

Australian Public Service Commission's Administration of Integrity Functions

Australian Public Service Commission

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Canberra ACT
21 June 2024

Dear President
Dear Mr Speaker

In accordance with the authority contained in the *Auditor-General Act 1997*, I have undertaken an independent performance audit in the Australian Public Service Commission. The report is titled *Australian Public Service Commission's Administration of Integrity Functions*. Pursuant to Senate Standing Order 166 relating to the presentation of documents when the Senate is not sitting, I present the report of this audit to the Parliament.

Following its presentation and receipt, the report will be placed on the Australian National Audit Office's website — <http://www.anao.gov.au>.

Yours sincerely



Rona Mellor PSM
Acting Auditor-General

The Honourable the President of the Senate
The Honourable the Speaker of the House of Representatives
Parliament House
Canberra ACT

AUDITING FOR AUSTRALIA

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Audit snapshot

Auditor-General Report No. 43 2023–24

Australian Public Service Commission's Administration of Integrity Functions



Why did we do this audit?

- ▶ All members of the Australian Public Service (APS) are subject to integrity and ethical obligations established by the Parliament through legislation.
- ▶ This audit provides independent assurance and reporting to Parliament on the Australian Public Service Commission's (APSC's) administration of statutory functions relating to upholding high standards of integrity and ethical conduct in the APS.
- ▶ The audit review period was July 2022 to December 2023.



What did we find?

- ▶ The APSC was partly effective in its administration of statutory functions relating to upholding high standards of integrity and ethical conduct in the APS during the audit review period. The APSC's approach was largely activity-driven and it did not have relevant strategies, linked to measurable outcomes, to guide its efforts. As a consequence, the APSC could not demonstrate or provide assurance on whether its activities relating to integrity functions were well directed or fully effective. In the context of an operating environment focused on perceived shortcomings in APS integrity, the APSC was in the process of developing a more strategic approach.



Key facts

- ▶ The Australian Public Service Commissioner and APS employees assisting the Commissioner together constitute a Statutory Agency under the *Public Service Act 1999*, known as the APSC.
- ▶ The Parliament has provided that one of the three broad functions of the Commissioner under the *Public Service Act 1999* is 'to uphold high standards of integrity and conduct in the APS'.



What did we recommend?

- ▶ The Auditor-General made four recommendations to the APSC relating to strategy development, evaluation and record keeping.
- ▶ The APSC agreed to all four recommendations.

177,442

APS headcount at
31 December 2023.

38

suspected Code of Conduct
breaches by SES in 2022 and
2023, as reported to the APSC.

684

enquiries received by the APSC's
Ethics Advisory Service from
July 2022 to December 2023.

Summary and recommendations

Background

1. The Australian Public Service (APS) is established by the *Public Service Act 1999* (PS Act). It is one part of the wider Commonwealth public sector and consists of agency heads and APS employees engaged under the PS Act.¹ The APS operates largely under principles-based frameworks, including that established by the PS Act, which impose high expectations regarding integrity.
2. Members of the APS are subject to integrity obligations specified in the PS Act, including the APS Values² and APS Code of Conduct.³ At 5 April 2024 the PS Act specified five APS Values — committed to service, ethical, respectful, accountable and impartial.⁴ The APS Code of Conduct has 13 requirements relating to: behaving honestly and with integrity in connection with APS employment; acting with care and diligence; treating people with respect and courtesy; complying with all applicable Australian laws; complying with any lawful and reasonable direction; maintaining confidentiality; avoiding conflicts of interest and disclosing material personal interests; proper use of resources; not providing false or misleading information; not misusing power or authority; upholding the APS values; upholding the integrity and good reputation of the agency and the APS; and upholding the good reputation of Australia when overseas.
3. Under the PS Act, further integrity obligations apply to agency heads⁵ and members of the Senior Executive Service (SES)⁶, which comprise the senior cadre of the APS.
4. The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) establishes the overarching governance, performance and accountability framework for resource use and management within the Commonwealth public sector as a whole, including all members of the APS. It is a principles-based framework that imposes high expectations on the sector, including ‘high standards of governance, performance and accountability’.⁷
5. The PGPA Act contains ‘general duties of officials’ applying to both the accountable authority of the PGPA entity⁸ and entity officials. The general duties relate to: acting with care and diligence; acting honestly, in good faith and for a proper purpose; not misusing one’s position;

1 The Australian Public Service Commission (APSC) reported that at 30 June 2023 the APS employee headcount was 170,332 across 104 entities. In March 2024 the APSC reported that at 31 December 2023 the APS employee headcount was 177,442.

