adviser level and above under the *Members of Parliament (Staff) Act 1984* (MoP(S) Act).

5.4.8 The temporary restriction on senior APS employees and MoP(S) Act staff applies only to those who work as lobbyists. It does not apply to those who separate and then work as in-house lobbyists (i.e. lobby the government on behalf of the company which employs them).

5.5 Dealing with Lobbyists

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Lobbying Code of Conduct and Register of Lobbyists

5.5.1 Because lobbying of government representatives can create real or apparent conflicts of interest for those representatives, the Australian government has a Lobbying Code of Conduct and a Register of Lobbyists, both of which are available at http://lobbyists.pmc.gov.au/lobbyistsregister. The central aim of the Lobbying Code of Conduct and the Register of Lobbyists is to allow and require government representatives to establish the interests a lobbyist represents when the lobbyist seeks to influence government policy or decisions.

5.5.2 The Lobbying Code of Conduct applies to government representatives. APS employees and contractors in the department are defined as government representatives for the purposes of the Lobbying Code of Conduct and must comply with the Lobbying Code of Conduct.

5.5.3 The Lobbying Code of Conduct also applies to all lobbyists operating in Australia, including foreign lobbyists based in Australia and overseas-based lobbyists visiting Australia to lobby government representatives. It defines a lobbyist as "*any person, company or organisation that conducts lobbying activities on behalf of a third party client*". This excludes people or businesses lobbying on their own behalf. Additionally, the Lobbying Code of Conduct does not apply to charitable or religious organisations or to associations or organisations constituted to represent the interests of their members such as peak industry groups, trade unions and professional organisations. The Lobbying Code of Conduct also excludes non-profit organisations such as NGOs, members of trade delegations visiting Australia and individuals making representations on behalf of relatives or friends about their personal affairs.

5.5.4 The Lobbying Code of Conduct defines 'lobbying activity' as any communication a lobbyist has with a government representative which aims to influence a government decision, such as a change to legislation, policy, programs, funding arrangements, grants

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or contract decisions. Exclusions from the definition of lobbying activities are outlined in Clause 3 of the Lobbying Code of Conduct.

Responsibilities under the Lobbying Code of Conduct

5.5.5 Under the Lobbying Code of Conduct, APS employees and contractors must only deal with registered lobbyists. Before any lobbying activity commences, a lobbyist must confirm that he or she is on the Register of Lobbyists and must advise the name of the client represented and the nature of the matter the client wants to convey. APS employees and contractors must attempt to check whether a lobbyist is on the Register of Lobbyists before meeting that lobbyist.

5.5.6 APS employees and contractors must also seek assurances from lobbyists (who approach them) that they are not subject to any post-employment restrictions. Under the Lobbying Code of Conduct, persons who retire from office as a minister or a parliamentary secretary, shall not, for a period of 18 months after they cease to hold office, engage in lobbying activities relating to any matter that they had official dealings with in their last 18 months in office. Persons who were employed in the offices of ministers or parliamentary secretaries under the *Members of Parliament (Staff) Act 1984* at adviser level and above, members of the Australian Defence Force at Colonel level (or equivalent) or above, and agency heads or persons employed under the *Public Service Act 1999* in the Senior Executive Service (or equivalent), shall not, for a period of 12 months after they cease their employment, engage in lobbying activities relating to any matter that they had official dealings with in their last 12 months of employment.

5.5.7 In the absence of such information or assurances, APS employees and contractors must decline to participate in the discussion.

5.5.8 The Lobbying Code of Conduct recognises that contact with lobbyists may occur during informal/social settings. In these situations, it is appropriate to accept statements by lobbyists that they and their clients are properly registered and to ascertain the issues they want to raise on behalf of their client. At the first available opportunity, APS employees and contractors must check whether a lobbyist is on the Register of Lobbyists. By following these procedures, APS employees and contractors should not be in breach of the Lobbying Code of Conduct.

5.5.9 If APS employees or contractors become aware of any breaches of the Lobbying Code of Conduct, they should in the first instance report their concerns to EES. The department may then report the issue to the Secretary of PM&C.

Dealing with Lobbyists at Posts Overseas

5.5.10 The Lobbying Code of Conduct does **not** apply to overseas-based lobbyists engaged in lobbying government representatives overseas. Lobbyists operating in these circumstances are not required to register on the Register of Lobbyists. However, all staff at posts overseas should comply, to the extent possible, with the spirit of the Lobbying Code of Conduct. They should find out the interests a person who lobbies the post represents.

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5.6 Conflict of Interest Case Studies and Possible Remedies

5.6.1 The following are case studies on conflict of interest issues. The advice contained is for illustrative purposes only. Different solutions and outcomes may be equally appropriate. EES can provide specific advice on individual circumstances.

Interest Type	Details	Reason for Conflict	Possible Determination	Possible Remedy
Shareholdings	Currently own 5000 Telstra shares	I am currently assisting Telstra expand its business overseas.	*High Risk* *Requires immediate remedy*	Employee required to (a) sell shares and cease trading and (b) sign a declaration not to purchase shares while in current position, or perform different duties.
Real Estate Investments	Partnership in commercial property	The department intends to sign a contract to lease the commercial property I partly own. I have not been involved in the tender or contract process or had any contact or influence with the property section regarding the contract.	*Medium Risk* *(Perception)* *Examine and monitor*	Preliminary examination of the process to confirm information provided and show clear separation from decision.
Company directorships or partnerships	Director of a company that is tendering for a DFAT contract	I am an APS employee and also director in a training company. The company is tendering for a DFAT training contract. I have not yet declared this as a conflict of interest.	*High Risk* *Requires urgent remedy*	Employee required to (a) declare COI immediately and (b) withdraw the tender or (c) exit ownership and directorship of the company
Other significant sources of income	Family inheritance	I recently inherited a large parcel of shares in a transport company. The company holds significant contracts	*Low Risk*	No conflict of interest.

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Interest Type	Details	Reason for Conflict	Possible Determination	Possible Remedy
		with other Commonwealth agencies (not DFAT).		
Gifts	Spouse/partner won a gift voucher	My spouse/partner won a $500.00 gift voucher from an IT store. The store has a contract to supply the department with IT products.	*Low Risk* *No Action Required*	Competition was open to the public and winning was by chance with no real or perceived influence through position.
Private business	Family owns a language training centre overseas	My family own and operate a language training centre in my posted country. The department uses the training facility. I hold a policy position at post and have no involvement with the company.	*Medium – High Risk* *Requires Remedy*	Employee to show clear separation of interest. Post to be aware and manage any information accordingly. Employee to sign undertaking to declare future conflicts when they arise.
Employment	Possibly employing a contractor as a DFAT employee	I have had a contractor working in my section for the past two years. The contractor is now applying for a BB3 position with DFAT and I am chairing the selection panel.	*High Risk* *Requires Remedy.*	There is current departmental and APSC policy guiding conflicts of interest in relation to recruitment. While it may be acceptable to remain on the panel, good practice would suggest that an alternative chairperson is appointed.
Voluntary work	Spouse/partner volunteers for a local NGO	I am the SAO at post and my spouse/partner is volunteering for a domestic violence education program	*Low Risk* *Record and monitor*	There is no current conflict of interest. If the SAO's duties were to change and they had

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Interest Type	Details	Reason for Conflict	Possible Determination	Possible Remedy
		funded by DFAT. As SAO I have no direct contact with NGOs or the funded program.		direct contact with the NGO in question or the funded program, there may be a need to re-assess the situation.
Social or personal relationships	I have developed a friendship with the person who provides floral art to the department	Through my local sporting club I became friends with the florist who is contracted to provide the department's flowers. At work I do not have any contact with this person's company or the services it provides.	*Low Risk* *No Action Required.*	No real or apparent conflict exists.
Resignation	I am about to resign from DFAT to take up a management position with A1 indoor plant hire	I currently work in the building maintenance area and manage the department's indoor plant contract held by A1 indoor plant hire. The contract is up for renewal in 12 months.	*Medium – High Risk* *Misuse of official information*	The employee is privy to official departmental information and contacts within department. Reassign or remove employee from the position until resignation. Conduct debrief and have employee acknowledge understanding of unauthorised use or communication of official information. Ensure that staff in the work unit are briefed as well.
External employment offer	Over the past year I have been managing a	I have access to official and in-confidence	*Medium – High Risk*	The employee should declare the offer of

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Interest Type	Details	Reason for Conflict	Possible Determination	Possible Remedy
	departmental contract with an Australian company. The project is nearing completion and the company has offered me a job.	information that would be of great benefit to the company who has offered me the position. In addition, I am recognised as an expert in my field and have conducted independent research on this subject matter. I have also made a significant contribution to relevant professional associations.	*Misuse of official information*	employment immediately regardless of their intention to accept or decline. The department will implement a plan to manage access to official information pending a decision on the job offer. If the offer is accepted, the employee will continue to have their access to information monitored and be de-briefed prior to leaving the department. Contact with department after resignation should be monitored and incidents reported.
Outside employment	In addition to my work at DFAT, I am considering applying for part-time work at a local supermarket. Can I do this?	There is unlikely to be a conflict of interest in these circumstances.	*Likely to be approved.*	N/A
Outside employment	I am a monitoring & evaluation (M&E) specialist and am on LSL, I have been approached by a	It is unlikely that this application would be approved because it raises an unacceptable conflict of interest for an incumbent DFAT officer to accept a	*Unlikely to be approved*	N/A

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Interest Type	Details	Reason for Conflict	Possible Determination	Possible Remedy
	DFAT aid partner to undertake paid M&E work on a project jointly funded by the Australian government. As I have worked on this project from the DFAT side, I feel that experience working directly with the aid partner will be an important professional development opportunity. Will this be approved?	paid role in monitoring and evaluating a DFAT funded project. The tenderer itself would also be failing to meet its requirement to avoid engaging current or former DFAT personnel with a connection to the project.		
Outside employment	I am on LWOP outside Australia and have been approached by a NGO to design a tender application to be put to DFAT. I have never worked on a tender process within DFAT nor in administering aid funding. The contract is paid work. Would this be approved?	Clear conflict of interest due to a current DFAT employee assisting an external organisation to bid for DFAT funding. Tenderers themselves are also prohibited from seeking the assistance of current or former DFAT employees in the preparation of their proposal/bid.	*Unlikely to be approved*	N/A
Outside employment	I am a full time policy Branch Head (SES Band 1). I have been offered an appointment as	The relationship (if any) between the officer's official policy work and the subject matter focus of proposed lectures	*Dependent on deeper assessment of facts of the case*	N/A

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Interest Type	Details	Reason for Conflict	Possible Determination	Possible Remedy
	Adjunct Lecturer (unpaid) with an Australian university. The same university runs an executive course for senior officials and military officers from the region, they have asked me to lecture at the course (also unpaid). I would not comment on Australian Government policy nor use information gained from my DFAT employment. Would this be agreed to by the delegate?	would need to be reviewed to reduce the risk of any official information from being shared. The potential risks to the department and/or government of any comments made in a lecture being misconstrued as an official position (particularly given the attendance by regional officials) would also need to be assessed. If approved, the applicant will need to ensure they follow departmental policy on giving speeches in a private capacity.		
Outside employment	I am a human resource (HR) specialist but currently working as a divisional co-ordinator and have been asked by an external training company to assist in designing a course to pitch to DFAT's training area. This task has no direct link to my current position but I would be paid a commission	Clear conflict of interest arises due to a current DFAT employee assisting an external organisation to bid for a DFAT training contract. The fact you are a DFAT employee means there is an unfair advantage to be gained by the external training company by leveraging your insider understanding of DFAT's corporate systems.	*Would not be approved*	N/A

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Interest Type	Details	Reason for Conflict	Possible Determination	Possible Remedy
	should the course be commissioned for use by DFAT. Would this be approved?	Given you also stand to benefit personally from payment of a commission you potentially risk contravening of the APS Code of Conduct which specifies that an APS employee must not make improper use of inside information or their duties, status, power or authority in order to gain, or seek to gain, a benefit or advantage.		
Outside employment	I am on LWOP accompanying my spouse on posting and have been offered employment with an NGO in their corporate team. My role will include developing systems for human resource management, office administration, organisational performance reporting and financial management. The NGO receives commonwealth funds as part of a global funding arrangement. Prior to going on LWOP I worked in the	The nature of both the past employment at DFAT and the outside employment will determine whether any conflicts of interest exist. Even though there is a contractual/funding relationship between the NGO and the Australian Government, given that this relationship is at a global (not program-specific) level, and that the applicant has not engaged with the NGO during the course of his/her official duties, there may be a sufficient separation of interests to allow this proposed outside employment to proceed	*Dependent on deeper assessment of facts of the case*	N/A

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Interest Type	Details	Reason for Conflict	Possible Determination	Possible Remedy
	Stabilisation and Civil-Military Branch. I did not have any contact with the NGO during the course of my official duties.			
Appointment to non-Government Board	I currently work in the department's Human Rights Section and have been asked to join the board of an international human rights not-for-profit organisation. I am an APS 6 officer and do not consider that I influence policy and am often not privy to decision-making processes.	Your access to a range of sensitive information regarding human rights creates a perceived and actual conflict of interest.	*Unlikely to be approved*	N/A
Ex-Officio Appointment	I am a DHOM and have been asked to join the local board of an Australian charity. As part of my official duties, I have oversight of the post's Development Assistance Program (DAP) committee. The charity has recently applied for and received DAP funds. Can I join the	If you were to join the board, you would be in a position to influence the DAP committee to fund projects of the charity. This is an actual conflict of interest.	*Unlikely to be approved*	N/A

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Interest Type	Details	Reason for Conflict	Possible Determination	Possible Remedy
	charity's board or does this present a conflict of interest?			

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Chapter 6: Gifts, Benefits, Hospitality, Sponsored Travel and Sponsorship

This chapter sets out the department's policy on accepting and declaring gifts, benefits, hospitality, sponsored travel and sponsorship.

Staff should contact the Employee Conduct and Ethics Section at s 22(1)(a)(ii) @dfat.gov.au if they require clarification on the contents of this Manual or if they are uncertain about the ethical implications of a proposed course of action.

6.1 Gifts and Benefits



6.1.1 All employees (APS and LES) and contractors must exercise judgment and caution in regard to any gifts or benefits they may be offered in connection with their official duties or because of their position in the department. Gifts refer to physical items with a monetary value, including cash, goods, services or vouchers for goods and services. Benefits refer to prizes, special offers or customer-specific discounts on goods, services or other assets.

6.1.2 As a general rule, employees and contractors should, wherever possible, **not** accept gifts or benefits offered in connection with their official duties or because of their position in the department. Doing so may give rise to conflicts of interest or perceived conflicts of interest – for example, if offered by a company seeking business with the department. Improperly accepting gifts or benefits may also compromise Australia's reputation, as well as the department's reputation for impartiality and professionalism.

6.1.3 Under the APS Code of Conduct and the standard LES Code of Conduct, employees must not make improper use of inside information, or their duties, status, power or authority in order to gain, or seek to gain, a benefit or advantage for themselves, or for any other person. Contractors must behave similarly in accordance with provisions in their contracts.

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6.1.4 At the same time, the department recognises that circumstances arise, particularly overseas, where no conflict of interest could reasonably be inferred from accepting a gift or benefit, or where refusing a gift or benefit may cause offence to a degree which may place the department, the post or Australia in a poor light.

Reportable and Non-Reportable Gifts

6.1.5 Staff may retain certain gifts for personal use without seeking official approval. These gifts are called "non-reportable" gifts and include:

- *bona fide* gifts of appropriate value from relatives or personal friends, for example, to mark a birthday or celebratory event;
- items of little or no commercial value, including perishable items such as flowers or chocolates; seasonal or promotional items such as calendars, pens, paperweights; or items which, while they may have local cultural significance, are of negligible commercial value in Australian terms, such as souvenir items.

6.1.6 HOMs/HOPs may issue additional guidance to staff, based on local custom and practice, elaborating on this list of non-reportable gifts. In setting local standards in this way, HOMs/HOPs should aim to reinforce the intent of the department's policy on gifts and benefits, which is to ensure no real or perceived conflicts of interest and to preserve the reputation of Australia, the post and the department.

6.1.7 All other gifts are "reportable". All employees and contractors must report all such gifts accepted in connection with their official duties in accordance with the procedures set out in sections 6.1.16-20 of this Manual. These gifts must be reported regardless of their value.

6.1.8 **Employees and contractors must never accept money** as a gift in connection with their official duties or because of their position in the department. In extraordinary circumstances, involving particular cultural sensitivity where receipt of money as a gift is unavoidable, the recipient must fully report the gift and the circumstances of the gift in accordance with the procedures set out in sections 6.1.16-20 of this Manual, regardless of the value. The gift must **not** be retained by the recipient, but receipted as "Administered Revenue" (see section 6.1.25 of this Manual).

6.1.9 Staff should contact the Employee Conduct and Ethics Section at s 22(1)(a)(ii) @dfat.gov.au if they require clarification on what constitutes a reportable gift.

Reportable and Non-Reportable Benefits

6.1.10 Staff may accept certain benefits for personal use without seeking official approval. These benefits are called "non-reportable" benefits and include:

- low-value prizes won in open competition at work-related social events; and
- discounts on goods or services which are generally available to members of the public or the diplomatic community.

6.1.11 HOMs/HOPs may issue additional guidance to staff, based on local custom and practice, elaborating on this list of non-reportable benefits. In setting local standards in

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this way, HOMs/HOPs should aim to reinforce the intent of the department's policy on gifts and benefits, which is to ensure no real or perceived conflicts of interest and to preserve the reputation of Australia, the post and the department.

6.1.12 All other benefits are "reportable". All employees and contractors must report all such benefits accepted in connection with their official duties to designated approvers in accordance with the procedures set out in sections 6.1.16-20 below. These benefits must be reported regardless of their value.

6.1.13 Reportable benefits include:

- customer-specific discounts on goods, services or other assets which are not generally available to others;
- prizes offered at events attended in an official capacity;
- high-value prizes won in open competition at work-related social events;
- promotional offers, free travel or discounts offered in connection with officially-funded travel – these will remain property of the Commonwealth;
- honorary club memberships – these may be accepted where they have a demonstrated representational value.

6.1.14 **Employees and contractors must never accept discounts on liquid assets** (such as shares) as a benefit in connection with their official duties or because of their position in the department.

6.1.15 Staff should contact the Employee Conduct and Ethics Section at s 22(1)(a)(ii) @dfat.gov.au if they require clarification on what constitutes a reportable benefit.

How to Report Gifts and Benefits to Designated Approvers

6.1.16 All employees (APS and LES) and contractors must report all reportable gifts and benefits regardless of their value using the Gift / Benefit / Hospitality / Sponsored Travel Report Form (Form C at the end of this Manual). They must send a hard or electronic copy of the completed Report Form to their designated approver within 14 days of accepting the gift or benefit. Designated approvers are listed in Schedule A at the end of this Manual.

6.1.17 When completing Form C, staff must describe the gift or benefit, the circumstances in which it was received and why it was not refused. They must propose whether to retain the gift or benefit for personal use or whether the gift or benefit should become the property of the Commonwealth (i.e. public property).

6.1.18 Form C also requires staff to provide a value for the gift or benefit in Australian dollars and (where relevant) local currency. When valuing a gift or benefit, the following principles apply:

- gifts and benefits received overseas are to be valued at the local wholesale rate (free of duty and tax) and converted to Australian dollars using the **weekly exchange rate published by the department**; and
- gifts and benefits received in Australia should be valued at the current wholesale price including GST.

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6.1.19 Staff may provide an informal estimate where they are satisfied that the wholesale value of the gift or benefit from an official source is below AUD500 or from a private source below AUD200. The designated approver may request a formal valuation, where he or she is not satisfied with the informal valuation and the recipient seeks to retain the gift or benefit for personal use.

6.1.20 Where the wholesale value of the gift or benefit is likely to be higher than the limits set out in section 6.1.19 and the recipient seeks to retain the gift or benefit for personal use, the recipient must provide a formal valuation with Form C. A current published valuation for the gift or benefit (such as a buyer's guide or a commercial catalogue) is sufficient for this purpose. Where a current published valuation is not available and an independent valuation is required, staff may deduct the cost of that valuation from the assessed wholesale value of the gift.

Retaining a Gift or Benefit for Personal Use

6.1.21 A designated approver may permit the recipient to retain a reported gift or benefit for personal use if he or she is satisfied that the wholesale value of the gift or benefit is below AUD500 (from an official source) or below AUD200 (from a private source).

6.1.22 Where the wholesale value of a reported gift or benefit is higher than the limits set out in section 6.1.21, a designated approver may permit the recipient to retain it for personal use on the condition that the recipient pays to the department the difference between the allowable limit and the wholesale value of the gift or benefit, plus GST on the difference (see example below). The recipient's divisional coordinator (for staff based in Australia), SAO (for staff at post) or STO administration (for staff at STOs) will raise a debt for the recipient against general ledger code 19500 and internal order NA060099, using company code 2000, do not include a Cost Centre when coding to this Internal Order.

Example:	**Wholesale value**	**$650**
	Less cost of independent valuation	($50)
	Less allowable limit	($500) (government source)
	Balance	$100
	+ GST on the difference	$10
	Total payable by recipient	$110

6.1.23 Regardless of its value, a designated approver may refuse a request to retain a reported gift or benefit for personal use if the circumstances in which the gift or benefit was accepted may give rise to a real or perceived conflict of interest, or if those circumstances may compromise the reputation of Australia, the department or the post.

Official Use, Storage or Disposal of Gifts or Benefits

6.1.24 If a designated approver determines that a reported gift or benefit is not to be retained by the recipient for personal use, the gift or benefit becomes the property of the Commonwealth (i.e. public property). Public property is to be used, stored and disposed in accordance with instructions in the department's Finance Management Manual (FMM).

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This includes (but is not limited to) the requirement to record all gifts or benefits valued at AUD2,000 or over in the Asset Register, and to post the value of the item to general ledger code 14010 ("Resources Received Free of Charge").

Gifts of Money and Proceeds from the Sale of Gifts or Benefits

6.1.25 There are **no** circumstances in which a gift of money or the proceeds from the sale of a gift or benefit may be retained by the recipient. The department classifies these as a windfall to the Commonwealth. Consistent with section 74 of the Public Governance, Performance and Accountability Act 2013 (PGPA Act) and Public Governance, Performance and Accountability Rule 27, gifts of money and proceeds from the sale of gifts or benefits should not be retained by the department or individual work units, but receipted as "Administered Revenue".

Return and Storage of Completed Report Forms

6.1.26 Once a designated approver has made a decision on how a reported gift or benefit should be treated, the recipient should be advised of the outcome and be given a copy of the decision.

6.1.27 If payment for excess value of the gift or benefit, the designated approver must advise the recipient's divisional coordinator (for staff based in Australia), SAO (for staff at post) or STO administration (for staff at STOs) to raise a debt for the recipient against general ledger code 19500 and internal order 240540.

6.1.28 Completed Report Forms are auditable documents. All designated approvers must maintain a file in which original completed Report Forms and relevant correspondence are kept.

CASE STUDY - GIFTS AND HOSPITALITY

I have observed colleagues accepting gifts and hospitality from contractors engaged by DFAT, including invitations to sporting events and meals at expensive restaurants. Are they in breach of the APS Code of Conduct?

If your colleagues did not report the gifts and hospitality, they may be in breach of the APS Code of Conduct.

In accordance with DFAT's policy on gifts and benefits, employees and contractors should, whenever possible, not accept gifts offered in connection with their official duties. When this is unavoidable, the procedures set out in DFAT's policy on gifts and benefits should be followed. This is to avoid any real or perceived conflict of interest.

In this case, your colleagues should have reported the gifts to their designated approver within 14 days of receipt by completing a Gift / Benefit / Hospitality / Sponsored Travel Report Form (Form C at the end of this Manual). They should have set out details of the gifts, the donors, why it was not refused and the value of the gifts.

Given that the hospitality was in expensive restaurants and there is a commercial relationship between DFAT and the hosts, your colleagues should have reported the

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hospitality to their designated approver by completing a Report Form and they should have made every effort to do so before accepting the offer of hospitality.

6.2 Hospitality



6.2.1 Hospitality refers to invitations to work-related meals, social functions or sporting or cultural events where the costs are met wholly or substantially by the host. The term work-related refers to events where an invitation is based on the recipient's official position with the department rather than on an exclusively personal relationship or connection.

6.2.2 The offer and return of hospitality is an integral part of conducting business overseas and in Australia. Nevertheless, employees and contractors must exercise judgment and caution about offers of hospitality.

6.2.3 This is particularly important in the case of offers of hospitality from private or commercial sources. Accepting *inappropriate* offers of hospitality may give rise to conflicts of interest or perceived conflicts of interest – for example, where the host is tendering for a contract with the Commonwealth or is seeking an Australian visa for a relative. Accepting inappropriate offers of hospitality may also compromise the reputation of Australia, the department or the post.

6.2.4 Employees (APS and LES) and contractors should, wherever possible, avoid hospitality which carries an implication that a favour is expected in return, or which falls outside the normal pattern of hospitality appropriate to their official position and responsibilities.

6.2.5 As a general rule, employees and contractors may accept moderate hospitality from official sources such as an international or intergovernmental agency, another government, another Australian government agency, an educational institution, a non-

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profit humanitarian organisation or a broad-based industry group without reporting it to their designated approver.

Reporting and Approving Offers of Significant Hospitality

6.2.6 All employees (APS and LES) and contractors must report offers of significant hospitality they wish to accept by using the Gift / Benefit / Hospitality / Sponsored Travel Report Form (Form C at the end of this Manual). They must send a hard or electronic copy of the completed Report Form to their designated approver wherever possible in advance of receiving the hospitality, but in any case within 14 days of receiving the hospitality. Designated approvers are listed in Schedule A at the end of this Manual.

6.2.7 Because the value of hospitality often cannot be determined, the criteria for deciding whether hospitality offered is significant and whether it should be accepted are:

- whether the hospitality offered would fall outside the normal pattern of hospitality appropriate to a staff member's position and responsibilities;
- whether it could give rise to a real or perceived conflict of interest; or
- whether it might compromise the reputation of Australia, the department or the post.

Due to the risks involved, offers of hospitality from private or commercial sources should be considered more strictly than offers of hospitality from official sources.

6.2.8 Hospitality in the form of a gift (for example, tickets to sporting or cultural events) or in the form of sponsored travel should be reported in accordance with the relevant procedures in section 6.1 and section 6.3 of this Manual.

6.2.9 Once a designated approver has made a decision on whether hospitality should be accepted, the relevant staff member should be advised of the outcome and be given a copy of the decision.

6.2.10 Completed Report Forms are auditable documents. All designated approvers must maintain a file in which original completed Report Forms and relevant correspondence are kept.

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6.3 Sponsored Travel



6.3.1 Sponsored travel refers to cases where, in order to enable work undertaken for the department, the costs of transport, accommodation and/or travel/living expenses are met from sources other than official funds or a staff member's own resources. (It does not refer to situations where a staff member is seconded to or provides a specific service to a body or organisation and cost recovery is appropriate. It does not refer to situations where a contractor's own company pays for travel to enable work undertaken for the department.) As with any other gift or benefit staff may be offered in connection with their official duties or because of their position in the department, all employees (APS and LES) and contractors must exercise judgment and caution in regard to any offers of sponsored travel.

6.3.2 As with any other gift or benefit, improperly accepting offers of sponsored travel may give rise to conflicts of interest or perceived conflicts of interest, and may compromise the reputation of Australia, the department or the post. As a general rule, **employees and contractors should not accept offers of sponsored travel**, particularly from private or commercial sources. This policy on sponsored travel is based on the principles set out in Chapter 12 of the APSC's APS Values and Code of Conduct in Practice, namely that:

- the Commonwealth should meet the expenses associated with work undertaken on its behalf by its staff;
- APS agencies and their staff should avoid a conflict of interest or the appearance of such conflicts; and
- private organisations which cannot afford to sponsor travel for staff of APS agencies should not be placed at a disadvantage to those who can.

6.3.3 Under the APS Code of Conduct and the standard LES Code of Conduct require, employees must not make improper use of inside information, or their duties, status, power or authority in order to gain, or seek to gain, a benefit or advantage for themselves, or for any other person. Contractors must behave similarly in accordance with provisions in their contracts.

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6.3.4 At the same time, the department recognises that circumstances arise, particularly overseas, where no conflict of interest could reasonably be inferred from accepting an offer of sponsored travel, or where there may be operational benefit in accepting an offer of sponsored travel.

Reporting and Approving Offers of Sponsored Travel

6.3.5 All employees (APS and LES) and contractors must report offers of sponsored travel they wish to accept by using the Gift / Benefit / Hospitality / Sponsored Travel Report Form (Form C at the end of this Manual). They must send a hard or electronic copy of the completed Report Form to their designated approver before accepting the offer of sponsored travel. **They must not undertake the sponsored travel before a decision from their designated approver.** Designated approvers are listed in Schedule A at the end of this Manual.

6.3.6 Sponsored travel may be approved when offered by reputable official sources such as an international or intergovernmental agency, another government, another Australian government agency, an educational institution, a non-profit humanitarian organisation or a broad-based industry group. For example, there are some recognised instances where travel opportunities are offered on a general rather than an individual basis, such as industry familiarisation tours, or where an organisation such as the World Health Organisation sponsors participants in a seminar.

6.3.7 Due to the risks involved, stricter criteria apply to offers of sponsored travel from private or commercial sources. APS and LES employees should generally **not** accept offers of sponsored travel from private or commercial sources – where the Commonwealth can pay for official travel, it should pay. Contractors should generally **not** accept offers of sponsored travel from private or commercial sources – where the Commonwealth or the contractor's own company can pay for the travel, they should pay.

6.3.8 However, sponsored travel offered by private or commercial sources may be approved where:

- accepting the offer is in the Government's interests (for example, sponsored travel in relation to the inauguration of travel services or opening ceremonies at new commercial or industrial undertakings overseas);
- practical alternative means of the proposed travel at official expense are not available (for example, travel to a remote locality on a company aircraft where no commercial air link exists);
- there is no scope for the perception of "personal benefit" for the staff member offered the sponsored travel; and
- every effort is made by the relevant work unit in the department to make an appropriate contribution to the costs involved – the designator approver should provide direction on what is an appropriate contribution (for example, the cost of accommodation and travel expenses are met by the relevant work unit, where a private or commercial source provides the transport).

6.3.9 Criteria for approving all sponsored travel are whether:

- the proposed activity is consistent with the Government's or the department's objectives;
- there is a clear Australian national interest involved;

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- there is a specific contribution the individual travelling can make to meeting the Government's or the department's objectives for the trip;
- any real or perceived personal benefit to the individual travelling is minimised;
- the possibility that other relevant entities (particularly Australian companies) may be competitively disadvantaged by accepting the offer is minimised; and
- there remains sufficient capacity in the relevant work unit to meet the interests of other relevant entities (particularly Australian companies) in the absence of the individual travelling.

6.3.10 Once a designated approver has made a decision on whether an offer of sponsored travel should be accepted, the relevant staff member should be advised of the outcome and be given a copy of the decision.

6.3.11 Where sponsored travel is approved, the designated approver must advise Financial Operations Section (FOS) (for staff based in Australia), SAO (for staff at post) or STO administration (for staff at STO) to ensure any necessary adjustments are made to allowances paid to the travelling staff member.

6.3.12 Completed Report Forms are auditable documents. All designated approvers must maintain a file in which original completed Report Forms and relevant correspondence are kept.

6.4 Corporate Sponsorship



6.4.1 Corporate sponsorship can be a valuable source of income for the department, particularly for our public diplomacy and trade advocacy activities. Nevertheless, all employees (APS and LES) and contractors must exercise judgment and caution when seeking or accepting corporate sponsorship.

6.4.2 Seeking or accepting inappropriate corporate sponsorship may give rise to conflicts of interest or perceived conflicts of interest – for example, where the source of the sponsorship is seeking business with the department or the Government. Inappropriate corporate sponsorship may also compromise the reputation of Australia and the department – for example, where the source of the sponsorship is engaged in activities which do not meet community standards, or are in conflict with government policy, such as a tobacco company.

6.4.3 All employees and contractors must comply with the department's policy on sponsorship as set out in Chapter 8 of the department's Finance Management Manual (FMM).

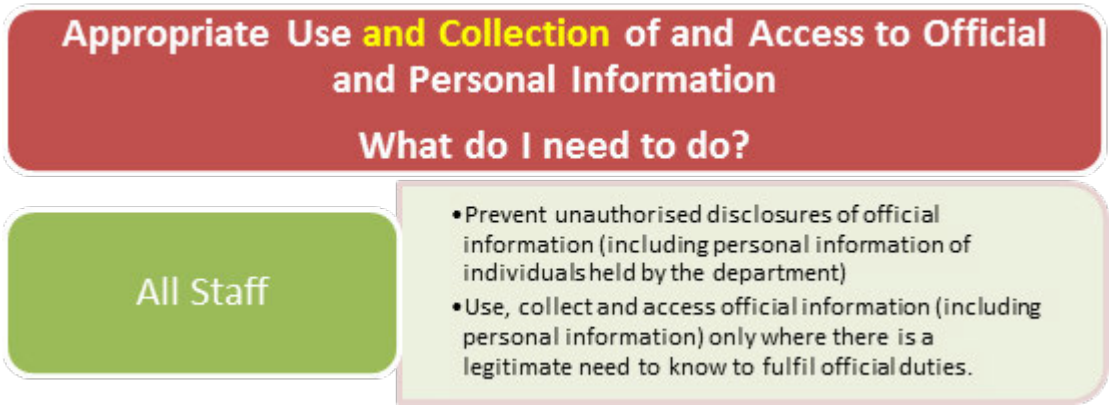
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Chapter 7: Appropriate Use and Collection of Official Information and Resources

This chapter sets out the department's policy on appropriate use and collection of official and personal information and on appropriate use of official resources.

Staff should contact the Employee Conduct and Ethics Section at s 22(1)(a)(ii) @dfat.gov.au if they require clarification on the contents of this Manual or if they are uncertain about the ethical implications of a proposed course of action.

7.1 Appropriate Use and Collection of and Access to Official and Personal Information



7.1.1 In general terms, official information is information held by the department on behalf of the Government or on behalf of those who use the services of the department. APS employees, LES employees and contractors must at all times collect and use official information (including personal information of individuals which is held by the department) appropriately. They must protect against, and not make, unauthorised disclosures of official information. Official information (including personal information of individuals which is held by the department) should only be used by, collected by, accessed by or made available to staff who have a legitimate need to know in order to fulfil their duties.

7.1.2 Inappropriate use of official information (including careless handling and poor security practice, unauthorised disclosure and access without a legitimate need to know) may compromise security, commercial interests or privacy of individuals. It may also compromise the department's reputation. Making unauthorised disclosure of official information or "leaking" in particular could affect the department's access to sources of political and economic intelligence. The department recognises the legitimacy of the disclosure of information relating to alleged misconduct in the department to authorised

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persons under the *Public Interest Disclosure Act 2013*, as set out in section 11.2 of this Manual.

7.1.3 Inappropriate collection and use of official information (including careless handling and poor security practice, unauthorised disclosure and access without a legitimate need to know) may constitute a breach of relevant Codes of Conduct and Australian law.

7.1.4 The APS Code of Conduct and the standard LES Code of Conduct require APS employees and LES employees to behave honestly and with integrity, to act with care and diligence and to comply with applicable Australian laws in connection with their employment. Contractors must behave similarly in accordance with provisions in their contracts.

7.1.5 It is an offence under section 70(1) of the *Crimes Act 1914* for "Commonwealth officers" (which for the purposes of section 70 includes APS employees, LES employees and contractors) to publish or communicate without authorisation official information which comes to their knowledge or possession by virtue of employment or engagement with the department. (Section 70(2) of the *Crimes Act 1914* applies similarly to *former* APS employees, LES employees and contractors – see section 5.4.7 of this Manual.) Inappropriate use, collection or access of personal information (including passport application data, consular records, employee records or any other information held by the department identifying information about an individual) may constitute a breach of the *Privacy Act 1988*.

7.1.6 APS employees, LES employees and contractors must comply with the department's policies in relation to the protection of official information. For APS employees and appropriately cleared LES employees and contractors, this includes the department's Security Instructions (located on Satin High) which provide definitive guidance on the appropriate use of official information – in particular chapter 5.14 which relates to unauthorised disclosures of official information, and chapter 9 which covers the protection of classified information. APS employees, LES employees and contractors must also comply with the *Legal Handbook* particularly the section on Privacy and Personal Information.

CASE STUDY - APPROPRIATE ACCESS TO PERSONAL INFORMATION

In my work, I have access to personal information about members of the public. On occasions, I have been curious about friends of mine and looked up their records just to see what's on their files. Is it OK to do this if I don't disclose the information to anyone?

No. Unless you have a direct need to access the information to perform your duties, you should not do so. Even if you do not disclose the information to others, inappropriate access to personal information (including passport application data, consular records, employee records or any other information held by the department identifying information about an individual) may compromise the privacy of individuals and may constitute a breach of the Privacy Act 1988. The department may investigate this type of inappropriate access to personal information as a possible breach of the APS or LES Code of Conduct.

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The Media and Members of the Australian Parliament

7.1.7 Staff must take particular care when receiving requests for information from the media and from members of the Australian Parliament who are not Ministers or Parliamentary Secretaries. Administrative Circular P1161 – Engaging with the Media sets out the department's procedures for responding to requests for information from the media. Administrative Circular P1169 – Assistance to Federal Parliamentarians: Briefings and Overseas Travel sets out the department's procedures for responding to requests for information and briefing from federal parliamentarians.

7.1.8 Further guidance on the responsibilities of APS employees in relation to the disclosure of official information, particularly when dealing with non-Government members of the Parliament is provided in the APSC's Circular 2009/4: Disclosure of Official Information.

7.2 Appropriate Use of Official Resources



7.2.1 Official resources are resources owned or controlled by the Commonwealth. They may include money or money-like resources (such as frequent flyer points and cab charges), tangible goods (such as furniture or computer equipment), intangible goods (such as software), or services derived from those tangible or intangible goods (such as e-mail or internet).

CASE STUDY - APPROPRIATE USE OF I.T.

Due to my official responsibilities at DFAT, I am issued with a laptop. My daughter is currently at University and needs a laptop to complete her assignments. Should I let her use it?

No. Under the APS Code of Conduct, an employee must use Commonwealth resources in a proper manner. Similar provisions exist in the LES Code of Conduct. As the laptop has been provided strictly for official use, sharing it with your daughter would be considered as an inappropriate use of departmental resources.

By allowing your daughter to use the laptop, you could also be in breach of the department's security policy and could expose the department's IT resources to computer viruses.

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7.2.2 Official resources are made available to staff for official use. While the department accepts modest private use of a very limited number of official resources (such as using e-mail or the telephone at work to contact household members or manage carer responsibilities, or using the internet at work to pay bills), APS employees, LES employees and contractors must exercise judgment and caution, and must comply with relevant legislation and departmental policies, in their use of official resources. In particular, they must comply with the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and the department's Financial Management Manual, which govern the appropriate use of Commonwealth resources (money and public property) in the department. Staff must also act honestly and with integrity, and must comply with relevant departmental policies, in making legitimate personal claims to official resources, for example in relation to leave and allowances.

CASE STUDY - APPROPRIATE USE OF ALLOWANCES

I have recently been on a two-week work trip. While I was away I was provided with breakfast at three of the functions I attended in my official capacity. Can I still claim my TA for breakfast in my hotel?

No. Staff are not entitled to the corresponding part of the meals component of travelling allowance (TA) if any element is provided or paid for by any entity while the staff member is acting in an official capacity. Under the APS Code of Conduct all employees are required to use Commonwealth resources appropriately. Similar provisions exist in the LES Code of Conduct.

When travelling domestically, employees are required to complete a Domestic Travel Finalisation Document in the Purchasing and Travel Workflow System (PTWS) which requires you to declare accommodation and/or meals provided. When travelling internationally, employees are required to complete the declaration in the Overseas Travel Acquittal Diary.