2 PS Act, section 10.

3 PS Act, section 13.

4 The APS Values have been amended since the PS Act came into effect in late 1999. In June 2023 the Public Service Amendment Bill 2023 was presented to Parliament to, among other things, introduce an additional APS value of ‘stewardship’. The Public Service Amendment Bill 2023 received royal assent on 11 June 2024 and is now known as the *Public Service Amendment Act 2024*.

5 APS agency heads include secretaries of government departments.

6 The SES is established by section 35 of the PS Act. Subsection 35(2) of the PS Act provides that: ‘The function of the SES is to provide APS-wide strategic leadership of the highest quality that contributes to an effective and cohesive APS.’

The APSC reported that at 30 June 2023 the SES headcount was 3,206.

7 PGPA Act, paragraph 5(c)(i).

8 An accountable authority can be a single person or a group of persons, such as a governing board.

the proper use of information; and disclosing interests.⁹ Taken together, the general duties establish an overarching framework for integrity, probity and ethical behaviour applying to the accountable authorities and officials of all PGPA Act entities, including all members of the APS.

6. There are also ‘general duties of accountable authorities’ applying to the accountable authority of a PGPA entity. These include the duty to govern the entity in a way that promotes the proper use and management of public resources for which the accountable authority is responsible.¹⁰

7. The office of Australian Public Service Commissioner (Commissioner) is established under the PS Act.¹¹ The Commissioner’s functions are set out in section 41 of the PS Act and include the following functions considered in this audit.

- To uphold high standards of integrity and conduct in the APS.¹²
- To promote the APS Values, the APS Employment Principles and the Code of Conduct.¹³
- To evaluate the extent to which Agencies incorporate and uphold the APS Values and the APS Employment Principles.¹⁴
- To partner with Secretaries in the stewardship of the APS.¹⁵
- To provide advice and assistance to Agencies on public service matters.¹⁶
- To evaluate the adequacy of systems and procedures in Agencies for ensuring compliance with the Code of Conduct.¹⁷

8. The Commissioner and APS employees assisting the Commissioner together constitute a statutory agency under the PS Act, known as the Australian Public Service Commission (APSC).¹⁸

9 Specific requirements relating to the disclosure of interests also appear in the PGPA Rule.

10 PGPA Act, paragraph 15(1)(a).

11 PS Act, subsection 40(1).

12 PS Act, paragraph 41(1)(b).

13 PS Act, paragraph 41(2)(e).

14 PS Act, paragraph 41(2)(f).

15 PS Act, paragraph 41(2)(g). Stewardship is also referenced as follows in the PS Act:

- paragraph 57(1)(c) provides that the roles of the secretary of a department include ‘leader, providing stewardship within the Department and, in partnership with the Secretaries Board, across the APS’; and
- paragraph 64(3)(a) provides that one of the functions of the Secretaries Board is ‘to take responsibility for the stewardship of the APS and for developing and implementing strategies to improve the APS’.

16 PS Act, paragraph 41(2)(h).

17 PS Act, paragraph 41(2)(i).

18 PS Act, subsection 40(3).

The Commissioner is the Agency Head for the APSC under the PS Act, and the accountable authority for the APSC under the PGPA Act. The Commissioner is also the Parliamentary Service Commissioner, whose ‘functions are to advise the Presiding Officers on the management policies and practices of the Parliamentary Service and, at the request of the Presiding Officers, to inquire into and report on other matters relating to the Parliamentary Service.’

Parliament of Australia, *Parliamentary Service Commissioner and Parliamentary Service Merit Protection Commissioner*, available from

https://www.aph.gov.au/About/Parliament/Parliamentary_departments/Parliamentary_Service_Commissioner_and_Parliamentary_Service_Merit_Protection_Commissioner [accessed 7 May 2024].

In 2022–23 the departmental expenses of the APSC were \$80.8 million.¹⁹ At 30 June 2023, the APSC had 373 employees.²⁰

9. Within the Commonwealth public sector, which includes the APS, there is both collective and individual responsibility for maintaining integrity, probity and ethical conduct — shared by framework policy owners, the heads of public sector organisations, and their personnel.

10. Framework policy owners establish the rules of operation in key areas and then largely rely on the accountable authorities of PGPA Act entities and the agency heads of APS agencies to be responsible for culture and compliance within public sector organisations. In that respect the frameworks are devolved and largely self-regulating. Under the principles-based approach, mandatory rules are largely set to control actions where risks are deemed highest. Key policy owners include the Department of Finance for the PGPA Act framework and the APSC for the PS Act integrity framework.²¹

11. The role of policy owners in maintaining a culture of integrity in the sector, including respect for the rule of law, has been a focus of recent reviews, initiatives and investigations relating to the APS and its performance. These have included the following.²²

- The 2019 *Independent review of the APS* (Thodey review) and 2022 government APS reform agenda intended to build on the Thodey review.
- The 2023 Royal Commission into the Robodebt Scheme (Royal Commission), government response to the Royal Commission recommendations, and 16 Code of Conduct processes resulting from the Royal Commission.
- The 2023 *APS Integrity Action Plan* intended to address the 2022 government APS reform agenda and 2023 Royal Commission findings.
- The 2023 Code of Conduct inquiry and termination of a departmental secretary.

Rationale for undertaking the audit

12. The Australian Parliament has provided, in the PS Act, that all members of the APS are subject to the integrity, probity and ethical obligations specified in the Act. The Parliament has also provided that one of the three broad functions of the Commissioner under the Act is ‘to uphold high standards of integrity and conduct in the APS’.²³ The function of upholding

19 Australian Public Service Commissioner, *Annual Report 2022-23*, October 2023, p. 44, available from <https://www.transparency.gov.au/publications/prime-minister-and-cabinet/australian-public-service-commission/australian-public-service-commission-annual-report-2022-23-incorporating-the-report-of-the-merit-protection-commissioner> [accessed 7 May 2024].

20 *ibid.*, p. 91.

21 The PS Act also identifies: a ‘stewardship’ function for the Secretaries Board established under the Act (section 64); a ‘stewardship’ role for Secretaries (section 57); and that a function of the Commissioner is ‘to partner with Secretaries in the stewardship of the APS’ (section 41).

22 For additional detail see paragraphs 1.33 to 1.67 of this audit report.

23 Subsection 41(1) of the PS Act lists three broad Commissioner functions. Subsection 41(2) of the PS Act lists a further 18 Commissioner functions.

APS integrity standards occurs in a changing and often dynamic operating environment, which in recent years has featured the following.

- Reviews, initiatives and investigations, which have often focused on perceived shortcomings in upholding APS integrity, probity and ethics, including at the highest levels of APS leadership and the Secretaries Board.
- Australian Government statements that the Royal Commission Robodebt Scheme identified ‘serious failings within the Australian Public Service’.²⁴ The APSC has stated that ‘Rebuilding trust in the APS is a priority’²⁵ and that this process includes ‘reinforcing a culture with integrity at its core’.²⁶
- Leadership change at the top of the APS, with 69 per cent turnover of departmental secretaries between July 2022 and December 2023.²⁷
- Growth in APS employment. The APSC reported in March 2024 that at 31 December 2023 the APS headcount was 177,442, a 9.9 per cent increase since December 2022.²⁸
- Establishment of the National Anti-Corruption Commission to: detect, investigate and report on serious or systemic corruption in the Commonwealth public sector; and educate the sector and the public about corruption risks and prevention.²⁹

13. There is ongoing parliamentary interest in APS integrity, probity and ethics, including by the Joint Committee of Public Accounts and Audit (JCPAA), which in June 2023 adopted an inquiry into probity and ethics in the Australian public sector. This audit provides independent assurance and reporting to the Parliament on the APSC’s administration of statutory functions relating to upholding high standards of integrity and ethical conduct in the APS.