7.2.3 Misuse of official resources may constitute fraud against the Commonwealth. APS employees and contractors who commit fraud against the Commonwealth may be guilty of an offence under the *Crimes Act 1914*. LES employees who commit fraud against the Commonwealth may be guilty of an offence under the relevant local law. Section 9.3 of this Manual provides further advice on fraud.

7.2.4 Misuse of official resources may also constitute a breach of relevant Codes of Conduct. The APS Code of Conduct and the standard LES Code of Conduct require APS employees and LES employees to behave honestly and with integrity in connection with their employment, to use official resources in a proper manner and not to make improper use of their duties, status, power or authority to gain or seek to gain a benefit or advantage for themselves or others. Contractors must behave similarly in accordance with provisions of their contracts.

CASE STUDY - APPROPRIATE USE OF CHARGE CARDS

I have been invited to an official Government dinner. Can I use a departmental cab charge or credit card to pay for a taxi?

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Yes. In most circumstances you can use DFAT cabcharges, TAXI eTICKETS or credit cards (including cabcharge cards) to attend official work functions. However, before you use a cabcharge or TAXI eTICKETS, it must be approved by a delegate.

Cabcharges and TAXI eTICKETS are accountable documents and are normally kept by the divisional or budget coordinator. Permission to use cabcharge vouchers or TAXI eTICKETS must be sought to ensure public money is being spent correctly.

All holders of departmental credit and cabcharge cards must sign an undertaking acknowledging the terms and agreements governing the use of the credit card. One of these terms and conditions is that the card not be used for private purchases. Chapter 7 of The Finance Management Manual (FMM) provides further guidance. If the cabcharge were to be used for private purchases, this may constitute a breach of the APS Code of Conduct, as an APS employee must use Commonwealth resources in a proper manner.

CASE STUDY - USE OF DEPARTMENT-LICENCED SOFTWARE AT HOME

Occasionally, I do unclassified work at home on my computer. Can I use department-licenced software on my computer for this purpose?

No. You should not use department-licenced computer software on privately owned computers or laptops - and you should remove any such software, if it is on your computer. A licence fee is payable by the department for every authorised user of departmentally provided software. Moreover, the department cannot monitor whether such software is being used solely for official purposes. Under the APS Code of Conduct and the standard LES Code of Conduct, staff must not make improper use of their duties, status, power or authority to gain or seek to gain a benefit or advantage for themselves or others.

Staff who need to work from home from time to time may arrange to borrow a departmental laptop with the appropriate software. Guidance on borrowing and using departmental laptops can be found in the Acceptable Use Policy - Laptop Computers.

Departmental Policies on Appropriate Use of Official Resources

7.2.5 Departmental policies on appropriate use of official resources are found in a range of departmental policy documents, located under “Corporate” then “Manuals” on the Satin Low Welcome Page. They include:

- the Finance Management Manual
- the Human Resources Manual

IT Policies

- Acceptable Use Policy: Using Email
- Acceptable Use Policy: Using the Internet
- Acceptable Use Policy: Using Telephone and Fax Systems
- Acceptable Use Policy: Using Laptops
- Acceptable Use Policy: Password Management
- Satin Access Control Plan.

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The appropriate use of Commonwealth resources (money and public property) in the department is also governed by the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

CASE STUDY - APPROPRIATE USE OF INTERNET

I often go on-line at work to check my private e-mail, follow the local news and pay bills. I don't spend too much time on the internet on any given day, but is there a limit to how much time I'm allowed to spend on the internet for private purposes?

The internet is a tool available to staff for official business. Under the department's Acceptable Use Policy on the internet, the use of the internet for private purposes is permitted within reason. There is no set time limit - the department relies on the professionalism and good judgment of its staff. But in general terms, use of the internet for private purposes must not affect or conflict with your official duties; it must not be excessive (for example, all-day online share trading); and it must not involve commercial "for-profit" activities. The department's network bandwith and storage are limited. So internet use for private purposes must not consume these limited resources frivolously (for example, sending mass mailings or chain letters, playing online games or downloading large video or audio files). And of course, the internet must not be used to transmit or access material which is illegal, may be offensive to others or may damage the reputation of the department.

Leave in Conjunction with Official Short-Term Travel

7.2.6 The department allows staff to apply for recreation leave to be taken during the course of official short-term travel. In allowing staff to do so, the department seeks to avoid perceptions that staff have arranged official travel to facilitate private leave; to ensure that staff are not seen to be deriving a benefit from their duties, status, power or authority; and to maintain equity in conditions of service so that staff who travel as part of their work do not, in effect, gain additional leave fares not available to their colleagues.

7.2.7 The department’s policies on travel and leave are set out in detail **in HRM 1.10.18** for APS employees in the Human Resources Manual and for LES employees in the LES Conditions of Service in place at each post.

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Chapter 8: Upholding the Reputation of the Department and Australia

This chapter sets out guidance on upholding the reputation of DFAT and Australia, providing references to groups and individuals outside the Government, using diplomatic and consular privileges and immunities, making public comments in a private capacity and using internet social networking tools.

Staff should contact the Employee Conduct and Ethics Section at s 22(1)(a)(ii) @dfat.gov.au if they require clarification on the contents of this Manual or if they are uncertain about the ethical implications of a proposed course of action.

8.1 Responsibility to Uphold the Reputation of the Department and Australia

8.1.1 APS employees and contractors have a responsibility to uphold the reputation of the department at all times. This means ensuring that their conduct and behaviour is consistent with the APS Values and Employment Principles. APS employees and contractors also have a responsibility to uphold the reputation of Australia overseas at all times. The APS Code of Conduct and the DFAT Code of Conduct for Overseas Service require staff on duty overseas at all times to behave in a way that upholds the good reputation of Australia.

8.1.2 LES employees have a responsibility to uphold the reputation of Australia and their post at all times. The standard LES Code of Conduct states that LES employees' personal behaviour, including their behaviour outside office hours, must not compromise the good reputation of Australia or the post.

8.1.3 The department and its work have a high profile in Australia and overseas. Therefore, some legitimate public actions involve risks to the reputation of Australia, and to the department's reputation for impartiality and professionalism. These actions include: providing references in a private or official capacity on behalf of groups or individuals outside the Government; using diplomatic and consular privileges and immunities; and making public comments in a private capacity (including on the internet). It is important that APS employees, LES employees and contractors exercise judgment and caution to manage these risks.

Household Members of APS Employees

8.1.4 Unless they are staff members of the department themselves, household members of APS employees serving overseas are not directly subject to any departmental directions in relation to conduct and ethics. They are not covered directly by the DFAT Code of Conduct for Overseas Service. However, the high visibility of household members as part of an Australian official community means that any inappropriate behaviour or violation of the host country's laws by a household member can damage the reputation of the

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department, the post and Australia (clause 6.2 DFAT Code of Conduct for Overseas Service).

8.1.5 In accordance with the DFAT Code of Conduct for Overseas Service, APS employees serving overseas must take all reasonable steps to ensure that members of their households do not engage in behaviour likely to damage the reputation of the post and Australia. Instances of misconduct by household members could result in the termination of an APS employee's posting.

8.1.6 Article 37 of the Vienna Convention on Diplomatic Relations 1961 (VCDR) provides members of the family of a diplomatic agent with privileges and immunities. Because of this provision, family members must respect the laws and regulations of the receiving State in accordance with Article 41 of the VCDR. Articles 53 and 55 of the Vienna Convention on Consular Relations 1963 (VCCR) are relevant in this regard to members of consular posts.

8.2 Providing References

Providing references for those outside the Government - What do I need to do?

All staff

- Ensure those seeking references are of good repute and acting in good faith
- Clear appropriately any references provided in your official capacity
- Seek advice from EES if the reference is to influence an Australian Government decision

8.2.1 Staff of the department – particularly senior APS employees such as HOMs/HOPs – are often asked to provide references for groups or individuals outside the Australian Government. Staff may be asked to provide references in either their official or private capacities, and for various purposes – including for job or grant applications or for furthering commercial opportunities.

8.2.2 The department recognises that in general terms, it is legitimate for staff to provide references for groups and individuals outside the Government. At the same time, staff need to exercise judgment and caution before providing any such references. This is particularly so for HOMs/HOPs as the most senior representatives of the Government in their host countries.

8.2.3 If later placed on the public record, a reference for a group or individual whose actions or intentions are contrary to Australia's or the department's values or interests may undermine the reputation of the department and the staff member who provided the reference. A reference which intervenes inappropriately in a decision of the Government may undermine the department's reputation for impartiality and professionalism within the Government.

8.2.4 When providing a reference for a group or individual outside the Government, APS employees, LES employees and contractors must assure themselves that the group or individual seeking the reference is of good repute and is seeking the reference in good

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faith. Staff should not provide a reference unless they know the purpose of the reference and that purpose is consistent with the department's values and interests.

8.2.5 Where a reference is being given in a private capacity, staff should make it clear in the reference that they are expressing private views. To ensure a clear distinction between a reference conveying private views and a reference which may be construed as an official departmental view, staff should not provide references in a private capacity on official departmental letterhead or from departmental e-mail addresses.

8.2.6 Staff should not provide references in an official capacity unless the references are in direct pursuit of government policy and are appropriately cleared (usually by an SES employee or HOM/HOP) in the same way as any other form of official correspondence.

8.2.7 If the purpose of a reference is to influence a decision of the Australian Government (other than a normal reference for an Australian Government recruitment process), staff should seek advice from EES before agreeing to provide the reference.

8.3 Appropriate Use of Diplomatic and Consular Privileges and Immunities

Diplomatic and consular privileges and immunities - What do I need to do?

APS employees

- Familiarise yourself with the Guidelines on Diplomatic and Consular Privileges and Immunities before any posting overseas
- Complete appropriate use certification on arrival at post, and comply with the undertaking throughout posting overseas

8.3.1 Diplomatic and consular privileges and immunities are conferred by host governments on APS employees posted overseas to facilitate the operation of the diplomatic mission or consular post. They are not conferred for the personal benefit of APS employees or their family members. APS employees posted overseas must act with integrity in relation to any privilege they may have as diplomatic or consular representatives.

8.3.2 Abuse of diplomatic and consular privileges and immunities has the potential to harm bilateral relations with the host country, the reputation of the department, and Australia's standing internationally. It may also leave an employee open to compromise by those who become aware of the abuse. Abuse of diplomatic and consular privileges and immunities may constitute a breach of the APS Code of Conduct and the DFAT Code of Conduct for Overseas Service. It may also constitute a breach of applicable Australian laws.

8.3.3 Key principles are that:

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- only those who appear on the diplomatic or consular lists published by the foreign ministry of the receiving state are entitled to diplomatic and consular privileges;
- goods obtained under privilege must not be sold or used as payment of any kind or purchased on behalf any other person who does not have that privilege;
- privileged employees have a responsibility to abide by local law even if they may have immunity within its jurisdiction;
- privileged employees should give particular attention to laws and directions concerning bank accounts, the prohibition on the use of currency black markets and on the resale of alcohol and cigarettes, guidelines applying to the purchase and disposal of motor vehicles and the need for the prompt payment by staff of all fines associated with traffic infringements;
- except in the case of minor traffic infringements, privileged employees should inform HOM/HOP as soon as possible if they or a member of their household comes to the notice of local law enforcement authorities;
- privileged employees must take all reasonable steps to ensure that members of their households do not abuse diplomatic and consular privileges and immunities.

8.3.4 Before any posting overseas, APS employees must familiarise themselves with the Guidelines on Diplomatic and Consular Privileges and Immunities, set out in the General Administration Manual, Chapter 7, Attachment 1. On arrival at post, APS employees posted overseas must complete and sign the Certificate of Undertaking: Appropriate Use of Diplomatic and Consular privileges, which is in the General Administration Manual, Chapter 7, Attachment 2. Throughout their posting, APS employees must comply with the Guidelines on Diplomatic and Consular Privileges and Immunities. Section 8 of the DFAT Code of Conduct for Overseas Service also provides guidance on integrity in the use of diplomatic and consular privileges and immunities.

8.4 Making Public Comments

Making public comments in a private capacity - What do I need to do?

All staff

- Ensure that when making public comments, it is clear that they are your private views and do not damage Australia's or the department's reputation. Always be mindful of the APS Values and Employment Principles and Code of Conduct.
- Clear all private publications, speeches and media dealings on issues of political, economic or social interest with AS PMB or HOM/HOP.

8.4.1 The department recognises the right of staff to participate as private citizens in public discourse and to make public comments in a private capacity. At the same time, APS employees, LES employees and contractors have responsibilities when they make public comments in a private capacity. The term “public comment” here is used broadly, and includes comment made on political or social issues at public speaking engagements, during radio or television interviews, on the internet (including blogs, social networking sites and other online media), in letters to the press, books or notices, or in academic and in other forums where the comment is intended for, or may be accessed by, the community at large. Specific advice on using social networking tools can be found in Section 8.5.

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8.4.2 Section 7.1 of this Manual sets out guidelines on the appropriate use of official and personal information. Staff who make unauthorised disclosures of official or personal information through public comment may compromise security, commercial interests or privacy, and may also undermine the department's or their post's reputation for professionalism. In this way, they may breach relevant Australian laws, as well as the APS Code of Conduct or their post's LES Code of Conduct.

8.4.3 Even where their comments are unrelated to official information, staff must exercise judgment and ensure that they are mindful of the APS Values and Employment Principles and Code of Conduct when making any public comment in a private capacity. DFAT staff should ensure, among other things, that they do not undermine Australia's and the Department's reputation.

8.4.4 In its publication *APS Values and Code of Conduct in Practice*, the APSC provides guidelines to APS employees on making public comments in a private capacity. The department has adapted and extended this advice to **all** staff (APS employees, LES employees and contractors) in section 8.4.5 below.

8.4.5 Staff of the department (APS employees, LES employee and contractors) may make public comment in a private capacity and as private citizens, as long as they make it clear that they are expressing their own views. In this context, staff should bear in mind that APS employees must still uphold the APS Values and Employment Principles and Code of Conduct even when material is posted anonymously, or using an 'alias' or pseudonym, and that even if they do not identify themselves as an APS employee or an employee of the agency, they could nonetheless be recognised as such. As a rule of thumb, irrespective of the forum, anyone who posts material online should make an assumption that at some point their identity and the nature of their employment will be revealed. As general guiding principles, it is not appropriate for staff to make public comment that is, or could be perceived to be:

- being made on behalf of the department or Government rather than an expression of a personal view (this applies particularly to senior staff);
- compromising a staff member's capacity to fulfil his or her duties in an unbiased manner (this applies particularly where comment is made about the department's policies and programs);
- so harsh or extreme in its criticism of the Government, a member of parliament from another political party, or their respective policies, that it raises questions about the staff member's capacity to work professionally, efficiently or impartially (such comment does not have to relate to the staff member's area of work);
- so strong in its criticism of the department's administration that it could seriously disrupt the workplace (staff members are encouraged instead to resolve concerns by informal discussion with a manager or by using internal dispute resolution mechanisms, or if appropriate, the *Public Interest Disclosure Act 2013* regime);
- a gratuitous personal attack that might reasonably be perceived to be connected with their employment;
- unreasonable criticism of an agency's clients and other stakeholders;
- compromising the public confidence in the department or the APS.

At all times, staff members must be mindful of the requirements set out in Public Service Regulation 2.1 and the *Public Interest Disclosure Act 2013* concerning the disclosure of information.

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8.4.6 The department has procedures in place for clearing publications, speeches or interviews by staff members in their *official* capacity. See Administrative Circulars P1161 on engaging the media and P1195 on speeches and publications by Heads of Mission/Post and Other Departmental Staff in their Official Capacity.

8.4.7 Departmental staff intending to give public speeches, publish material (including online) or engage with the media in their *private* capacity should refer to Administrative Cicular P1202 - Speeches, Publications and Media Engagement by Departmental Staff in their Private Capacity. In particular they should consult the Assistant Secretary, Parliamentary and Media Branch (AS PMB) or HOM/HOP, where such public comment could be seen to contain commentary- explicit or otherwise- on subjects of political, economic or social interest. It is also recommended, AS PMB or HOM/HOP be made aware of any private dealings staff have with the media which may reasonably become public in circumstances capable of being interpreted as reflecting a departmental or post view.

CASE STUDY - UPHOLDING THE REPUTATION OF THE DEPARTMENT AND AUSTRALIA

A DFAT colleague sent me an e-mail that contained potentially defamatory comments about a key political figure in my current host country. He sent the e-mail to a number of people. It was then forwarded to a journalist. He also included his official signature block on the e-mail. Is he in breach of the APS Code of Conduct?

Your colleague may be in breach of a number of sections of the APS Code of Conduct, including improper use of Commonwealth resources.

By sending the e-mail from his DFAT e-mail address and by attaching his signature block, he has identified himself as a DFAT employee and may have breached the requirement for all APS employees to behave at all times in a way that upholds the APS Values and Employment Principles and integrity and good reputation of the APS. By identifying himself as a DFAT employee, there is a risk that he has damaged the reputation of the APS, particularly if the journalist publishes the information and attributes it to him as a DFAT employee, and especially if the comments are defamatory.

All information sent on DFAT's internet and e-mail systems is official information. It is recorded and can be recalled at any time, including for use as evidence in an investigation.

8.5 Acceptable Personal Use of Social Media

Acceptable personal use of social media - What do I need to do?

All staff

- Apply the same rules and exercise the same judgment and caution when using social media as for any other form of public comment in a private capacity.
- It is not appropriate for staff to make comment that is, or could be reasonably perceived to be:
    - compromising your capacity to fulfil your duties in an unbiased manner

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    - so harsh or extreme in its criticism of the Government, a Member of Parliament from another political party, or their respective policies, that it raises questions about your capacity to work professionally, efficiently or impartially
    - compromising public confidence in DFAT
- Uphold the integrity, good reputation and security of DFAT and the Australian Public Service at all times.
- Ensure use of social media complies with the department's privacy obligations to protect personal information held by the Department.
- If in doubt, or concerned, about your personal use of social media discuss with your supervisor, or the Employee Conduct and Ethics Section.
- Report any social media which is appropriate for an official response or which threatens staff, dependents or clients, DFAT buildings, assets and IT networks or seeks to damage our reputation as a professional organisation or the reputation of the Australian Government, to Assistant Secretary, Parliamentary and Media Branch (PMB).

8.5.1 DFAT staff may use social media in a personal capacity to stay informed professionally, to monitor news and events and to follow influencers in their area of work. While social media is an accepted part of life and maintaining an online presence is a common practice in the Australian community, it is important to remember that when you use social media in any capacity you are still bound by the Australian Public Service (APS) Code of Conduct, Values and Employment Principles and the DFAT Security Manual which expect you to uphold the integrity, good reputation and security of DFAT and the APS. DFAT Codes of conduct also apply to locally engaged staff, employees on secondment to DFAT, employees on leave, non-ongoing employees and contractors. Under the Overseas Code of Conduct an employee's household members are also expected to behave in a way that upholds the reputation of Australia and the department, and this includes in relation to social media use.

8.5.2 All staff are expected to take personal responsibility for whatever they do online. APS employees, LES employees and contractors must maintain the highest standards of professionalism, probity and accountability when engaging with social media and other online platforms. When sharing on personal social media, DFAT staff must adhere to guidance in Chapter 8.4 *Making Public Comments in a Private Capacity* of this manual which is underpinned by the Australian Public Service Commission, *APS Values and Code of Conduct in practice*. For more specific guidance, staff should also refer to the APSC publication, Making public comment on social media: A guide for employees.

8.5.3 You should be aware of the security risks associated with social media - information and personal. The information security risks include inadvertently disclosing: official information, classified or unclassified; personal information held by DFAT; privileged information gained through work; travel details of visits by Ministers or officials; or images that capture security features or infrastructure of DFAT premises. The personal security risks include sharing information about yourself, family or others eg. physical location, daily routines, work and recreational interest that could lead to unwelcome surveillance.