Audit objective, criteria and scope

14. The audit objective was to assess the effectiveness of the APSC’s administration of statutory functions relating to upholding high standards of integrity and ethical conduct in the APS.

15. To form a conclusion against the audit objective, the following high-level criteria were adopted.

- Has the APSC effectively promoted the APS Values and Code of Conduct?

24 Commonwealth of Australia, Department of the Prime Minister and Cabinet, *Royal Commission into the Robodebt Scheme – Government Response*, November 2023, ‘Ministerial Foreword’, Attorney-General and Minister for the Public Service, p. 3, available from <https://www.pmc.gov.au/resources/government-response-royal-commission-robodebt-scheme> [accessed 4 December 2023]. See paragraph 1.52 of this audit report.

25 Australian Public Service Commission, *State of the Service Report 2022–23*, 10 November 2023, p. 76, available from <https://www.apsc.gov.au/initiatives-and-programs/workforce-information/research-analysis-and-publications/state-service/state-service-report-2023> [accessed 1 December 2023].

26 *ibid*, p. 76. See Box 6 and paragraph 1.70 of this audit report.

27 See paragraph 1.77 of this audit report.

28 APSC, ‘APS Employment Data 31 December 2023: At a glance’, available from <https://www.apsc.gov.au/data-release/aps-employment-data-31-december-2023/glance> [accessed 24 April 2024]. Footnote 32 of this audit report summarises APSC reporting on APS employee numbers.

29 National Anti-Corruption Commission, ‘Overview of the NACC’, available from <https://www.nacc.gov.au/about-nacc/overview> [accessed 24 April 2024].

- Has the APSC effectively monitored and evaluated agencies' implementation of the APS Values and Code of Conduct?
 - Has the APSC effectively contributed to stewardship of the APS?
16. The ANAO reviewed the APSC's administration for the period July 2022 to December 2023.

Conclusion

17. The APSC was partly effective in its administration of statutory functions relating to upholding high standards of integrity and ethical conduct in the APS during the audit review period (July 2022 to December 2023). The APSC's approach was largely activity-driven and it did not have relevant strategies, linked to measurable outcomes, to guide its efforts. As a consequence, the APSC could not demonstrate or provide assurance on whether its activities relating to integrity functions were well directed or fully effective. In the context of an operating environment focused on perceived shortcomings in APS integrity, the APSC was in the process of developing a more strategic approach.

18. The APSC was partly effective in promoting the APS Values and Code of Conduct and in providing advice and assistance to APS agencies on public service matters. The APSC did not have a strategy, linked to outcomes which can be measured, for promoting the APS Values and Code of Conduct and its approach to this function was largely activity-driven. While the APSC communicated integrity and ethical requirements and expectations through a variety of activities, including training and guidance, they were not guided by a risk-based strategy. APSC guidance was revised or new guidance issued, to manage identified risks and issues, without reference to a forward engagement strategy. The APSC had limited arrangements in place to provide assurance to the Commissioner and Parliament that it had effectively promoted the APS Values and Code of Conduct.

19. The APSC did not have a sound basis for monitoring and evaluating the extent to which agencies incorporate and uphold the APS Values, or the adequacy of systems and procedures in agencies to ensure compliance with the Code of Conduct. There was no mechanism to provide assurance or insight to the Commissioner or the Parliament on agencies' implementation of the APS Values and Code of Conduct.

20. The APSC did not have a documented strategy or plan to support the Commissioner's functions relating to stewardship and partnering with secretaries or agency heads. The APSC did not clearly articulate the stewardship concept appearing since 2013 in the PS Act and did not measure its effectiveness in administering the stewardship function. The APSC's approach to the stewardship function was largely activity-driven, and it contributed to or led a range of APS improvement initiatives, including with the Secretaries Board.

Supporting findings

Promote, advise and assist

21. The APSC did not have a strategy, linked to outcomes which, can be measured, for promoting the APS Values and Code of Conduct during the audit review period and its approach to this function was largely activity-driven. The APSC had two strategies with components relating to the promotion of integrity, ethics and the APS Values and Code of Conduct — an APS Workforce

Strategy and APS Academy Engagement and Communication strategy. These two strategies, when read together, do not equate to a strategy for promoting the APS Values and Code of Conduct.

22. The APSC provided or administered guidance, support and training/event offerings intended to promote the APS Values and Code of Conduct. While the APSC communicated integrity and ethical requirements and expectations through these activities, they were not guided by a risk-based strategy.

23. The APSC had limited arrangements in place to provide assurance to the Commissioner and Parliament that it had effectively promoted the APS Values and Code of Conduct. Data collection and feedback received on APSC training and guidance did not link to a structured approach to assessing whether the APSC's activities to 'promote' were achieving their intended purpose. There was no record of the APSC's most senior internal committees — the Executive Board and Executive Committee — discussing issues relating to the APS Values during the audit review period. Issues relating to the APS Code of Conduct were discussed at 13 per cent of Executive Board meetings and five per cent of Executive Committee meetings. More generally, there were deficiencies in the APSC's record keeping arrangements for its governance committees.

24. The enterprise-level risks documented in the APSC's enterprise risk register did not directly relate to the APSC's delivery of its statutory functions relating to the APS Values, Code of Conduct or integrity. This was in the context of an operating environment which featured ongoing scrutiny of perceived shortcomings in upholding APS integrity, including at the highest levels of APS leadership. (See paragraphs 2.4 to 2.96)

25. The ANAO reviewed six APSC mechanisms in operation during the audit review period to provide advice and assistance to APS agencies on public service matters: the Integrity Agencies Group (IAG); the Ethics Advisory Service (EAS); Ethics Contact Officer network (ECONet); Cross-agency Code of Conduct Practitioners' Forum (conduct forum); APS Agency Survey (agency survey); and consultation and advice on suspected breaches of the APS Code of Conduct.

26. The IAG offers opportunities for information-sharing amongst participants. The EAS received 684 enquiries during the audit review period. The APSC is not able to demonstrate what advice or assistance it provided on public service matters to the agencies represented at meetings of ECONet or the conduct forum.

27. The APSC used the 2021 agency survey results to develop its *Integrity Metrics Resource*, which was released in 2022. If used by agencies, it provides a basis to focus their efforts to lift integrity measurement, monitoring and reporting.

28. During the audit review period, APSC guidance was revised or new guidance issued, to manage identified risks and issues, without reference to a forward engagement strategy. The APSC issued timely guidance and advice for APS agency heads in 2023, relating to the management of Code of Conduct reviews following the report of the Royal Commission Robodebt Scheme. (See paragraphs 2.97 to 2.147)

Evaluate

29. The APSC did not have fit-for-purpose arrangements to evaluate the extent to which agencies incorporate and uphold the APS Values, or a documented strategy linked to outcomes which could be measured.

30. The APSC collected information from several mechanisms and activities to inform its understanding of issues and developments in the APS and which may influence its thinking, actions and priorities. It has not leveraged the data and insights gained from its various activities to evaluate the extent to which agencies incorporate and uphold the APS Values. This does not provide the Commissioner or Parliament with broader insight or assurance on the extent to which agencies uphold the APS Values.

31. A capability review conducted in 2023 assessed the APSC as having a maturity rating of 'developing' in respect to 'Review and evaluation'. The APSC advised the ANAO in November 2023 that it has begun work to systematise its use of data to observe patterns or areas of concern for agencies. (See paragraphs 3.43 to 3.44)

32. The APSC did not have fit-for-purpose arrangements to evaluate the adequacy of systems and procedures in agencies for ensuring compliance with the Code of Conduct, or a documented strategy linked to outcomes which could be measured.

33. There was no mechanism to provide assurance or insight to the Commissioner or Parliament on the adequacy of systems and procedures in agencies for ensuring compliance with the Code of Conduct. (See paragraphs 3.45 to 3.48)

Stewardship

34. The APSC did not have a documented strategy or plan to support the Commissioner's functions relating to stewardship and partnering with secretaries or agency heads — including where the Commissioner is independently performing functions under the PS Act — or to measure its effectiveness in administering the Commissioner's stewardship function.