8.5.4 The above risks can be exacerbated through social networks – even closed ones like Facebook – where posts can be shared outside your network. The speed and reach of content posted on social media means that comments posted online are available immediately to a wide audience. Bear in mind that material posted online effectively lasts forever and may be replicated endlessly, through sharing and re-posting.

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8.5.5 You should be circumspect about identifying yourself as a departmental staff member on the internet and consider your own and others' security and personal safety, your position in the department, and location. Even if you choose not to identify as a DFAT employee online, remember that your anonymity online is far from guaranteed and content you share can be credited back to you even if you choose an anonymous username or have a profile set to 'private'. When posting in a personal capacity you can be easily identified by others as working for DFAT even if you don't disclose this information. A well-intentioned comment can have undesirable consequences in certain circumstances if the reader can attribute its source to a DFAT staff member.

8.5.6 Departmental staff, particularly Heads of Mission/Post or SES officers should also be mindful that the public may not necessarily be able to separate a private identity from a role as a DFAT employee. This is particularly true when serving in the overseas environment, where what you say may be perceived as representing DFAT and Australian Government.

8.5.7 Private statements can also carry more weight depending on your role and level of seniority in the department. SES employees in particular should consider their personal use of social media in light of their particular responsibilities under Section 35 of the Public Service Act 1999 to promote Australian Public Service values and comply with the Code of Conduct and to lead by personal example.

8.5.8 Regardless of whether or not you have identified that you work for DFAT or the APS in your profile and in the information you share, the account should

- not use your employment or affiliation with DFAT or use DFAT logo, trademarks or other branding elements to imply it is a departmental account;
- be clear that opinions expressed are your own and not those of DFAT e.g. 'Views are personal'; and
- use a private email address - not a dfat.gov.au email address - to register or connect the account.

8.5.9 Unauthorised disclosure of information held by the Australian Government is subject to the sanction of criminal law. All staff, including contractors who handle official government material, are responsible for appropriately protecting all official information that is unclassified, classified or protectively marked.

8.5.10 DFAT staff and contractors must ensure that their use of social media complies with the guidelines set out in Chapter 7 *Appropriate Use and Collection of Official Information and Resources* of this manual, and does not compromise security, commercial interests and privacy, or disrupt the department's operations.

8.5.11 You should not rely on a site's security settings for a guarantee of privacy, as material posted in a relatively secure setting can still be copied and reproduced elsewhere. Protect yourself, your family and colleagues from the risk of identity fraud and other threats. Refer to the Department of Communications and the Arts Stay Smart Online.

8.5.12 Because of their visibility and identity as part of an Australian official community overseas, the actions of household members on social media can have an impact on the reputation of Australia or of an Australian mission. Incidents of unacceptable behaviour

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by household members may result in recall to Australia or possibly termination of your posting.

8.5.13 Allegations of unacceptable social media behaviour will be handled with the same procedural fairness as other alleged breaches of the APS Code of Conduct.

8.5.14 **Before you engage on social media, ask yourself:**

- Could my comments or posted images cause anyone to lose confidence in my ability to do my job effectively and without political bias?
- Are my comments or posted images consistent with how the community expects the public service to operate and behave?
- Could my comments or posted images lower or undermine the reputation of DFAT or the APS, or my own reputation?
- Am I disclosing personal information about other individuals which I know because I am a departmental employee?
- Are my comments lawful? For example, do they comply with anti-discrimination legislation, the Crimes Act, the Criminal Code and laws relating to defamation?
- Are my comments revealing official information that could be security classified or protectively marked?
- Would I be comfortable if my supervisor read my comments or saw my posted images?
- Could my comments or posted images jeopardise my employment?
- How appropriate are my comments or posted images in the social and political environment in which they will be made?

8.5.15 **Interacting with official DFAT accounts**

Staff are welcome to share and interact with official DFAT social media and websites. Bear in mind however that DFAT's public engagement through external-facing channels of communication is intended to be transparent and reserved for interactions with the public, not for staff to talk among themselves. It can have negative consequences if our social media appears to be used to sustain conversations between colleagues.

8.5.16 **Personal or Official?**

If you assess that there is a sound business need for you or the position you hold to have an official departmental social media account, you should submit a business plan to Assistant Secretary, Parliamentary and Media Branch. For more information see DFAT Guide to Official Use of Social Media.

8.5.17 **Dealing with mistakes**

Depending on the nature of the error, you should inform your supervisor immediately for advice on further handling, which may include contacting Parliamentary and Media Branch (PMB).

8.5.18 **Get help with a social media issue**

It is the duty of all staff to alert their supervisor and/or PMB and/or the Employee Conduct and Ethics Section of any inappropriate content relevant to DFAT's reputation that they come across, including where:

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- you find information or conversations online to which you think the department should respond. If possible, take a screenshot.
- you find official information online that has not been authorised for public release. If possible, take a screenshot.
- you find information posted online that threatens staff, dependents or clients, DFAT buildings, assets and IT networks or seeks to damage our reputation as a professional organisation or the reputation of the Australian Government. If possible, take a screenshot.
- you are worried about your privacy, security or reputation as a result of social media posts.

8.5.19 Staff seeking advice on acceptable personal use of social media may contact the Strategic and Digital Communication Section in Communications and Parliamentary Branch at s 22(1)(a)(ii)@dfat.gov.au. To guide staff further, case studies on personal social media use follow. The advice contained in these case studies does not constitute legal advice, nor does the department guarantee the completeness of advice contained therein. Different solutions and outcomes may apply in individual circumstances.

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CASE STUDIES – ACCEPTABLE PERSONAL USE OF SOCIAL MEDIA

I am about to go on posting and plan to use Facebook to stay in touch with friends and family, and to connect with counterparts in-country. I have registered my place of employment and recorded my current position and career history in the Department. What should I keep in mind?

On any social media platform, you should be circumspect about identifying yourself as a DFAT employee and consider protective security issues relating to your current and possible future position in the Department and your location. Think carefully about the type and amount of personal information that you disclose in order to protect your privacy and reduce the risk of identity fraud and other threats. Before publishing on Facebook, stop and consider if your comments or posted images are consistent with how the community expects the public service to operate and behave. Does your Facebook profile and content portray an image that upholds the integrity, good reputation and security of the Department and the Australian Government?

Remember that depending on your role, seniority and particular position in the Department, it may be difficult for friends, followers and the public to distinguish between your personal identity and your official position even when you are posting on a personal account. This is especially true when serving in the overseas environment, where your comments could be perceived to represent the views of DFAT and Australian Government. You should not use your employment or affiliation with DFAT or use DFAT logos, trademarks or other branding elements to imply it is a departmental account. You should be clear that opinions expressed are your own and not those of DFAT or the Australian Government, noting that use of the disclaimer, 'Views are personal', does not exempt you from upholding the APS Values and Employment Principles and complying with the Code of Conduct.

You should also bear in mind that social media accounts are either authorised official accounts which must comply with departmental policies, governance arrangements and reporting obligations or they are personal and entirely an individual responsibility. Keep them separate. Use an official Facebook Page in preference to your personal Facebook profile to promote the work of the post in line with its public diplomacy or other communication objectives. If there's no official social media presence but a strong and sustainable case to establish one, post should submit a business plan to Assistant Secretary, Parliamentary and Media Branch for approval.

Can I use social media, including private or member-only groups, to connect and collaborate with other DFAT staff or partner organisations around the world?

The Department's IT network is the appropriate platform for sharing privileged or official information that has not been authorised for public release, including with colleagues. Unofficial social media groups should not be used to record actions, events, conversations or other transactions that provide evidence of formal advice or directions,

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or significant decisions by the Department. These records must be captured and maintained in a useable and accessible form in the EDRMS. This ensures that we meet our business, accountability and archival requirements in a systematic and consistent way, and that digital records are created for as long as they need to be retained.

If there is a business need to use online collaboration and networking tools on social media, staff should discuss with their supervisor and, if necessary, consult Parliamentary and Media Branch or Information Management Division. Staff should not use personal accounts where an official account would be a viable alternative. Staff should also ensure they only use approved internet-based cloud services and other applications for conveying official information. Not all those accessible from within SATIN Low are approved.

Staff may however use social media in a personal capacity to establish professional networks among colleagues and to stay professionally informed on the understanding that it will not compromise the integrity, good reputation, professionalism or security of the Department or the Australian Government.

I've been asked to contribute to a high profile foreign policy blog based on my current position in DFAT. Can I accept?

Social media is no different to any other public forum and staff should be guided by existing policies and procedures on making public comment in a private or official capacity. You should refer to section 8.4 of the Conduct and Ethics Manual and Administrative Circular P1202, *Publications, Online Comment and Media Engagement by Departmental Staff in their Private Capacity*. Before accepting a role or becoming involved in making public comments of a political nature or directly related to your work in DFAT, you should consider whether the content is appropriate in the context of your position, seniority and the social and political environment in which the comments would be made. Staff intending to publish any material, in their professional capacity or as a subject matter expert, which could be interpreted as reflecting a departmental or post view, should consult Assistant Secretary, Parliamentary and Media Branch or their HOM/HOP.

DFAT recognises the right of staff to participate as private citizens in public discourse. Publications, including scholarly works, by departmental staff can be advantageous to departmental and government objectives. In doing so, however, you must maintain public confidence in your capacity to undertake your duties professionally and impartially. Public perceptions are a primary consideration in Code of Conduct issues. Decisions on contributing to public commentary in a private capacity will be a matter of personal judgment and there can be no guarantee that a public audience won't question your impartiality as a public servant and DFAT employee. Any public comment in a private or official capacity should guard against making unauthorised disclosures of official information.

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If staff receive payment for writing blog posts or contribute regularly in a voluntary capacity, they must seek prior approval in line with section 5.3 of the Conduct and Ethics Manual on *Outside Employment and Voluntary Work*. In examining requests for outside employment or voluntary work, including during periods of leave, the Department considers whether it presents any real or apparent conflict of interest with official duties (and whether these can be managed); whether it adversely affects the performance of official duties; and the potential for the outside employment or voluntary work to damage the reputation of the Department or the Australian Government.

I have been posted overseas as Head of Mission and often use my personal Facebook account to post photos of myself undertaking official business. I also post personal pictures of family and holidays. A number of people I have met in country in an official capacity have become Facebook friends. Is this OK?

All departmental staff, but SES officers and Heads of Mission/Post in particular, should be aware that Facebook friends may not be able to separate your private identity from your role as a DFAT employee. This is especially true when serving in the overseas environment where what you say may be perceived to represent the views of DFAT and the Australian Government. Private statements can also carry more weight depending on your role and level of seniority in the Department. You should always consider how any disclosure of personal information could be perceived by others and reflect on whether any of the information you have shared about yourself, family or others such as physical location, daily routines, work and recreational interest could lead to unwelcome surveillance.

If you assess that there is a sound business need for you to connect with the public and share information about your official role and duties using Facebook, you should use the post's official Facebook Page. If there is no official Facebook Page for your post, you may wish to consider submitting a business plan to Assistant Secretary, Parliamentary and Media Branch.

I write a travel blog where I share stories and photographs of my private travel experiences. I have just arrived at post and I have written a short piece about my first impressions of my host country. On my blog I have already stated that I work for the Department. In commenting about the political and economic environment of my host country, I am concerned that I may have disclosed information I received as part of my official duties. Am I in breach of the APS Code of Conduct?

The APS Values and Code of Conduct and the DFAT Code of Conduct for Overseas Service require staff to avoid real and apparent conflicts of interest and, while on duty overseas, to behave in a way that upholds the good reputation of Australia. The information you have published on your blog should not appear to conflict with your ability to fulfil your duties in a professional, impartial and unbiased manner. By identifying yourself as a DFAT employee, what you say may be perceived as representing DFAT and Australian Government – more so depending on your role and seniority, and the particular social and political environment in which the comments are made. If your blog mentions

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classified or privileged information gained through your work, it may constitute unauthorised disclosure of official information. You should refer to section 8.4 of the Conduct and Ethics Manual on Making Public Comment and Administrative Circular P1202, *Speeches, Publications, Online Comment and Media Engagement by Departmental Staff in their Private Capacity,* and seek advice from the Employee Conduct and Ethics Section or Assistant Secretary, Parliamentary and Media Branch.

I am an A-based officer at post and my partner keeps a blog about our experiences in our host country. My partner has occasionally written about official functions we've attended and about conversations we've had with senior members of the host government at these functions. There's nothing sensitive or political about this blog. Is it OK for my partner to do this?

Unless they are DFAT A-based, contractor or locally engaged staff of the Department themselves, household members of APS employees serving overseas are not covered directly by the DFAT Code of Conduct for Overseas Service, nor are they subject to any departmental directions in relation to conduct. However, the high visibility of household members as part of an Australian official community means you and your partner need to exercise judgment and caution about the material on your partner's blog. Even where there is no material on the blog that could be construed as official information, indiscreet comments about prominent citizens in your host country could damage the reputation of the Department, the post and Australia. Incidents of unacceptable behaviour may result in recall to Australia or possibly early termination of your posting. Under the DFAT Code of Conduct for Overseas Service you are required to take all reasonable steps to ensure that your partner ceases to write about conversations held during official functions.

I am thinking about posting my views about how the Government is dealing with certain social issues on my Facebook account. I am currently working on a project related to these issues and have identified that I am a departmental employee in my Facebook profile. What should I consider?

The fact that you have stated your employment with DFAT and you are working on the issue may give rise to a perception of conflict of interest or impartiality. Your comments about the issues should not be so harsh or extreme in their criticism of the Government, a Member of Parliament from another political party, or their respective policies, that they raise questions about the your capacity to work professionally, efficiently or impartially. You should not refer to any classified or privileged official information which is not available publicly as you could be prosecuted under the Crimes Act and the Criminal Code.

Remember that others may not be able to distinguish between your personal and official identities regardless of whether you have stated that views are your own. Private statements can also carry more weight depending on your role and level of seniority in the Department. Staff should be mindful of the APS Values and Code of Conduct when making public comment, even when material is posted anonymously or using a pseudonym. DFAT codes of conduct also apply to locally engaged staff, employees on

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secondment to DFAT, employees on leave, non-ongoing employees and contractors. If you are on overseas posting, you should ensure your conduct online is consistent with the DFAT Code of Conduct for Overseas Service which states that "an APS employee on duty overseas must at all times behave in a way that upholds the good reputation of Australia".

I was reading a news blog about a political issue and have strong views about a topic discussed on the site. Can I publish a reply to the article on the blog?

As a member of the Australian Public Service, you have a right to participate in public discourse in a private capacity. Decisions on whether to comment on topical political issues will be a matter of personal judgment. Before you publish a reply, pause to consider how the public may perceive it. Some 'red flags' that signal it would be inappropriate to reply are where the comments may appear to be:

a) made on behalf of DFAT or the Government, rather than an expression of a personal view

b) compromising your capacity to fulfil their duties in an unbiased manner—this applies particularly where comment is made about DFAT policies and programs

c) so harsh or extreme in its criticism of the Government, a Member of Parliament from another political party, or their respective policies, that it raises questions about your capacity to work professionally, efficiently or impartially

d) so strong in its criticism of an agency's administration that it could seriously disrupt the workplace— you are encouraged instead to resolve concerns by informal discussion with a manager or by using internal dispute resolution mechanisms

e) a gratuitous personal attack that might reasonably be perceived to be connected with your employment

f) compromising public confidence in DFAT or the APS.

Even when material is posted anonymously or using an alias or pseudonym, be prudent and assume that you could be identified as the author and your comments made public. If you do decide to comment, you should not refer to any classified or privileged official information that has not been authorised for public release, as this may be punishable by law.

I hosted a Christmas party at my official overseas residence with friends, work colleagues and guests from the diplomatic corps. All had a great time and the fancy dress theme was a great hit. Can I publish some party photos on my personal blog?

Yes, but it's important that the photographs are in good taste and do not damage your own or the Department's reputation. You should respect the privacy of your guests and seek their permission before sharing on social media. While serving overseas, it is also important to think about whether posting the photos could compromise your personal security or that of other guests. Your photos may be better shared through a more secure platform or controlled mode of distribution. However, if they are to be published online,

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ensure the people in the photos are not named and there is no mention of DFAT, the Australian mission or official residence unless the event was open to the public. Use good judgment and common sense. Take time before publishing to reflect on whether the photographs or caption and comments could raise questions about your ability to meet the behavioural standards set out in the APS Values, Employment Principles and the Code of Conduct.

I noticed that a news blog quoted information that was incorrect. Due to my role in the Department I know the real facts. Can I reply to the blog and identify who I am?

No, you should first discuss your concerns with your supervisor and/or Media Liaison Section to see if a departmental response or correction is warranted.

While there are grey areas, you need to remember that any comment you propose to make in your personal or 'expert' role might reasonably reflect on DFAT or your APS employment. Your comments could be perceived to be made on behalf of DFAT or the Government rather than an expression of a personal view. In addition, you need to take care to ensure that you are not disclosing official information that has not been authorised for public release. Seek advice from a more senior officer, if in doubt.

Before commenting online generally, you should be confident that the material will not raise questions about your ability to meet the behavioural standards set out in the APS Values, Employment Principles and the Code of Conduct. Be prudent and assume that at some point your identity and the nature of your employment will be revealed even if comments are posted anonymously or using an alias or pseudonym.

SES employees should exercise particular care when making public comment as their leadership role provides more scope for conflict, real or apparent, between a personal view and their ability to fulfil current and potential duties in an apolitical, impartial and professional manner, and to be responsive to the Government.

I have subscribed to an internet dating site and have identified myself as a DFAT employee. Is this appropriate?

No, this is not appropriate. If you must list an occupation, you should say public servant rather than identify DFAT or an Australian mission overseas. You should not rely on a site's security setting as a guarantee of privacy as material can be copied and reproduced elsewhere. You should also ensure that you are not disclosing privileged or official information that has the potential to compromise your own or the Department's reputation or security.

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8.6 Working with Offices of Portfolio Ministers

Working with Ministers' Offices - What do I need to do?

APS employees

- Familiarise yourself with the Code of Conduct for Ministerial Staff (see Chapter 3.6 of this Manual)
- Maintain working relationships with Ministerial staff in a manner consistent with the APS Values and Employment Principles

8.6.1 Most communication between Portfolio Ministers and APS employees in the department occurs through Ministerial staff. With the exception of Departmental Liaison Officers (DLOs) who remain APS employees, Ministerial staff are not APS employees - they are employed under the Members of Parliament (Staff) Act 1984 (the MoP(S) Act), which is administered by the Minister for Finance.

8.6.2 Building and maintaining a constructive relationship with Ministers and their offices are key responsibilities of APS employees. However, it is important to the reputation of the department and the Government that APS employees build and maintain that relationship in accordance with their obligations as APS employees in the department.

8.6.3 In working with Ministerial staff, APS employees should ensure that their interaction upholds the APS Values and Employment Principles, specifically:

- the APS is open and accountable to the Australian community under the law and within the framework of Ministerial responsibility;
- the APS is apolitical and provides the Government with advice that is frank, honest, timely and based on the best available evidence.

8.6.4 APS employees and Ministerial staff should work towards achieving a professional and cooperative relationship. In providing frank, honest, timely and evidence-based advice, trust is crucial. APS employees should be aware that Ministerial staff provide important guidance about the Ministers' policy and requirements and, by so doing, help APS employees to be responsive.

8.6.5 The relationship between APS employees and Ministerial staff needs always to recognise that Ministers have final authority and accountability to Parliament, and APS employees, through the Secretary, are responsible to Ministers.

CASE STUDY - WORKING WITH MINISTERIAL ADVISERS

An adviser in the Minister's office phones me to request a brief by the end of the day. Because of the short timeframe, I am asked to email the brief directly to the adviser, rather than submitting it via the department's MIN-NET system. It is not clear to me whether it is the Minister or the adviser who has requested the brief. What should I do?

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The establishment of email links between Ministerial staff and APS employees increases the speed and frequency of requests and responses, but reduces their formality. This may lead to some uncertainty as to whether requests or directions are from the Minister or the adviser.

Good practice includes ensuring that employees, or their managers, are always confident that instructions are coming from the Minister by:

- in the case of Ministerial submissions, requiring the Minister's signature before acting on policy recommendations; and
- in the case of significant oral requests from Ministerial staff, requiring subsequent confirmation in writing or by email that the request is endorsed by the Minister.

Managing Ethical Conflict

8.6.6 There may be occasions when APS employees receive requests for assistance or action from Ministerial staff which they consider inconsistent with the APS Values or Employment Principles, relevant legislation or departmental policy, or otherwise inappropriate or unethical. In these instances, it is good practice to resolve the situation through discussion and consultation. APS employees should discuss any concerns they have with their supervisor or more senior departmental staff, if their intervention is required.

8.6.7. APS employees when receiving requests for assistance should ensure an appropriate standard of documentation is maintained to demonstrate accountability and transparency when interactions occur between Minister's offices and employees.

8.6.8 Recognising and understanding the different roles and responsibilities between Ministerial staff and APS employees can assist in determining an appropriate course of action in response to a request from Ministerial staff. The distinction can be summarised as follows:

- Ministerial staff have a political role to help Ministers fulfil their aims across their portfolio; Ministerial staff do not have the power in their own right to direct APS employees, including to modify advice which the department provides to Ministers;
- APS employees in the department are responsible to their Ministers through the Secretary and have an apolitical role to help Ministers draw on the depth of knowledge and experience in the department, provide a longer-term perspective and ensure due process under the law; APS employees should be responsive to requests made by Ministerial staff in their own right, provided that those requests are lawful, reasonable and consistent with the APS' apolitical role.

8.6.9 When determining an appropriate course of action in response to a request from Ministerial staff, it is also useful for APS employees to familiarise themselves with the Code of Conduct for Ministerial Staff (see Chapter 3.6 of this Manual). The Code of Conduct for Ministerial Staff binds all Ministerial staff employed under the MoP(S) Act. (DLOs are APS employees and are bound by the APS Code of Conduct.) Among the key elements of the Code of Conduct for Ministerial Staff are the requirements that Ministerial staff:

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- Treat with respect and courtesy all those with whom they have contact in connection with their employment;
- Make themselves aware of the Values and Code of Conduct which bind APS and Parliamentary Service employees;
- When travelling overseas on official business, behave in a manner consistent with the APS Values and Employment Principles and the APS Code of Conduct, to the extent they apply to officials on duty overseas;
- Not knowingly or intentionally encourage or induce a public official by their decisions, directions or conduct to breach the law or parliamentary obligations or fail to comply with an applicable code of ethical conduct;
- Acknowledge that ministerial staff do not have the power to direct APS employees in their own right and that APS employees are not subject to their direction;
- Recognise that executive decisions are the preserve of Ministers and public servants and not ministerial staff acting in their own right.

8.6.10 Further guidance on working with the Government and the Parliament is set out in Chapter 2 of the APSC's APS Values and Code of Conduct in Practice, the Cabinet Handbook and the Prime Minister's Guide on Key Elements of Ministerial Responsibility.

CASE STUDY - CARETAKER GOVERNMENT

It is a week since the Federal Election was announced and I have received a request from the Minister's office that the department prepare a list of key portfolio-related successes in selected regional areas, including the Minister's own electorate.While no reason for the request has been given, its seems clear that this information will be used during the election campaign.How should I respond?

Ministers may continue to request factual material from agencies during the caretaker period and material relating to the day-to-day business of government is supplied to Ministers in the usual way. However, to avoid controversy in the election period about claimed breaches of the apolitical and impartial values of the APS, it may be appropriate to decline a request for assistance if it requires the use of significant resources and is intended clearly for use in the election campaign. If in doubt, agencies should discuss with the Minister or his/her senior staff the purpose for which the material is to be used.

In most instances, agencies should also decline requests for policy advice during the caretaker period. There might, however, be urgent domestic or international issues on which policy advice should clearly be provided to Ministers to allow responsible ongoing administration or to protect Australia's interests.

Employees with any queries or concerns about possible breaches of the caretaker arrangements should consult the "Guidance on Caretaker Conventions", which is issued by Department of Prime Minister and Cabinet at the commencement of a new Federal Election. Any DFAT-specific concerns should be referred to the department's Executive Branch.

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Chapter 9: What is Misconduct?

This chapter defines what constitutes misconduct – including failure to comply with codes of conduct and other lawful and reasonable directions; criminal and other unlawful behaviour; harassment, bullying and discrimination; fraud; and accepting or offering bribes.

Staff should contact the Employee Conduct and Ethics Section s 22(1)(a)(ii) @dfat.gov.au) if they require clarification on the contents of this Manual or if they are uncertain about the ethical implications of a proposed course of action.

9.1 Misconduct

9.1.1 Misconduct refers to any action or behaviour determined to be in breach of the APS Values or Employment Principles, the APS Code of Conduct, the LES Code of Conduct in place at a post or the DFAT Code of Conduct for Overseas Service. To ensure procedural fairness and the presumption of innocence, any such action or behaviour must be referred to as ***alleged*** misconduct until a determination is made in accordance with procedures set out in Chapter 12 of this Manual. Procedures for reporting alleged misconduct are set out in Chapter 11 of this Manual.

9.1.2 In broad terms, an APS employee or a contractor whose conduct does not comply with an element of the APS Values or Employment Principles, the APS Code of Conduct or the DFAT Overseas Code of Conduct can be determined to have committed misconduct. The same principle applies to LES employees whose conduct does not comply with an element of the LES Code of Conduct in place at their post.

9.1.3 Misconduct can vary from serious (e.g. large scale fraud, theft, sexual harassment and leaking classified information) to less serious (e.g. a single, uncharacteristic angry outburst or use of the agency e-mail system to send an inappropriate and potentially offensive non-work related e-mail to friends).

Failure to Comply with Lawful and Reasonable Directions

9.1.4 The APS Code of Conduct and the standard LES Code of Conduct require staff to comply with any lawful and reasonable direction given by someone in the department or post with authority to give the direction. Accordingly, failure to comply with departmental policies (including the directions in this Manual, in other departmental manuals and in Administrative Circulars) may constitute misconduct. Failure to comply with the lawful and reasonable directions of supervisors, superiors or others in authority may also constitute misconduct.

Criminal and Other Unlawful Behaviour

9.1.5 The APS Code of Conduct requires staff to comply with Australian laws. The standard LES Code of Conduct and the DFAT Code of Conduct for Overseas Service require staff to comply with local law and applicable Australian laws overseas.

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Accordingly, criminal and other unlawful behaviour by staff in connection with official duty may constitute misconduct.

9.1.6 Criminal and other unlawful behaviour by staff in private and outside official duty may also constitute misconduct. The APS Code of Conduct requires staff at all times to uphold the good reputation of the APS and (while on duty overseas) to behave in a way that upholds the good reputation of Australia. The standard LES Code of Conduct requires LES employees at all times to uphold the good reputation of Australia and their post.

9.1.7 Where a staff member has, or is alleged to have, engaged in criminal or other unlawful behaviour, the department may implement procedures set out in Chapter 12 of this Manual for managing alleged misconduct. The department may do so in addition to any normal criminal investigations and proceedings by relevant law enforcement authorities outside the department.

CASE STUDY - MISCONDUCT AND CRIMINAL BEHAVIOUR

Following an official embassy function I drove a mission vehicle home and I may have been over the legal alcohol limit. Is this a breach of the APS Code of Conduct or the DFAT Code of Conduct for Overseas Service?

If you break the local law while overseas on posting, this may not just be a criminal offence but would also likely be a breach of the APS Code and the Overseas Code. The standard of behaviour expected by you while serving overseas is very high. You are required to behave in a way that upholds the good reputation of Australia at all times (even after official work hours).

If you were caught by local authorities driving over the legal alcohol limit, you must inform your HOM/HOP as soon as practicable and your HOM/HOP must inform the department immediately. You should also be aware that if you have committed a crime overseas, you could in some cases be prosecuted in Australia rather than under local law.

If the same situation occurred in your home state while you were driving a private vehicle, it would be a criminal matter, but it may also represent a breach of the APS Code if your actions damaged the reputation of the APS. You should also be aware that breach of any Australian laws may additionally affect your suitability for a security clearance.

Sanctions for Misconduct

9.1.8 The sanctions which may be imposed on an APS employee determined to have breached the APS Code of Conduct or the DFAT Overseas Code of Conduct are set out in section 15(1) of the *Public Service Act 1999*. They include:

a) termination of employment

b) reduction in classification

c) re-assignment of duties

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d) reduction in salary

e) deductions from salary, by way of fine (regulation 2.3(2) of the *Public Service Regulations 1999* limits fines to no more than two percent of the employee's annual salary)

f) a reprimand.

9.1.9 The sanctions which may be imposed on LES employees determined to have breached the LES Code of Conduct in place at their post are subject to the conditions of service at the post and should be considered in the context of local employment law. They may include reprimand or termination of employment.

9.1.10 The sanctions which may be imposed on contractors determined to have breached the APS Code of Conduct or the DFAT Overseas Code of Conduct are subject to provisions of their contracts. They include reprimand or termination of contract.

9.2 Harassment, Bullying and Discrimination

9.2.1 Harassment, bullying and discrimination are unacceptable in the workplace. The department does not tolerate these kinds of behaviour, as they undermine morale and productivity and, if not dealt with, can harm the well-being and performance of individuals and work units. Procedures for reporting alleged harassment, bullying and discrimination are set out in Chapter 11 of this Manual and further information is detailed in the Department's Anti-bullying, Harassment and Discrimination policy which is available on the DFAT intranet.

9.2.2 The APS Code of Conduct requires APS employees, when acting in connection with APS employment, to treat everyone with respect and courtesy, and without harassment (section 13(3) of the *Public Service Act 1999*). Contractors must behave similarly in accordance with the provisions of their contracts. The standard LES Code of Conduct requires LES employees to treat members of the public and colleagues with respect and courtesy, and without coercion or harassment of any kind.

9.2.3 Sexual harassment is unwelcome conduct of a sexual nature that a reasonable person anticipates could possibly make the recipient feel offended, humiliated and/or intimidated. Sexual harassment is unlawful regardless of the sex, sexual orientation or gender identity of the parties.

The Department takes allegations of sexual harassment seriously and will take prompt action to address allegations and to support staff who report instances of harassment. A-based officers, LES and contractors who experience sexual harassment should report it as soon as possible to any of the following authorised internal departmental persons:

- their supervisor or manager
- HOM/HOP in cases of alleged misconduct at posts
- CPO CMG

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- The Secretary
- the Employee, Conduct and Ethics Section (EES) via s 22(1)(a)(ii) @dfat.gov.au.

An external mechanism for reporting sexual harassment is via the Sex Discrimination Commissioner at the Australian Human Rights Commission

Sexual harassment can take various forms. Some examples of behaviour that may be sexual harassment include:

- unwelcome touching, hugging or kissing
- inappropriate staring or leering
- sexually suggestive comments or jokes
- unwanted invitations to go out on dates
- sexually explicit emails, text messages or comments on social media networks.

For further information on sexual harassment and support options, please refer to the department's Policy. A Sexual Harassment Managers Guide is also available to assist managers in handling reports of sexual harassment.

9.2.4 Where harassment, bullying or discrimination occurs, the department will take prompt action to address the specific concerns of the affected employee. Outcomes may range from mediation between the parties to lodgement of a formal grievance and associated investigation under the APS or LES Code of Conduct and other relevant legislation.

9.2.5 Where mediation and counselling may be effective, cases of harassment, bullying or discrimination may be referred for professional support. Depending on their nature and severity, alleged harassment, bullying or discrimination may be subject directly to procedures set out in Chapter 12 of this Manual for managing alleged misconduct.

9.2.6 All staff have access to support through the Staff and Family Support Office (SFO) and the Employee Assistance Program (EAP).

9.3 Fraud

9.3.1 The Commonwealth Government defines fraud as dishonestly obtaining a benefit by deception and other means. This definition covers a range of actions including:

- theft;
- obtaining property, a financial advantage or any other benefit by deception;
- causing a loss, or avoiding or creating a liability by deception;
- providing false or misleading information to the Commonwealth, or failing to provide information where there is an obligation to do so;
- making, using or possessing forged or falsified documents;
- bribery, corruption or abuse of office;
- unlawful use of Commonwealth computers, vehicles, telephones and other property or services;

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- relevant bankruptcy offences; and
- any offences of a like nature to those listed in case study below.

CASE STUDY - FRAUD

I am an administrative officer at post and have not managed to complete the Examination of Public Monies Check (5.1.1) for five months. Could this be fraud?

No. This does not amount to fraud. However, if public monies are missing as a result of your actions, you may have to re-pay the missing funds to the department (see section 15 of the Financial Management and Accountability Act 1997 for more detail). Failure to complete the examination of Public Monies Check (5.1.1) may constitute a breach of the APS Code of Conduct. Under the APS Code, you must act with care and diligence in connection with your APS employment. Your failure to complete the Public Monies Check may be considered as a failure to comply with a lawful and reasonable direction (i.e. required procedure).

9.3.2 The benefits referred to can be either tangible or intangible. Examples include:

- hacking into, or interfering with a Commonwealth computer system;
- using fraudulent tertiary qualifications to gain employment or a promotion with a Commonwealth agency;
- claiming hours on a timesheet that have not been worked;
- using Commonwealth systems to gain access to other systems without authority; and
- charging the Commonwealth for goods or services that are incomplete or not delivered.

9.3.3 Fraud can include using work-based internet for private gain; claiming a travel allowance for meals when they were provided as part of a conference package; or inaccurately entering leave plans. While these may constitute small amounts of money, overall they can represent a large loss to the department and an abuse of taxpayer money. Fraud diminishes the department's resources, reduces public confidence in the department, damages the Government's reputation in Australia and overseas, and can contribute to a loss in staff morale.

CASE STUDY - FRAUD

I am a supervisor and have reason to believe one of my staff members has been taking leave but not recording it. Is this fraud?

If the employee is aware of the correct procedures for recording leave and has intentionally been dishonest in recording leave, he or she may be investigated for fraud. This may also constitute a breach of the APS Code of Conduct or the applicable LES Code of Conduct. It is important that all employees behave honestly and with integrity in connection with their employment.

Fraud as Criminal Behaviour and Misconduct

9.3.4 Fraud against the Commonwealth is criminal behaviour. An APS employee or contractor who commits fraud against the Commonwealth may be guilty of an offence under the *Crimes Act 1914*. LES who commit fraud against the Commonwealth may be guilty of an offence under the relevant local law.

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9.3.5 The APS Code of Conduct requires staff to comply with Australian laws. The standard LES Code of Conduct and the DFAT Code of Conduct for Overseas Service require staff to comply with local laws overseas. So fraud against the Commonwealth may also constitute misconduct. Where a staff member has or is alleged to have committed fraud, the department may implement procedures set out in Chapter 11 of this Manual for managing of alleged misconduct. The department may do so in addition to any normal criminal investigations and proceedings by relevant law enforcement authorities outside the department.

9.3.6 Procedures for reporting alleged fraud are set out in Chapter 11 of this Manual.

How do I identify fraud?

9.3.7 Fraud is often hard to detect. The department has a comprehensive set of control measures to limit the incidences of fraud and to enable detection. However, all APS employees, LES employees and contractors have a responsibility to report and identify fraud when it occurs. If a staff member displays the following patterns of behaviour, it may indicate that he or she is involved in fraudulent activity:

- living above his or her means;
- gambling, alcohol or drug abuse;
- personality change;
- fraternising with suppliers;
- interchanging private and official money;
- poor financial record keeping;
- resistance to inquiries about funds;
- declining promotion or transfer; or
- reluctance to take leave.

Fraud Control in DFAT

9.3.8 With such a large network of offices, as well as complex resource and financial management systems, the department's risks and vulnerabilities are unique for a Commonwealth department. In particular, the department faces a number of challenges managing fraud risks overseas where language barriers and different legal and cultural environments can heighten the risks of fraud and obscure its detection.

9.3.9 Due to the complexity of DFAT's operating environment, the department has developed a comprehensive three-tiered approach to fraud control which consists of:

- fraud risk controls (checks, systems controls and audit measures);
- fraud prevention training (through a range of training courses); and
- prompt and fair investigation of fraud allegations.

9.3.10 Further information on the department's fraud control policy is contained in the DFAT Fraud Control Plan.

9.3.11 For comprehensive information on fraud control in the Commonwealth, see the Attorney General's Department Fraud Control Page.

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9.4 Bribery

9.4.1 The Australian Government works on a number of fronts to fight bribery and corruption in Australia and overseas. The department and its staff are committed to supporting better governance and legal systems abroad, as well as upholding Australia's reputation for transparency and integrity. The provision or acceptance of bribes by Commonwealth public officials (including APS employees, LES employees and contractors in the department) is prohibited under Commonwealth criminal law.

9.4.2 The APS Code of Conduct and the standard LES Code of Conduct also require that staff must not make improper use of their 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; they must in connection with their official duties comply with applicable Australian law; and they must not compromise the good reputation of the APS, their post and Australia. This includes by accepting bribes. Chapter 6 of this Manual provides detailed guidance on accepting gifts, benefits and hospitality.

9.4.3 Procedures for reporting alleged bribery are set out in Chapter 11 of this Manual.

Bribery of a Commonwealth Public Official

9.4.4 It is an offence for a Commonwealth public official to dishonestly ask for, receive or obtain a bribe, or even to agree to ask for, receive or obtain a bribe. A bribe is defined as a benefit to someone, with the intention of influencing a public official in the exercise of their duties. It makes no difference to the offence whether the public official intends to exercise influence in return for the bribe, or merely creates the impression that he or she will do so. A benefit can be any advantage (it does not have to be financial or proprietary) and it does not have to advantage the Commonwealth public official personally (it can be for another person). The maximum penalty on conviction is 10 years' imprisonment, a fine of up $1.8 million, or both (*Criminal Code* section 141).

9.4.5 It is also an offence where the benefit, while not specifically asked for, received or obtained in exchange for influence, would nevertheless tend to influence the Commonwealth public official. This is known as a "corrupting benefit", and carries a maximum penalty on conviction of 5 years' imprisonment (*Criminal Code* section 142).

9.4.6 Naturally, the person making the bribe or corrupting benefit also commits an offence, which is subject to the same respective penalties. In all of the above cases, it makes no difference to the offence whether it was committed in Australia or overseas.

Bribery of a Foreign Public Official

9.4.7 Australia is a party to the Organisation for Economic Cooperation and Development's (OECD) Convention on *Combating Bribery of Foreign Public Officials in International Business Transactions* and the *United Nations Convention against Corruption*. Both of these Conventions oblige States Parties to criminalise bribery of foreign public officials in international business transactions, and to make the offence extraterritorial.

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9.4.8 It is therefore an offence for any person in Australia, or any Australian anywhere in the world, to provide, offer or promise a benefit to someone that is not legitimately due, in order to influence a foreign public official in the exercise of his or her duties, so as to obtain or retain business or a business advantage (*Criminal Code* section 70). The offence is drafted to prevent persons escaping its operation by using intermediaries. Thus, the person *receiving* the bribe does not have to be the foreign public official whose influence is sought; and the person *paying* the bribe does not have to be the person who obtains or retains the business or business advantage. This offence is punishable by a maximum of 10 years' imprisonment and/or a fine of up to $1.8 million for individuals and $18 million for companies.

9.4.9 The Transnational Crime Section of the department's Legal Division can provide staff with more detailed advice on bribery issues.

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Chapter 10: Child Protection

DFAT maintains a zero tolerance approach to child abuse, and exploitation. This chapter sets out the responsibilities of all DFAT staff in Australia and overseas to protect children from exploitation, abuse or harm in carrying out their official duties including in the context of our consular and passports work, public diplomacy activities as well as in delivering development assistance. It also sets out reporting obligations for all staff in instances where child abuse/exploitation is suspected.

Protecting children - what do I need to do?

All staff:

- Ensure that **in carrying out official duties**, children are not at risk of being exposed to abuse, exploitation or harm.
- Ensure in the context of overseas posting that accompanying family members also uphold the rights of children.
- Report **any** suspected or alleged instances of child abuse, exploitation or harm (in the context of your work responsibilities) to the Employee Conduct and Ethics Section via s 22(1)(a)(ii) @dfat.gov.au.