35. The APSC's approach to the stewardship function was largely activity-driven, and included: participation in sector-wide boards and committees with integrity-related roles or functions, such as the Secretaries Board; briefing and induction activity for new secretaries and other agency heads; engaging with APS agency heads on SES Code of Conduct matters; providing advice and guidance on integrity issues; and involvement in SES recruitment and talent management activities.

36. The APSC has undertaken planning relating to the addition of 'stewardship' as a sixth APS Value in the PS Act. The Public Service Amendment Bill 2023 received royal assent on 11 June 2024 and is now known as the *Public Service Amendment Act 2024*. (See paragraphs 4.3 to 4.34)

Recommendations

37. This report makes four recommendations to the Australian Public Service Commission.

Recommendation no. 1 The Australian Public Service Commission develop a strategy to document and guide its objectives, key activities, relationships with key stakeholders, and desired outcomes relating to the statutory function to 'promote' the APS Values and Code of Conduct set out in paragraph 41(2)(e) of the *Public Service Act 1999*.

Paragraph 2.30

Australian Public Service Commission response: *Agreed.*

Recommendation no. 2 The Australian Public Service Commission develop and implement an evaluation strategy for its integrity training to determine if its suite of integrity training is achieving the intended outcomes.

Paragraph 2.80

Australian Public Service Commission response: *Agreed.*

Recommendation no. 3 The Australian Public Service Commission should review record keeping arrangements for its governance committees.

Paragraph 2.86

Australian Public Service Commission response: *Agreed.*

Recommendation no. 4 The Australian Public Service Commission develop an evaluation strategy and review its current evaluation methodology to improve the level of assurance provided to the Commissioner and Parliament on whether agencies incorporate and uphold the APS Values, and the adequacy of agencies' systems and procedures for ensuring compliance with the APS Code of Conduct.

Paragraph 3.40

Australian Public Service Commission response: *Agreed.*

Summary of entity response

38. The proposed final performance audit report was provided to the APSC. The summary response from the APSC is provided below and the full response is at Appendix 1. Improvements observed by the ANAO during the audit are at Appendix 2.

Australian Public Service Commission

The Commission welcomes the observations of the ANAO in this report, and agrees with the four recommendations and intent of the opportunities for improvement. These recommendations are timely given our ongoing program of work to strengthen the articulation of our purpose, key activities, priorities and performance measures. In addition, actions to address these recommendations will dovetail with work arising from our Capability Review to enhance strategies and tools for data and stakeholder engagement, as well as corporate systems for governance, risk, information management and assurance.

In our stewardship role, we will partner with the Attorney General's Department to develop an enduring APS Integrity Strategy to articulate a clear narrative for integrity activities and reforms, and to clearly identify the role and actions all agencies and public servants are required to embrace to demonstrate excellence in integrity. In parallel, the Commission will bring together its broad

suite of integrity initiatives into an overarching integrity strategy, supporting impact and outcome-focussed evaluation to strengthen assurance over the performance of our legislated functions.

Key messages from this audit for all Australian Government entities

39. Below is a summary of key messages, including instances of good practice, which have been identified in this audit and may be relevant for the operations of other Australian Government entities.

Governance and risk management

- To achieve intended outcomes, it is important that agencies develop strategies that identify objectives and the planned actions to achieve them. A strategy assists in resource allocation, achieving focus and efficiency in work effort, and provides a framework to monitor and assess progress against objectives.
- A strategy assists with assessing effectiveness in achieving objectives by establishing clear and measurable performance expectations, identifying the information to be collected for assessment and evaluation purposes, and establishing a framework for progress reporting and evaluation against the documented expectations.
- Enterprise risk registers are a key tool of effective corporate governance and require active review and adjustment as necessary, having regard to changes in the operating environment.

Records management

- Good record keeping is required by law and supports effective corporate governance, accountability and performance.