Given the diverse work of the department, DFAT employees regularly come into contact with and are required to engage with minors (children under 18 years of age). Where staff have reason to believe that a child or group of children may be or have been the subject of exploitation, abuse or harm they are under a strict obligation to immediately report this through the appropriate channels as described below. Staff should remain mindful of the fact that acts of child abuse/exploitation attract criminal sanction under relevant Australian laws, many of which have extra-territorial application.

It is important DFAT staff seek to identify, mitigate, manage and reduce the risks of child exploitation, abuse or harm while carrying out official duties, including by maintaining highest standards of probity when engaging with children.

10.1 What is child abuse/exploitation/child harm?

10.1.1 Broadly defined, child abuse (maltreatment) is the act or failure to act by a person that results in actual or potential harm to a minor (person under 18 years of age). It includes all forms of physical abuse, sexual abuse, psychological abuse or neglect and can occur in private or public spaces.

10.1.2 Child exploitation is the act of using a minor for profit, labour, sexual gratification, or some other personal or financial advantage.

10.1.3 Child harm is a detrimental effect on a child's physical, psychological or emotional well-being. Harm may be caused by financial, physical or emotional abuse, neglect, and/or sexual abuse or exploitation whether intended or unintended.

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10.2 What policies and guidelines does DFAT have in place in relation to the protection of children?

10.2.1 The department has a range of targeted guidelines and standards in place to ensure the protection of children in relation to the department's core work. Staff should familiarise themselves with these and ensure they abide by them.

- DFAT has specific child protection guidelines and standards in place, which apply to all partners engaged and funded by DFAT for the delivery of Australian activities and programs overseas. See the Child Protection Policy 2017 DFAT will not knowingly engage – directly or indirectly – anyone who poses a risk to children and reserves the right to terminate any funding relationship where an implementing partner has contravened their contractual obligations to protect children. Individuals or organisations funded by DFAT, and who have contact with children, are required to undertake a risk assessment and implement appropriate child safe practices in their operations and activities. Contact: Child Protection Section (tel: x5100 email: s 22(1)(a)(ii) @dfat.gov.au)
- Comprehensive guidance on how DFAT consular officers must manage children's issues is contained in Chapter 11 of the DFAT Consular Handbook. The Handbook provides specific guidance on the manner in which consular officers must approach and report on allegations of or suspected instances of child abuse, forced marriage and female genital mutilation. Contact: Consular Operations Branch.
- To protect against the risk of child abduction, Australia applies stringent processes in relation to the issuing of child passports. The department also provides advice and assistance in relation to child alert requests. Contact: Australian Passport Office (email: s 22(1)(a)(ii) @dfat.gov.au)
- In photographing or filming children for Public Diplomacy purposes the department requires consent to be sought from a parent or guardian as outlined in the Public Diplomacy Handbook. Care should also be taken to ensure that local traditions or restrictions for reproducing personal images are adhered to, that images present children in a dignified and respectful way and protect a child's identity. Contact: Advocacy, Events and Outreach Section, Soft Power, Communications and Scholarships Division.

10.3 How do I identify child abuse/ exploitation?

- Child abuse or exploitation may be difficult to detect given that an abused child will often be afraid to disclose information about their abuse, feel guilty, ashamed and or confused. Specific signs and symptoms of abuse will depend on the type of abuse and will vary from case to case. Among other things: physical abuse may be identified in instances where a child suffers unexplained injuries, burns, fractures, or bruises or in instances where injuries are left untreated.
- Sexual abuse may be identified in instances where a child exhibits sexual behaviour or knowledge inappropriate for their age; trouble walking/sitting and complaints of genital pain; exhibits inappropriate sexual behaviour to other children.
- Emotional abuse may be identified in instances where a child exhibits delayed or inappropriate emotional development; low confidence or self-esteem; social withdrawal; loss of previously acquired developmental skills.
- Symptoms of neglect might include poor height or weight gain; poor hygiene; eating a lot in one sitting or hiding food for later; lack of appropriate medical care for dental, physical or psychological conditions.

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10.3.1 Identifying abusive or exploitative behaviour by adults towards children may be indicated (among other things) by:

- Unusual/ excessive interest in the sexual development of a child.
- Insisting on hugging, kissing or wrestling with a child in spite of protestations from the child.
- Insisting on time alone with the child with no interruptions.
- Frequently walk in on children/teenagers in the bathroom.
- Picking on a particular child.
- Showing little interest/ regard for a child in their care.
- Harshly blaming, belittling or berating a child.
- Using harsh physical discipline.
- Appearing unable to recognise emotional or physical distress in a child.
- Unusual/excessive gift giving.

10.4 Officers seeking guidance or advice in relation to child protection issues may wish to contact:

- Child Protection Section s 22(1)(a)(ii) @dfat.gov.au, s 22(1)(a)(ii))
- Employee Conduct and Ethics Section s 22(1)(a)(ii) @dfat.gov.au, s 22(1)(a)(ii)
- Transnational Crime Section (s 22(1)(a)(ii) @dfat.gov.au, s 22(1)(a)(ii))
- DFAT Medical Unit (s 22(1)(a)(ii) @dfat.gov.au, s 22(1)(a)(ii)
- DFAT Staff and Family Support Office s 22(1)(a)(ii) @dfat.gov.au, s 22(1)(a)(ii)

To whom should I report suspected instances of child abuse/exploitation?

To ensure appropriate handling of any instances of alleged or suspected child abuse, officers must report to the Employee Conduct and Ethics Section via s 22(1)(a)(ii) @dfat.gov.au.

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Chapter 11: Reporting Alleged Misconduct and Criminal Offences

This chapter sets out how to report alleged misconduct and criminal offences (including Australian exterritorial offences) in the department, elsewhere in the APS and by third parties. It also outlines and directs staff to the department's policy on reporting and investigating public interest disclosures, which can be found on the intranet and on the department's external website.

Staff should contact the Employee Conduct and Ethics Section s 22(1)(a)(ii) @dfat.gov.au) if they require clarification of the contents of this Manual or if they are uncertain about the ethical implications of a proposed course of action.

11.1 Reporting Alleged Misconduct in DFAT



11.1.1 There is always close public scrutiny of the work of the department in Australia and overseas. This places an obligation on all APS employees, LES employees and contractors to maintain the highest standards of conduct and ethical behaviour. The department has been able to maintain high standards as a result of its workplace culture, which does not tolerate misconduct or unethical behaviour. All APS employees, LES employees and contractors therefore have a responsibility to report alleged misconduct in the department promptly, should it occur.

11.1.2 It is important that reports of alleged misconduct in the department are made discreetly and directed **only** to authorised persons. This is to ensure that:

- any person against whom allegations of misconduct are made is treated fairly through procedures set out in Chapter 11 of this Manual and has his or her privacy protected;
- any person reporting the alleged misconduct is protected under the department's policy on "Public Interest Disclosures", set out in section 11.2 of this Manual;
- confidentiality is maintained and no unauthorised disclosure of official or personal information occurs in reporting the alleged misconduct.

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11.1.3 The APS Code of Conduct and the standard LES Code of Conduct require staff to behave honestly and with integrity. The department may decline to assess or investigate an allegation of misconduct which is clearly frivolous, false or malicious, or where the matter has already been the subject of a proper examination. Making knowingly frivolous, false or malicious allegations of misconduct has the potential to undermine trust and morale in the workplace. Subject to the provisions of the *Public Interest Disclosure Act*, where applicable, disciplinary action under the relevant Code of Conduct may be taken against staff found to have made allegations of misconduct which are knowingly frivolous, false or malicious.

To Whom Should I Report Alleged Misconduct?

11.1.4 APS employees, LES employees and contractors in the department should report alleged misconduct in the department directly to the EES – by "sensitive:personal" e-mail to s 22(1)(a)(ii) @dfat.gov.au, by telephone on ext 2456, 9202 or ext 2318, or in person at Ground Floor, 44 Sydney Avenue. Where alleged misconduct may also constitute criminal or other unlawful behaviour, EES may refer the matter to relevant law enforcement authorities for assessment and possible investigation and prosecution. Staff can be assured that any information provided to EES in good faith will be treated confidentially in accordance with relevant Commonwealth legislation.

11.1.5 If for any reason it is not possible to report the alleged misconduct directly to EES, staff should direct allegations of misconduct to other authorised persons in the department.

11.1.6 Authorised persons in the department for reporting alleged misconduct by an APS employee, LES employee or a contractor in the department are:

- EES;
- HOM/HOP only in cases of alleged misconduct at the relevant post;
- CPO CMG;
- the Secretary;
- EES in cases of alleged harassment, bullying or discrimination;
- A-based manager / supervisor (who must refer the report directly to one of the above, usually EES).

To ensure appropriate protection of information provided, any allegations of misconduct should generally be made to these persons in the first instance by "Sensitive:Personal" e-mail.

11.1.7 APS employees, LES employees and contractors may also report alleged criminal or other unlawful behaviour in the department to relevant Australian law enforcement authorities.

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11.2 Public Interest Disclosures in DFAT



11.2.1 The department recognises the importance of public interest disclosures. The spirit and intent of the department's Public Interest Disclosure Policy is to assist and protect APS employees, LES employees and contractors who are acting in good faith when reporting alleged misconduct with a public interest element. The policy is in accordance with the *Public Interest Disclosure Act 2013*. Provisions for procedural fairness and natural justice for staff who are the subject of public interest disclosure reports are set out in Chapter 11 of this Manual.

11.2.2 The department's procedures on reporting and investigating public interest disclosures is a publicly available document and can be found on the intranet or the department's external website.

11.2.3 The department is committed to the highest standards of conduct and accountability. All DFAT staff have a responsibility to report suspected wrongdoing by DFAT staff, other government agencies and government contractors. The department encourages and supports the reporting of wrongdoing in the APS in line with the procedures established under the *Public Interest Disclosure Act 2013*.

11.2.4 The procedures promote the integrity and accountability of the APS by:

- Encouraging the facilitating the making of public interest disclosures by former and current department staff;
- Ensuring that staff who make public interest disclosures are supported and are protected from adverse consequences relating to the disclosures; and
- Ensuring that disclosures by staff are properly investigated and dealt with.

11.2.5 As is the case with *any* official information to which staff have access, the unauthorised public disclosure (directly or indirectly) of a discloser's report or identity may constitute a breach of section 70 of the *Crimes Act 1914*, as well as the APS Code of Conduct or the applicable LES Code of Conduct.

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11.3 How to Report Alleged Misconduct by Employees of Other APS Agencies



11.3.1 APS employees, LES employees and contractors have a responsibility to report alleged misconduct by employees or contractors of other APS agencies.

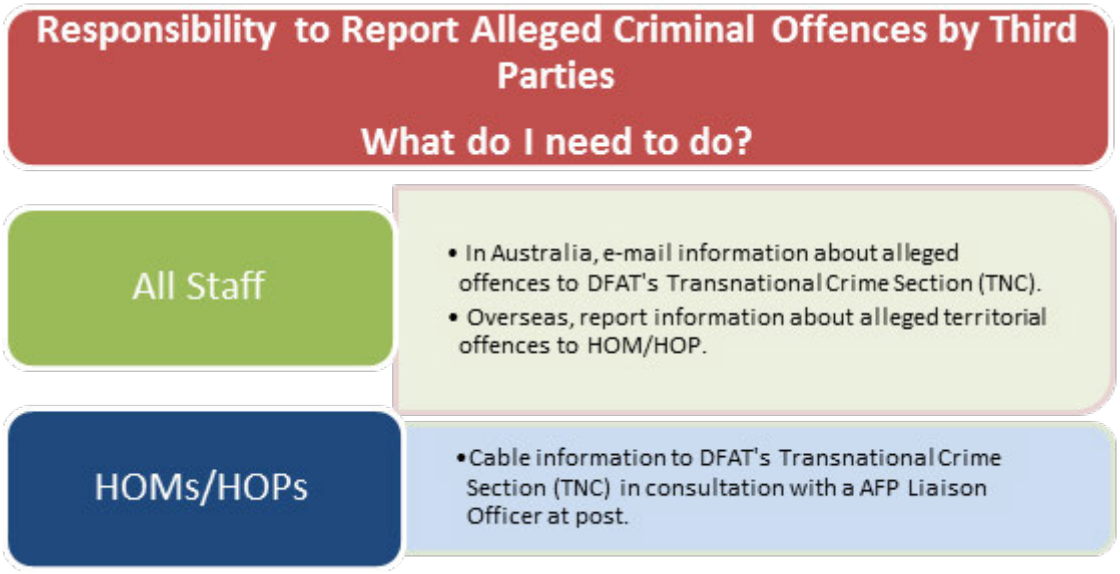
11.3.2 In Australia, APS employees and contractors should report the alleged misconduct to EES for referral to the relevant APS agency for possible investigation. They should do so in the first instance by "Sensitive:Personal" e-mail at s 22(1)(a)(ii) @dfat.gov.au, by telephone on ext 2456, 9202 or ext 2318, or in person at Ground Floor, 44 Sydney Avenue.

11.3.3 At post, APS employees, LES employees and contractors should report the alleged misconduct to HOM/HOP. HOM/HOP should then pass the information to EES for referral to the relevant APS agency for possible investigation. HOM/HOP should do so in the first instance by "sensitive:personal" e-mail at s 22(1)(a)(ii) @dfat.gov.au, by telephone on s 22(1)(a)(ii) or in person at Ground Floor, 44 Sydney Avenue. In the case of alleged misconduct by a non-DFAT LES, DFAT may assist the relevant agency, where necessary and on a cost recovery basis, to manage the alleged misconduct. DFAT's procedures for managing alleged misconduct, as set out in section 11.2 of this Manual, would apply.

11.3.4 Pending possible investigation by the relevant APS agency, HOMs/HOPs reserve the right under the Prime Minister's Directive on the Guidelines for the Management of the Australian Government Presence Overseas to make directions regarding the actions and behaviour of relevant staff at post to ensure that the reputation of the post and the Australia Government is maintained. In doing so, HOMs/HOPs should consult CPO CMG and should document any directions made in this regard.

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11.4 Responsibility to Report Alleged Criminal Offences by Third Parties



11.4.1 APS employees, LES employees and contractors should follow the procedures set out in sections 11.1-11.3 of this Manual for reporting alleged misconduct and criminal behaviour by staff of the department and other APS agencies.

11.4.2 APS employees, LES employees and contractors also have a responsibility to report certain alleged criminal offences by third parties. They must ensure that where they become aware of information that they reasonably suspect relates to the commission of a serious criminal offence under Australian law by third parties, they report it to the appropriate Australian authorities.

11.4.3 We consider that a 'serious' offence under Australian law is an offence which carries a penalty of five years or more in prison. Serious extraterritorial offences under Australian law include, but are not limited to, those associated with:

- bribery of foreign public officials;
- transnational organised crime (such as drug trafficking, money laundering, people smuggling, human trafficking, wildlife smuggling and cybercrime);
- child sex offences;
- slavery and slavery-like practices (such as forced marriage, servitude and forced labour);
- female genital mutilation;
- terrorism (such as participation in terrorist acts, membership of a terrorist organisation, providing support to a terrorist organisation or financing terrorism);
- engaging in hostile activities in foreign countries (including recruitment of persons to engage in hostile activities and entering or remaining in a 'declared area')
- breach of United Nations Security Council sanctions or Australian autonomous sanctions (see http://www.dfat.gov.au/ sanctions/);
- threats to / breaches of international peace and security (such as war crimes, crimes against humanity, genocide and proliferation of weapons of mass destruction);
- passports fraud (offences provided for in the *Australian Passports Act 2005*); and

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- offences against Commonwealth officials.

11.4.4 APS employees, LES employees and contractors who become aware of information which could reasonably be suspected to relate to an extraterritorial offence under Australian law must observe the following procedures:

- in Canberra and State/Territory Offices: report the matter by e-mail marked 'sensitive: legal' to s 22(1)(a)(ii) @dfat.gov.au marked for the attention of Director, Transnational Crime Section (TNC). If the relevant information relates to the conduct of a current or potential consular client, please also copy the Assistant Secretary of the Consular Operations Branch (CNB). If the relevant information relates to passport fraud, please also copy the Director of the Passport Fraud Investigation Section (PFS). If the matter relates to child abuse or exploitation, including allegations of child sex offences, please report the matter at first instance to the Employee Conduct and Ethics Section via s 22(1)(a)(ii) @dfat.gov.au.
- at post: report the matter immediately to a senior SES officer at post (usually the Head of Mission/Post (HOM/HOP), Deputy Head of Mission/Post (DHOM/DHOP) or Senior Administrative Officer (SAO). Where the SES officer considers appropriate, post will then cable all information in its possession relating to the matter to Canberra (attention Director, TNC) by HOM, DHOM or SAO-approved cable. The ODIN topic of the cable should be 'LEGAL\Allegations'. If the information being reported has been obtained through a consular client, and relates to child sex offences, consular officers must follow the process and manage children's issues as set out in Chapter 11 of the DFAT Consular Operations Handbook. For all other extraterritorial offences, consular officers must include the LEGAL\Allegations ODIN topic in line with the reporting responsibilities outlined in Chapter 3 of the DFAT Consular Operations Handbook. If the relevant information relates to a DFAT-administered program (such as a development program), post should also include the ODIN Special Distribution List "DFAT Fraud Related Matters". At posts with an accredited Australian Federal Police (AFP) Liaison Officer (AFPLO), the SES officer may wish to consult AFPLO in preparing the cable to Canberra. In doing so, the SES officer should take into account privacy considerations.

In the unlikely scenario that HOM or another senior manager at post is suspected of committing an extraterritorial offence, officers should refer the matter immediately to both the Employee Conduct and Ethics Section and by email or phone call to Director, TNC.

11.4.5 Other than in circumstances involving passport fraud and fraud committed by external parties against DFAT, the department has no investigatory or law enforcement role in relation to Australian extraterritorial offences. It is the responsibility of AFP and other relevant Australian agencies to conduct investigations into credible allegations. Departmental staff have a responsibility to report allegations, but under no circumstances should they seek to investigate the allegations of Australian extraterritorial offences themselves.

11.4.6 The existence of information suggesting that an Australian may have committed an Australian extraterritorial offence does not diminish that Australian's entitlement to appropriate consular assistance. At the same time, the provision of consular assistance to Australian clients does not extend to protecting them from the consequences of actions that are prohibited under Australian (or local) law. Consular clients must be made aware that, as allowed for under the *Privacy Act 1988*, any information provided to the department will be disclosed to the AFP where the disclosure is reasonably necessary for the enforcement of a criminal law or of a law imposing a pecuniary penalty. There is no concept of "consular client confidentiality" with respect to admissions of possible

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criminal conduct made by a consular client. Information that relates to an extraterritorial offence must be reported in accordance with section 11.4.4 above. Chapters 11 and 12 of the Consular Handbook provide useful guidance in this respect.

11.4.7 Further information is available in the relevant administrative circular on Australian Extraterritorial Offences and the Responsibility to Report; P1179 – DFAT guidance and procedures for dealing with fraud; and from the Transnational Crime Section (TNC).

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Chapter 12: Managing Alleged Misconduct in DFAT

This chapter sets out how DFAT manages allegations of misconduct by Australian Public Service (APS) employees, former APS employees, Locally Engaged Staff (LES) and independent contractors working in DFAT.

The chapter is divided into four sections:

- **Section 12.1** sets out the mandatory procedures required by the *Public Service Act 1999* for determining whether a current or former APS employee in DFAT has breached the APS Code of Conduct, and for determining the sanction, if any, to be imposed on an APS employee in DFAT who has breached the Code of Conduct.
- **Section 12.2** provides general guidance to APS employees in DFAT on several aspects of the formal misconduct process.
- **Section 12.3** provides general guidance for managing alleged misconduct by LES.
- **Section 12.4** provides general guidance for managing alleged misconduct by independent contractors.

Staff should contact the Employee Conduct and Ethics Section at s 22(1)(a)(ii) **@dfat.gov.au** if they require clarification on the contents of this chapter

12.1 Mandatory Procedures for Determining Whether an APS Employee Has Breached the APS Code of Conduct and For Determining Any Sanction to be Imposed for a Breach of the APS Code of Conduct

12.1.1 These procedures have been established by Ms Frances Adamson, Secretary DFAT, pursuant to section 15(3) of the *Public Service Act 1999* (the Public Service Act), and commence on 17 October 2019.