Audit findings

1. Background

Introduction

Australian Public Service

1.1 The Australian Public Service (APS) is established by the *Public Service Act 1999* (PS Act).³⁰ It consists of agency heads and APS employees engaged under the PS Act.³¹

1.2 The APS is one part of the wider Commonwealth public sector. At 30 June 2023 the APS employee headcount was 170,332³² across 104 entities.³³ At 1 March 2024 there were 191 Commonwealth entities and companies.³⁴ Many of these organisations do not engage staff under the PS Act and a number can engage officials under their enabling legislation as well as the PS Act.³⁵

30 PS Act, section 9, available from <https://www.legislation.gov.au/Details/C2019C00057> [accessed 19 March 2024].

31 PS Act, section 7, provides that:

- APS means the Australian Public Service established by section 9.
- Agency Head means: the Secretary of a Department, or the Head of an Executive Agency, or the Head of a Statutory Agency.
- APS employee means a person engaged under sections 22 or 72.

Under section 20 of the PS Act, an Agency Head, on behalf of the Commonwealth, has all the rights, duties and powers of an employer in respect of APS employees in the Agency. Under subsection 22(1), an Agency Head, on behalf of the Commonwealth, may engage persons as employees for the purposes of the Agency.

32 Australian Public Service Commission, *State of the Service Report 2022–23*, 10 November 2023, Appendix 1–APS workforce trends, p. 156, available from <https://www.apsc.gov.au/initiatives-and-programs/workforce-information/research-analysis-and-publications/state-service/state-service-report-2023> [accessed 1 December 2023]. See also: Australian Public Service Commission, APS Employment Data 30 June 2023, available from <https://www.apsc.gov.au/employment-data/aps-employment-data-30-june-2023> [accessed 29 November 2023].

The APSC reported that the APS headcount increased 6.9 per cent between 30 June 2022 and 30 June 2023. The *State of the Service Report 2021–22* reported that the APS headcount at 30 June 2022 was 159,469, a 3.8 per cent increase since 30 June 2021. See Australian Public Service Commission, *State of the Service Report 2021–22*, 3 November 2022, available from <https://www.apsc.gov.au/working-aps/state-of-service/2022/report> [accessed 18 December 2023].

The APSC further reported on 28 March 2024 that at 31 December 2023 the APS headcount was 177,442, a 9.9 per cent increase from December 2022. See APSC, ‘APS Employment Data 31 December 2023: At a glance’, available from <https://www.apsc.gov.au/data-release/aps-employment-data-31-december-2023/glance> [accessed 24 April 2024].

33 Comprising 99 agencies and five entities which employ staff under the PS Act and operate with some degree of independence. See Australian Public Service Commission, *State of the Service Report 2022–23*, 10 November 2023, Appendix 3–APS agencies, p. 197, available from <https://www.apsc.gov.au/initiatives-and-programs/workforce-information/research-analysis-and-publications/state-service/state-service-report-2023> [accessed 1 December 2023].

34 Entity types and numbers are recorded in a Department of Finance list and ‘flipchart’ that are issued periodically.

- *List of Commonwealth entities and companies*, 1 March 2024, available from <https://www.finance.gov.au/sites/default/files/2024-03/Bodies%20list%201%20March%202024%20-%20FINAL.pdf> [accessed 7 May 2024].
- *Flipchart of Commonwealth entities and companies*, 1 March 2024, available from <https://www.finance.gov.au/sites/default/files/2024-03/Flipchart%201%20March%202024%20-%20FINAL.pdf> [accessed 7 May 2024].

The ANAO audits the annual financial statements of approximately 250 Commonwealth public sector entities each year.

35 *ibid.*

Public Service Act 1999

1.3 The APS operates largely under principles-based frameworks, including that established by the PS Act. While principles-based, the PS Act framework imposes high expectations. The ‘main objects’ of the PS Act are:

- (a) to establish an apolitical public service that is efficient and effective in serving the Government, the Parliament and the Australian public; and
- (b) to provide a legal framework for the effective and fair employment, management and leadership of APS employees; and
- (c) to define the powers, functions and responsibilities of Agency Heads, the Australian Public Service Commissioner and the Merit Protection Commissioner; and
- (d) to establish rights and obligations of APS employees.³⁶

APS integrity obligations

Public Service Act

1.4 Members of the APS are subject to integrity obligations specified in the PS Act, including the APS Values³⁷ and APS Code of Conduct.³⁸