12.1.2 These procedures supersede the previous procedures made by DFAT pursuant to section 15(3) of the Public Service Act. However, the previous procedures may continue to apply for transitional purposes as set out in paragraph 12.1.5.

12.1.3 These procedures apply in determining whether an APS employee in DFAT, or a former APS employee in DFAT, has breached the APS Code of Conduct set out in section 13 of the Public Service Act. They also apply in determining the sanction, if any, to be imposed on an APS employee in DFAT who has breached the Code of Conduct.

12.1.4 In these procedures:

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(a) a reference to the 'formal misconduct process' means these mandatory procedures for determining whether an APS employee has breached the Code of Conduct, and for imposing a sanction on an APS employee found to have breached the Code of Conduct;
(b) a reference to an 'APS employee' means both a current APS employee in DFAT and a former APS employee employed by DFAT; and
(c) a reference to the 'Secretary' includes a reference to a delegate of the Secretary.

12.1.5 These procedures do not apply to any formal misconduct process that was instituted before 17 October 2019. They also do not apply to the imposition of any sanction on an APS employee found to have breached the Code of Conduct where the misconduct process was instituted before 17 October 2019. In these circumstances, the previous procedures made by DFAT will continue to apply until the misconduct process is concluded.

12.1.6 A flowchart that assists in outlining the steps in the formal misconduct process can be found attached. For clarity, the flowchart does not form part of these procedures.

Procedures for determining whether an APS employee has breached the APS Code of Conduct

12.1.7 The Secretary may institute a formal misconduct process pursuant to these procedures following the receipt of allegations against an APS employee. The Secretary may also refer allegations to law enforcement authorities where the alleged conduct may constitute a criminal offence.

12.1.8 The process for determining whether an APS employee has breached the Code of Conduct must be carried out with as little formality and with as much expedition as a proper consideration of the matter allows.

12.1.9 An APS employee against whom allegations have been made is entitled to seek independent legal advice at any time during the formal misconduct process.

12.1.10 Where the Secretary has instituted a formal misconduct process, the Secretary will appoint a person (the 'decision-maker') whose role is to determine in writing whether the APS employee has breached the Code of Conduct. The Secretary has discretion in the appointment of the decision-maker, who can be an APS employee or a person outside the APS.

12.1.11 Before any decision as to whether an APS employee has breached the Code of Conduct is made, an investigation into the allegations must be conducted. The purpose of the investigation is to test the allegations that have been made by collecting evidence from relevant parties and making findings of fact.

12.1.12 The Secretary will decide whether the decision-maker should conduct the investigation themselves, or whether a separate person ('the investigator') should assist the decision-maker with conducting the investigation. The Secretary has discretion in the appointment of the investigator, who can be an APS employee or a person outside the APS.

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12.1.13 The decision-maker and the investigator must be, and must appear to be, independent and unbiased. This usually requires the decision-maker and the investigator to not have had any previous involvement with the allegations.

12.1.14 The Secretary will write to the APS employee against whom allegations have been made to advise them of the decision to institute a formal misconduct process and of the steps in that process. The Secretary will also advise the employee of the identities of the decision-maker and, if a separate person, the investigator.

12.1.15 Pursuant to regulation 3.10 of the *Public Service Regulations 1999*, the Secretary may decide to suspend an APS employee from duties if the Secretary believes on reasonable grounds that the employee may have breached the Code of Conduct and the employee's suspension is in the public or DFAT's interests. The suspension may be with or without remuneration. The Secretary may also decide to re-assign the employee to other duties temporarily at the commencement of, or at any time during, the formal misconduct process.

12.1.16 Where the Secretary proposes to suspend an APS employee from duties or to re-assign the employee to other duties temporarily, the employee will be advised of the proposed decision in writing at the time they are advised of the Secretary's decision to institute a formal misconduct process. Other than in circumstances where it is appropriate that a decision to suspend an employee or re-assign them to other duties comes into effect immediately, the employee will be given a reasonable opportunity to comment on the proposal before a decision is made.

12.1.17 The decision-maker or, if a separate person, the investigator will conduct an investigation into the allegations and make an investigation report setting out findings of fact. As part of the investigation, the APS employee against whom allegations have been made will be given a reasonable opportunity to respond to the allegations through an interview and/or making a written statement. The employee will be entitled to have one support person present during any interview.

12.1.18 In making findings of fact, the decision-maker or, if a separate person, the investigator must be reasonably satisfied that a finding can be based soundly on the evidence before them. This is similar to the standard of proof that applies to findings in civil proceedings — referred to as the 'balance of probabilities' — that it is more likely than not that the facts upon which reliance is placed existed at the relevant time. The strength of the evidence necessary to reach the standard of proof will be affected by the seriousness of the matter under consideration and the gravity of the consequences that might flow to the employee on the making of a finding of fact.

12.1.19 The decision-maker will advise the APS employee against whom allegations have been made of the findings of fact made in the investigation report. If the findings of fact do not make out any alleged breach of the Code of Conduct, the decision-maker will advise the employee and recommend that the Secretary conclude the formal misconduct process. The decision-maker may also recommend that the Secretary take some appropriate management action outside the formal misconduct process in relation to the allegations or the investigation findings of fact. The Secretary will then conclude the formal misconduct process and may decide to implement any or all of the

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recommendations made by the decision-maker related to management action outside the formal misconduct process.

12.1.20 If the investigation findings of fact may amount to breaches of the Code of Conduct, the decision-maker will advise the APS employee of the relevant sections of the Code of Conduct to which the findings relate and invite the employee to comment on the findings and any of the relevant provisions of the Code of Conduct

12.1.21 Following receipt of any comments by the APS employee against whom allegations have been made, the decision-maker will consider whether, on the investigation findings of fact, the employee has breached the Code of Conduct. The decision-maker will provide the employee with a preliminary determination and invite the employee to comment.

12.1.22 If, after consideration of the employee's comments, the decision-maker determines that the employee has not breached the Code of Conduct, a written record of the determination and its reasoning will be made and a copy given to the employee and to the Secretary. The decision-maker will recommend that the Secretary conclude the formal misconduct process. The decision-maker may also recommend that the Secretary take some appropriate management action outside the formal misconduct process in relation to the allegations or the investigation findings of fact. The Secretary will then conclude the formal misconduct process and may decide to implement any or all of the recommendations made by the decision-maker related to management action outside the formal misconduct process.

12.1.23 If, after consideration of the employee's response, the decision-maker determines that the employee has breached the Code of Conduct, a written record of the determination and its reasoning will be made and a copy given to the employee and to the Secretary. The decision-maker will also advise the employee of any rights of review under section 33 of the Public Service Act.

Procedures for determining any sanction to be imposed on an APS employee for a breach of the APS Code of Conduct

12.1.24 Where a decision-maker determines that an APS employee has breached the Code of Conduct, the Secretary may impose the following sanctions on the employee pursuant to section 15(1) of the Public Service Act:

(a) termination of employment;

(b) reduction in classification;

(c) re-assignment of duties;

(d) reduction in salary;

(e) deduction from salary, by way of fine;

(f) a reprimand.

12.1.25 Only the Secretary or a person (the 'sanction delegate') who has been specifically delegated or subdelegated the power to impose a sanction pursuant to section 15(1) of the Public Service Act may impose sanctions on an APS employee for a breach of the Code of Conduct. Shortly after a decision-maker has found an APS employee to have breached

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the Code of Conduct, the Secretary will write to the employee to advise them of the identity of the sanction delegate.

12.1.26 The sanction delegate will advise the APS employee in writing of the proposed sanctions, if any, being considered and of the factors under consideration in proposing the sanctions. The sanction delegate may take into account any previous breaches of the Code of Conduct in determining the sanctions to be imposed for the current breach of the Code of Conduct. The sanction delegate will invite the employee to comment on the proposed sanctions.

12.1.27 Following receipt of any comments by the APS employee, the sanction delegate will make a decision on the sanctions to be imposed for the breach of the Code of Conduct and advise the employee in writing. The sanction delegate will also advise the employee the date on which the sanctions will take effect. The sanction delegate may also recommend that the Secretary take some appropriate management action, either in addition to or in lieu of imposing any of the sanctions available under section 15(1) of the Public Service Act, in relation to the breach of the Code of Conduct. The sanction delegate will also advise the employee of any rights of review under section 33 of the Public Service Act.

12.2 General Guidance to Aps Employees On The Formal Misconduct Process

12.2.1 This section is intended to supplement the mandatory procedures set out in section 12.1 by providing additional advice on aspects of the formal misconduct process.

Procedural fairness

12.2.2 Procedural fairness (or 'natural justice') refers to the requirement that decisions are made by way of a fair and proper process. In relation to a formal misconduct process, procedural fairness generally requires that an APS employee has a reasonable opportunity to make their case before any decision is made that they have breached the Code of Conduct or that a sanction should be imposed.

12.2.3 The steps that will meet procedural fairness obligations will depend on the circumstances of each case. Generally, however, procedural fairness will apply to the formal misconduct process in the following way:

- the APS employee against whom allegations have been made will be informed of the allegations against them;
- the APS employee will be provided with a reasonable opportunity to respond to the allegations and to put forward information and submissions before any decision is made on whether the employee has breached the Code of Conduct;
- the APS employee will be informed of any new allegation or adverse information arising from an investigation into initial allegations made against them; and
- the decision-maker will act without bias or the appearance of bias.

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12.2.4 Procedural fairness does not require DFAT to provide a copy of the investigation report to the APS employee against whom allegations have been made. Investigation reports usually contain sensitive or other personal information about individuals other than the employee subject to a formal misconduct process. Other than in exceptional circumstances, employees will only be provided with the findings of fact set out in the investigation report and the elements of the Code of Conduct to which the findings may relate.

Privacy issues

12.2.5 The identity of APS employees who are subject to a formal misconduct process will be held closely within DFAT, consistent with the *Privacy Act 1998*. Their identity may need to be disclosed to witnesses during an investigation to allow for a fair and thorough investigation. The employee's personal information may also need to be disclosed to other parties, including the Commonwealth Ombudsman, the Office of the Australian Information Commissioner, the Inspector-General of Intelligence and Security or an APS agency to which the employee has moved or may seek to move.

12.2.6 The personal information of APS employees who are subject to a formal misconduct process may also need to be disclosed to employees' managers where appropriate in the circumstances (for example, where an employee is suspected of engaging, or has been found to have engaged in fraud, managers will be advised to ensure the employee has either limited or no financial responsibility as is appropriate in the circumstances).

12.2.7 The personal information of APS employees and other staff members who make allegations of misconduct may need to be disclosed to the APS employee against whom the allegations have been made. This is to ensure procedural fairness to the employee subject to a formal misconduct process, in order for that employee to be able to respond meaningfully to any allegations. Where complainants and witnesses have agreed to provide information on a confidential basis or where the decision-maker or investigator otherwise considers appropriate, the decision-maker or investigator will take reasonable steps to protect the identity of the complainant and/or witnesses. However, complainants and witnesses must be aware that the right of employees against whom allegations are made to be afforded procedural fairness may outweigh complainants' and witnesses' rights to privacy.

Protection of employees reporting allegations of misconduct and participating as witnesses in misconduct investigations

12.2.8 DFAT will take reasonable and appropriate steps to ensure APS employees who report allegations of misconduct and/or who participate as witnesses in any misconduct investigation are not subject to retribution, including victimisation or discrimination, for having done so. The decision-maker or investigator will consider any such risks to a complainant and/or witness on a case-by-case basis.

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12.2.9 Even where a decision-maker or investigator takes measures to safeguard the identity of employees reporting allegations, it may nevertheless be possible for employees to be identified based on the nature of the information provided to the employee subject to the formal misconduct process.

Re-assignment of duties or suspension during the formal misconduct process

12.2.10 Action to temporarily re-assign the duties of, or to suspend, an employee may be taken at any time prior to, or during, a formal misconduct process. Suspension will generally be imposed where re-assignment to other duties is not appropriate. These powers will be used only where they are necessary to protect the public or DFAT's interests. They are not sanctions, and will not be used by decision-makers to prejudge or determine whether there has been a breach of the Code of Conduct.

12.2.11 Relevant factors the Secretary will take into account in considering whether to suspend or temporarily re-assign the duties of an APS employee subject to a formal misconduct process include:

- any potential for an employee to interfere with or inhibit an investigation (e.g. destroying evidence or speaking to witnesses);
- a risk that the alleged misconduct will continue or be repeated; and
- a risk to the maintenance of an effective workplace or to the safety of other employees or the public.

12.2.12 Where the Secretary proposes that an APS employee is to be re-assigned duties or suspended during an investigation, the employee will usually be advised in writing and be given a reasonable opportunity to comment before a decision is taken. However, in some exceptional circumstances, where the public or DFAT's interests require the re-assignment of duties or suspension to come into effect immediately, a decision will be made without providing the employee the opportunity to comment. In such cases, the employee may comment after the initial suspension or re-assignment of duties, which will be taken into account on any review of the suspension or re-assignment of duties.

12.2.13 The Secretary may decide to suspend an employee with or without remuneration. The decision as to whether suspension is to be with or without remuneration will be made at the same time as the suspension decision, and as part of the same process. Employees suspended without remuneration may access paid leave entitlements during the period of suspension, but will still be considered to be suspended from the workplace (and not on leave). Employees electing to access paid leave entitlements while suspended without remuneration will not be able to have those entitlements re-credited to them if they are subsequently found not to have breached the Code of Conduct.

12.2.14 Relevant factors the Secretary will take into account in considering whether to suspend an employee with or without remuneration include:

- the seriousness of the alleged misconduct (suspension without remuneration would usually be appropriate in cases of alleged misconduct where, if found to

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have been a breach of the Code of Conduct, the sanction imposed might be termination of employment);

- whether suspension without remuneration would give an employee an incentive to cooperate with an investigation;
- the personal and financial circumstances of an employee, to the extent known; and
- the estimated duration of the formal misconduct process.

12.2.15 A suspension without remuneration must not be for longer than 30 days, except in exceptional circumstances, such as where:

- there is a strong *prima facie* case of serious misconduct;
- an employee has found to have breached the Code of Conduct, a sanction is yet to be imposed and it is appropriate for the employee to remain suspended until such time as a sanction is imposed;
- an employee has been charged with a criminal offence and is waiting for the charge to be heard and determined; and
- an employee has appealed against a criminal conviction and is awaiting an appeal.

12.2.16 A suspension must end immediately when the Secretary no longer believes on reasonable grounds that the employee has, or may have, breached the Code of Conduct, or where it is no longer in the public or DFAT's interests to continue the suspension. A suspension must also end as soon as any sanction is imposed for a breach of the Code of Conduct.

Sanctions for breaches of the Code of Conduct

12.2.17 Sanctions are intended to be proportionate to the nature of the breach of the Code of Conduct, provide a clear message to the employee that their conduct was not acceptable and act as a future deterrent to the employee.

12.2.18 In deciding what sanctions, if any, should be imposed for a breach of the Code of Conduct, the sanction delegate will usually take into consideration:

- the employee's previous employment history;
- the nature and seriousness of the breach and the type of misconduct involved;
- the degree of relevance of the misconduct to the employee's duties or to the reputation of DFAT and/or the APS;
- the effect of the proposed sanction on the employee;
- any loss of earnings already incurred by the employee as a result of suspension without remuneration;
- alternatives to formal sanctions available under the Public Service Act in appropriate cases, which might include removal from temporary performance of

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higher duties, withdrawal from an overseas posting or refusal to consider the employee for future posting opportunities for a period of time;

- previous breaches of the Code of Conduct by the employee; and
- any additional information that might be considered relevant.

Misconduct involving or related to APS employees at an overseas post

12.2.19 The Secretary may decide to withdraw an APS employee serving overseas at any time, including where the employee is alleged to have breached the Code of Conduct. A withdrawal might be for a temporary period or permanently. Such a decision would be particularly appropriate in cases where allegations are so serious that it would not be appropriate for an employee to continue representing the Australian Government overseas, and/or where an expeditious or efficient investigation into allegations would be best served by the employee returning to Australia. Termination of an employee's posting is not considered to be a sanction. Rather, it is a re-assignment of duties pursuant to section 25 of the Public Service Act.

12.2.20 Members of the household of an APS employee who accompany the employee on an overseas posting are not covered by either the APS Code of Conduct or the DFAT Code of Conduct for Overseas Service. However, inappropriate conduct by household members may lead to the termination of the employee's posting. A decision to terminate an employee's posting does not constitute a finding that the employee has breached the Code of Conduct.

Circumstances where the Secretary may decide not to institute a formal misconduct process in response to allegations of misconduct

12.2.21 DFAT seeks to maintain both balance and proportion in managing allegations of misconduct. Not all allegations require the Secretary to institute a formal misconduct process.

12.2.22 Depending on its nature and severity, allegations of misconduct against an APS employee may best be handled as a performance or behavioural management issue and managed through a process of informal counselling or more formal performance management processes. For example, where allegations of misconduct are relatively minor, or where they involving interpersonal disputes between staff members, alternative forms of dispute resolution (such as mediation or counselling) may be the most effective way to address concerns and change inappropriate behaviours.

12.2.23 Where allegations appear to be a minor infringement of the Code of Conduct and/or atypical behaviour from an APS employee, in lieu of instituting a formal misconduct process the Secretary may decide instead to issue the employee with a formal warning in relation to their behaviour. The taking of any such management action does not constitute a formal sanction pursuant to section 15(1) of the Public Service Act, and does not preclude DFAT from instituting a formal misconduct process for the same conduct or behaviour if warranted in the circumstances.

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Security clearance issues

12.2.24 DFAT is not required to institute a formal misconduct process where alleged misconduct relates primarily to an APS employee's suitability to hold a security clearance. However, any process that involves a consideration of an APS employee's suitability to hold a security clearance arising from alleged misconduct does not prevent DFAT from instituting a formal misconduct process in relation to the same alleged misconduct if the circumstances so warrant.

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12.3 General Guidance on Managing Alleged Misconduct By Locally Engaged Staff (LES)

12.3.1 This section is intended to provide guidance to both APS employees and employees engaged as LES on managing allegations of misconduct by LES.

12.3.2 This guidance relates to all LES employed by DFAT working at DFAT-managed posts, including those LES employed by DFAT but working for other Commonwealth agencies. This guidance does not apply to Austrade LES.

Procedures for determining whether a LES member has breached a post's LES Code of Conduct and for determining the sanctions to be imposed for any breach of a post's LES Code of Conduct

12.3.3 Each of DFAT's missions and posts will have a LES Code of Conduct that applies to all LES employed by DFAT. Those LES Codes of Conduct will have been drafted so as to be consistent with the laws of the local jurisdiction.

12.3.4 Procedures for determining whether a LES member has breached a post's LES Code of Conduct must be consistent with local law. The same will apply for procedures for determining the sanctions to be imposed for any breach of a post's LES Code of Conduct.

12.3.5 Subject to local legal advice, posts may use any or all of the procedures outlined in chapter 12.1 for determining whether a LES member has breached the post's LES Code of Conduct, and for determining the sanctions to be imposed for such a breach. The procedures outlined in chapter 12.1 must not be used where any part of the procedures is inconsistent with local law.

Guidance to LES employees on the formal misconduct procedures

12.3.6 LES members should seek guidance from their Senior Administrative Officers or Head of Mission/Post on the process that will apply to any alleged breach of post's LES Code of Conduct, and on other relevant matters.

12.3.7 Unless inconsistent with local law, the guidance for APS employees in chapter 12.2 will likely be relevant for an LES member.

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12.4 General Guidance On Managing Alleged Misconduct By Independent Contractors

12.4.1 This guidance relates only to independent contractors — individuals providing services to DFAT under a contract between DFAT and an individual, or a contract between DFAT and another organisation.

12.4.2 Independent contractors are not DFAT employees and therefore not subject to the APS Code of Conduct. The expected standards of behaviour of independent contractors in DFAT will generally be outlined in the relevant contractual arrangements, either between DFAT and the individual contractor, or between DFAT and the organisation which is providing DFAT with personnel.

12.4.3 Managers of contracts for the services of personnel must familiarise themselves with the contractual arrangements. Those arrangements will usually require independent contractors to conduct themselves in accordance with the standards of behaviour set out in the APS Code of Conduct. That is, contractors will usually be required as part of the contract for services to adhere to the APS Code of Conduct, the APS Values and the APS Employment Principles while working in DFAT. Conduct which fails to meet these standards may be a breach of the contract.

12.4.4 DFAT does not usually investigate allegations of misconduct by independent contractors. However, DFAT can conduct an investigation where the service provider, or organisation which is providing DFAT with personnel, requests an investigation, and the Secretary considers it in the public or DFAT's interests to conduct one. Such an investigation will not be for the purposes of a formal misconduct process, but for the benefit of all relevant parties involved in order to investigate allegations and make findings of fact.

12.4.5 The following process will usually be adopted for managing allegations of misconduct by independent contractors:

(a) the DFAT employee who manages the contract under which the independent contractor is engaged will advise the Employee Conduct and Ethics Section of the allegations;

(b) the DFAT employee who manages the contract will inform the service provider of the allegations, and the ways in which the alleged misconduct may fail to meet the expected standards of behaviour of contractors, as outlined in the contract;

(c) the service provider will inform the independent contractor of the allegations;

(d) both DFAT and the service provider will consider how best to handle the allegations of misconduct, including whether DFAT should conduct an investigation;

(e) DFAT and/or the service provider will takes relevant action pursuant to the contract and/or any investigation finding;

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(f) DFAT and/or the service provider will notify the other party of any action taken pursuant to the contract, and will make a written record of such action; and

(g) the service provider will inform the independent contractor of any action taken.

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FORM A – Declaration of Real or Apparent Conflicts of Interest Form

PART A

INDIVIDUAL DECLARATION OF CONFLICTS OF INTEREST

Name	
Position/Title	
Branch/Division/Office/Post	

PRIVATE, FINANCIAL OR OTHER INTERESTS	*(tick appropriate box)*
☐	I have **no personal, financial or other interests** that could, or could be seen to, influence the decisions or actions I am taking or the advice I am giving in the course of my official duties. *(Continue to Private, Financial or other interests of family members declaration section)*
☐	I **have personal, financial or other interests** that could, or could be seen to, influence the decisions or actions I am taking or the advice I am giving in the course of my official duties. *(Please ensure you disclose the nature of these interests and how they will be mitigated at page 6)*

PRIVATE, FINANCIAL OR OTHER INTERESTS OF FAMILY MEMBERS *(tick appropriate box)*	
☐	To my knowledge, **no member of my immediate family has personal, financial or other interests** that could, or could be seen to, influence the decisions or actions I am taking or the advice I am giving in the course of my official duties. *(Continue to 'Declarations and Undertakings')*
☐	**One or more members of my immediate family have personal, financial or other interests** that could, or could be seen to, influence the decisions or actions I am taking or the advice I am giving in the course of my official duties. *(Please ensure you disclose the nature of these interests and how they will be mitigated at page 6)*

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DECLARATIONS AND UNDERTAKINGS

- I am aware of my responsibilities under the APS Code of Conduct to:
  - behave honestly and with integrity in the course of DFAT employment;
  - disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with my public or official duties;
  - not make improper use of (a) inside information, or (b) my duties, status, power or authority, in order to gain, or seek to gain, a benefit or advantage for myself or for any other person; and
  - at all times behave in a way that upholds the APS Values and the integrity and good reputation of the APS and Australia.
- I have read and understood Chapter 5 of the Conduct and Ethics Manual which sets out the department's policy on avoiding, disclosing and managing conflicts of interest.
- I understand and acknowledge that:
  - it is my responsibility and obligation as an employee of the department (or an independent contractor) to make known any real or apparent conflicts of interest; and
  - failure to disclose any real or apparent conflicts of interest will be taken into account as part of my performance management and may result in disciplinary action.
- I have read and understood the department's Financial Framework. I understand and acknowledge that:
  - it is my responsibility to observe the requirements set out in the *Public Governance, Performance and Accountability Act 2013* with regard to the duties of officials; and
  - it is my responsibility to comply with the department's Financial Framework, including exercising financial delegations, in accordance with any instructions.
- I undertake to inform my supervisor within 14 days of any changes to my personal circumstances or work responsibilities that could affect this Declaration and to provide an amended Declaration.
- I am aware that my information has been collected for the purpose of reducing the risk of any conflicts of interest. I note that DFAT will not use or disclose my personal information outside the department, unless an exception under the *Privacy Act 1988* applies. I am aware that the department's Privacy Policy describes how it protects and manages personal information, how I can access and seek to correct my personal information and how to make a privacy complaint. I consent to my personal information being collected.

DISCLOSURE OF RELEVANT PRIVATE, FINANCIAL OR OTHER INTERESTS

Please list all personal, financial or other interests that you and/or your immediate family members have that could, or could be seen to, influence the decisions or actions you take or the advice you provide in the course of your official duties. State the reasons why you think these interests could, or could be seen to, influence your decisions, actions or advice. Finally, set out the steps you intend to take, or which you may require others in the department to take, to mitigate any conflict arising. Attach supporting documentation if required.

The types of interests you may need to disclose include, but are not limited to, real estate investments, shareholdings, trusts or nominee companies, company directorships or partnerships, relationships with lobbyists, other significant sources of income, significant liabilities, gifts, private businesses, other employment and social or personal relationships. This disclosure form is not a list of your assets, liabilities or relationships — there must be a link between these interests and your current duties for there to be any real or apparent conflict.

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Your and/or your family's personal, financial or other interest	Reasons the interest could, or could be seen to, influence your decisions or actions or advice	Proposed mitigation strategies to prevent conflict from materialising

☐ *If applicable:* I declare that I have received consent from my relevant family to disclose to the department their personal, financial or other interests that could, or could be seen to, influence the decisions or actions I am taking or the advice I give in the course of my official duties.

PART B

MANAGEMENT OF ANY CONFLICTS OF INTEREST

Name of supervisor	
Position/Title	
Branch/Division/Office/Post	

HAS A CONFLICT OF INTEREST BEEN DISCLOSED? *(tick appropriate box)*	
☐	**Yes** — proceed to 'Conflict of Interest Assessment' section
☐	**No** – No further action required; please send form to the Employee Conduct and Ethics Section s 22(1)(a) @dfat.gov.au).

CONFLICT OF INTEREST ASSESSMENT *(tick and complete one of these boxes)*	
☐	In my view, the interests disclosed **do not give rise** to real or apparent conflicts of interest, for the following reasons: _____ _____

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☐	In my view, the interests disclosed **give rise** to real or apparent conflicts of interest. I intend to take the following action *(tick one or more boxes and set out below your reasoning and/or additional measures)*: ☐ Record the conflict of interest with no further action required. ☐ Restrict or minimise the employee's involvement in work giving rise to the conflict of interest. ☐ Recommend the employee be transferred to another area of the division or department. ☐ Seek the employee's agreement to relinquish the conflicting interest. ☐ Other: _____ _____
Signature: **Date:** Please send the completed form to the Employee Conduct and Ethics Section s 22(1)(a)@dfat.gov.au).	

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FORM B – Permission to Engage in Outside Employment (Paid or Voluntary) Form

Details of Applicant and Proposed Outside Employment		
Name	Position in DFAT	E-mail address
Name of Employing Company / Organisation	Job Description	Employment Paid / Unpaid

Please provide detail of the proposed outside employment, including proposed timing and length of employment, and reasons why you believe the proposed employment does not present a real or perceived conflict of interest for you or the department.

[THEN DELETE THESE INSTRUCTIONS]

Statement

I, ...(name) assert and affirm, based on available information, that:

☐ the employing company / organisation is not in, or about to enter into, a contractual relationship with DFAT (for private/non-government companies/organisations only) [If this is not the case, please provide additional information in the relevant section on page 2 of Form B, to assist the approver make a decision];

☐ the employing company / organisation is not in receipt of DFAT grant funding or assistance (for private/non-government companies/organisations only) [[If this is not the case, please provide additional information in the relevant section on page 2 of Form B to assist the approver make a decision];

☐ the employing company's / organisation's primary purpose is not to lobby Australian ministers, government departments or authorities on matters related to DFAT;

☐ DFAT is not in a regulatory relationship with the employing company / organisation;

☐ a rival business, including a government business, could not have reasonable grounds for perceiving a conflict of interest;

☐ the work I will be doing for the employing company / organisation will not be related to confidential, national security, proprietary or any other information that I have official knowledge of through my employment with the Commonwealth of Australia;

☐ this employment will be performed wholly in my own time;

☐ I shall inform DFAT of any change in the nature or circumstances of outside employment or if any change in my official duties could give rise to a conflict of interest with my outside employment;

☐ I accept that details I provide about my outside employment may be passed to DFAT's Security Clearances and Investigation Section, CMG Security Branches and Staffing Branch; and

☐ I note that provision of false information may be a contravention of the APS Code of Conduct and the Public Service Act 1999.

I am aware that my information has been collected for the purpose of reducing the risk of conflict of interest or a breach of the APS Values and Employment Principles and the APS Code of Conduct or the relevant Post LES Code of Conduct. I note that DFAT will not use or disclose my personal information outside the Department; unless an exception under the Privacy Act 1988 applies. I am aware that the Department's Privacy Policy describes how it protects and manages personal information, how I can access and seek to correct my personal information and how to make a privacy complaint. I consent to my personal information being collected.

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Applicant Name	**Applicant Signature**	**Date**

Non-SES employees are required to seek approval and a supporting statement from an SES officer in their workplace (Branch Head or above in Australia – HOM/HOP/SES Officer at post) indicating the absence of a real or perceived conflict of interest arising from the proposed outside employment.

Workplace Supporting Statement:

Name & Position	**Signature**	**Date**

Statement on contractual or financial relationship between DFAT and the outside employer:

This section is required to be completed where the applicant has not ticked boxes 1 or 2 on page 1 of Form B regarding a contractual or financial relationship between the prospective employer and DFAT.

In such instances, the applicant should ask the line area of the department with primary responsibility for managing the relationship with the prospective employer to also provide a statement commenting on whether a real or perceived conflict of interest is likely to arise from the proposed outside employment.

Statements should be provided by Branch Head or above.

[REPLACE THESE INSTRUCTIONS WITH COMMENT OR N/A]

Line Area Supporting Statement (as relevant):

Name & Position	**Signature**	**Date**

☐ **Non-SES APS employees submit their application for approval to an SES officer in their work area or Post.**

☐ **LES employees submit completed forms to an SES officer at Post or HOM/HOP. Approved forms should be submitted to the SAO for recording on the employee's personnel file at post.**

☐ **SES employees submit their application to CPO CMG for approval via** s 22(1)(a) **@dfat.gov.au.**

☐ **If you wish to take leave without pay to undertake the outside employment, the completed outside employment form must be submitted to Director, Staffing Operations Section (SFS) to assist the decision making on the leave without pay application.**

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☐ **APS employees must submit their completed forms, once approved, to the relevant Staffing Team Leader for recording on their personnel file and to the Security Clearances and Investigations Section in CMG.** ☐ **LES employees must submit their completed forms, once approved, to their SAO for recording on their personnel file.** **Applicants and approvers seeking advice on the completion of this form should direct their queries to the Employee Conduct and Ethics Section on x** s 22(1)(a)(ii) **or** s 22(1)(**@dfat.gov.au**
Delegate Approval:

Name & Position	Signature	Date

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FORM C – Gift/Benefit/Hospitality/Sponsored Travel Report Form

The reportable item received / offered is: **A gift** ☐ **A benefit** ☐ **Hospitality** ☐ **Sponsored Travel** ☐

Recipient's Details

Name _____ Position _____

Details of Gift / Benefit / Hospitality / Sponsored Travel

Received From / Offered By:

Name _____ Position _____ Organisation / On Beha _____

Source (Please Circle): Government / Private

Please provide a brief description of the gift / benefit / hospitality / sponsored travel received / offered

Please provide a brief description of the circumstances under which the gift / benefit / hospitality / sponsored travel was / would be received and why it was not / cannot be refused (please attach further supporting documentation if necessary)

Valuation (gifts and benefits only)

Assessed value of gift / benefit: Local Currency _____(AUD) _____

Cost of independent valuation (if required): Local Currency _____(AUD) _____

(Please attach independent valuation where recipient wishes to retain for personal use a gift or benefit which is above the allowable limit; file official receipt with this form when excess value is paid)

Excess Value To Be Paid If Retained for Personal Use: (AUD) _____

Proposed Action and Recommendation

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RECIPIENT: **Proposed Action** ☐ Accept/retain – personal use ☐ Accept/retain – official use Comment: Recipients Signature: Name: Position: Date:	**DESIGNATED APPROVER:** **Recommendation** ☐ Decline ☐ Accept/retain – personal use ☐ Accept/retain – official use Comment: Approver's Signature: Name: Position: Date:

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SCHEDULE A – Schedule of Designated Approvers

CANBERRA

Recipient	**Gifts, Benefits, Hospitality and Sponsored Travel**	**Designated approver**
Secretary	All reportable gifts and benefits All significant hospitality All sponsored travel	CPO CMG
Deputy Secretaries	All reportable gifts and benefits All significant hospitality All sponsored travel	The Secretary
Division Heads, ED OPO, ED APO, DG ASNO, AS OVB, AS EXB, AS GIB	All reportable gifts and benefits All significant hospitality All sponsored travel	Relevant Deputy Secretary
All other staff (APS employees and contractors)	All reportable gifts and benefits All significant hospitality All sponsored travel	Relevant Division Head or equivalent

STATE AND TERRITORY OFFICES

Recipient	**Gifts, Benefits, Hospitality and Sponsored Travel**	**Designated approver**
State Director	Gifts and benefits valued above AUD500 (official source) and above AUD200 (private source) All significant hospitality All sponsored travel	CPO CMG
State Director	Reportable gifts and benefits valued below AUD500 (official source) and below AUD200 (private source)	Deputy Director
All other staff (APS employees and contractors)	All reportable gifts and benefits All significant hospitality All sponsored travel	State Director

OVERSEAS MISSIONS

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Recipient	**Gifts, Benefits, Hospitality and Sponsored Travel**	**Designated approver**
HOM/HOP	Gifts and benefits valued above AUD500 (official source) and above AUD200 (private source) All significant hospitality All sponsored travel	CPO CMG
HOM/HOP	Reportable gifts and benefits valued below AUD500 (official source) and below AUD200 (private source)	SAO
All other staff (APS employees, LES employees and visiting staff)	All reportable gifts and benefits All significant hospitality All sponsored travel	HOM/HOP

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SCHEDULE B – Summary of Conduct and Ethics Directions for Contractors in DFAT

Policies, Values and Codes of Conduct

Contractors in DFAT must comply with all departmental policies and directions which apply to them. These include directions in DFAT's Conduct and Ethics Manual, as amended from time to time. The Manual is available on DFAT's SATIN Low information system or from DFAT's Employee Conduct and Ethics Section s 22(1)(a)(ii) @dfat.gov.au).

Contractors in DFAT must maintain conduct consistent with the APS Values and Employment Principles and Code of Conduct.

When performing duties overseas for DFAT, contractors in DFAT must maintain conduct consistent with the DFAT Code of Conduct for Overseas Service.

Conflicts of Interest

Contractors in DFAT must take reasonable steps to avoid real or apparent conflict of interests in connection with of their duties in DFAT, as well as situations where their private, financial or other interests (or those of immediate family members, such as spouses, partners or dependants) could or could be perceived to conflict with their duties in DFAT. They must not allow their interests to influence the decisions they make, the actions they take or the advice they provide in connection with their duties in DFAT. They must regularly assess whether their interests could or could be perceived to influence the decisions they make, the actions they take or the advice they provide in connection with their duties in DFAT. They must disclose any real or potential conflicts of interest to their supervisors as soon as they arise.

Contractors in DFAT must complete a "Disclosure of Private, Financial and Other Interests Form" and submit it to the delegate in DFAT responsible for their contract within 14 days of their initial engagement with DFAT, annually thereafter and additionally if their circumstances change resulting in a new conflict of interest. Guidance on completing and submitting the "Disclosure of Private, Financial and Other Interests Form" is found in Chapter 5 of the DFAT Conduct and Ethics Manual.

Gifts, Benefits, Hospitality and Sponsored Travel

Contractors in DFAT should, wherever possible, avoid accepting gifts or benefits offered in connection with their duties in DFAT or because of their position with DFAT. They must report to DFAT certain gifts and benefits accepted in connection with their duties in DFAT or because of their position with DFAT. Guidance on reporting gifts and benefits is found in Chapter 6 of the DFAT Conduct and Ethics Manual.

Contractors in DFAT must **never** accept money as a gift in connection with their duties in DFAT or because of their position with DFAT. They must **never** accept discounts on liquid assets (such as shares) as a benefit in connection with their duties in DFAT or because of their position with DFAT.

Contractors in DFAT may be offered hospitality in connection with their duties in DFAT or because of their position with DFAT. They should, wherever possible, avoid hospitality which carries an implication that a favour is expected in return, or which falls outside the normal pattern of hospitality appropriate to their position and responsibilities in DFAT. They must report to

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DFAT offers of significant hospitality they wish to accept. Guidance on reporting offers of significant hospitality is found in Chapter 6 of the DFAT Conduct and Ethics Manual.

Contractors in DFAT should generally not accept offers of sponsored travel. Sponsored travel refers to cases where the costs of transport, accommodation and/or travel/living expenses to enable work undertaken for DFAT are met from sources other than official funds or a staff member's own resources. (It does not refer to situations where a contractor's own company pays for travel to enable work undertaken for DFAT.) Contractors in DFAT must report to DFAT offers of sponsored travel they wish to accept. Guidance on reporting offers of sponsored travel is found in Chapter 6 of the DFAT Conduct and Ethics Manual.

Appropriate Use of Official Information and Official Resources

Contractors in DFAT must at all times use official information (including personal information of individuals which is held by DFAT) appropriately. They must protect against and not make unauthorised disclosures of official information. Official information should only be used by, accessed by or made available to staff who have a legitimate need to know in order to fulfil their duties. Unauthorised disclosure of official information is an offence under the *Crimes Act 1914*. Inappropriate access or use of personal information of individuals which is held by DFAT may constitute a breach of the *Privacy Act 1988.*

Contractors in DFAT must at all times use official resources appropriately. They must comply with the *Public Governance, Performance and Accountability Act 2013* and DFAT's Financial Management Manual, which govern the appropriate use of Commonwealth resources in the department. Misuse of official resources may constitute fraud against the Commonwealth which is an offence under the *Crimes Act 1914*.

Guidance on appropriate use of official information and official resources is found in Chapter 7 of the DFAT Conduct and Ethics Manual.

Upholding the Reputation of the Department and Australia

Contractors in DFAT have a responsibility to uphold the reputation of DFAT at all times and perform their functions in an impartial and professional manner in accordance with the APS Values and Employment Principles. When performing duties overseas for DFAT, they must at all times to behave in a way that upholds the good reputation of Australia. They must ensure that any public comments they make in a private capacity, including on the internet, do not undermine DFAT's or Australia's reputation. Guidance on upholding the reputation of DFAT and Australia is found in Chapter 8 of the DFAT Conduct and Ethics Manual.

Misconduct

DFAT takes misconduct very seriously and investigates alleged misconduct promptly and fairly. Misconduct can include failure to comply with departmental policies and directions (including codes of conduct); criminal and other unlawful behaviour; harassment, bullying and discrimination; fraud and offering bribes. Misconduct in the department should be reported directly to DFAT's Employee Conduct and Ethics Section (EES) at s 22(1)(a)(ii) @dfat.gov.au.

Misconduct by contractors in DFAT represents a failure to meet contractual obligations and may result in the termination of their contract.

Guidance on what constitutes misconduct in DFAT, how to report alleged misconduct to authorised persons in DFAT and how DFAT manages alleged misconduct in DFAT is found in Chapters 9-11 of the DFAT Conduct and Ethics Manual.