1.5 At 19 February 2024 the PS Act specified five APS Values — committed to service, ethical, respectful, accountable and impartial.³⁹ The explanatory memorandum for the Public Service Bill 1999 stated that:

The Values are designed to ... provide the philosophical underpinning for the APS ... reflect public expectations of the relationship between public servants and the Government, the Parliament and the Australian community ... articulate the culture and operating ethos of the APS ... and support and inform the Commissioner’s Directions to be issued under the authority of the Bill.⁴⁰

36 PS Act, section 3.

37 PS Act, section 10.

38 PS Act, section 13.

39 The APS Values have been amended since the PS Act came into effect in late 1999. In June 2023 the Public Service Amendment Bill 2023 was presented to Parliament to, among other things, introduce an additional APS value of ‘stewardship’. The Public Service Amendment Bill 2023 received royal assent on 11 June 2024 and is now known as the *Public Service Amendment Act 2024*.

40 The Parliament of the Commonwealth of Australia, House of Representatives, Public Service Bill 1999: Explanatory Memorandum, p. 18, available from https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r793 [accessed 19 March 2024].

The explanatory memorandum for the Public Service Amendment Bill 2023 (discussed in footnote 10 and paragraphs 1.35 to 1.43) also stated that:

The APS Values are designed to:

- provide the philosophical underpinning for the APS;
- reflect public expectations of the relationship between public servants and the Government, the Parliament and the Australian community; and
- articulate the culture and operating ethos of the APS.

See: The Parliament of the Commonwealth of Australia, House of Representatives, Public Service Amendment Bill 2023: Explanatory Memorandum, p. 18, available from https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r7044 [accessed 19 February 2024].

1.6 The Australian Public Service Commission (APSC, discussed further at paragraphs 1.21 to 1.22) states that:

The APS Values articulate the parliament's expectations of public servants in terms of performance and standards of behaviour. The principles of good public administration are embodied in the APS Values.⁴¹

1.7 The APS Code of Conduct has 13 requirements, relating to: behaving honestly and with integrity in connection with APS employment; acting with care and diligence; treating people with respect and courtesy; complying with all applicable Australian laws; complying with any lawful and reasonable direction; maintaining confidentiality; avoiding conflicts of interest and disclosing material personal interests; proper use of resources; not providing false or misleading information; not misusing power or authority; upholding the APS values; upholding the integrity and good reputation of the agency and the APS; and upholding the good reputation of Australia when overseas.

1.8 The PS Act refers to the Code of Conduct as rules.⁴² The explanatory memorandum for the Public Service Bill 1999 stated that:

The Bill will include a statutory Code of Conduct ... This will ensure that the Code is legally enforceable and will strengthen its role as a public statement of the standards of behaviour and conduct that are expected of those who work in core public employment.⁴³

1.9 Under the PS Act, further integrity obligations apply to agency heads and members of the Senior Executive Service (SES), which comprise the senior cadre of the APS.⁴⁴ These include the declaration of interests and the declaration of gifts, benefits and hospitality.

1.10 Box 1 sets out integrity obligations in the PS Act.

Box 1: Integrity obligations — *Public Service Act 1999*

APS Values (section 10)

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.

41 Australian Public Service Commission, 'APS Values, Code of Conduct and Employment Principles', 13 December 2021, available from <https://www.apsc.gov.au/working-aps/integrity/integrity-resources/aps-values-code-conduct-and-employment-principles> [accessed 30 November 2023].

42 Section 7 of the PS Act states that '**Code of Conduct** means the rules in section 13' [emphasis in original].

43 The Parliament of the Commonwealth of Australia, House of Representatives, Public Service Bill 1999: Explanatory Memorandum, p. 23, available from https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r793 [accessed 19 March 2024].

44 The SES is established by section 35 of the PS Act. Subsection 35(2) of the PS Act provides that: 'The function of the SES is to provide APS-wide strategic leadership of the highest quality that contributes to an effective and cohesive APS.'

At 30 June 2023 the SES headcount was 3,206. See Australian Public Service Commission, *State of the Service Report 2022–23*, 10 November 2023, Appendix 1–APS workforce trends, Table A1.9, p. 162, available from <https://www.apsc.gov.au/initiatives-and-programs/workforce-information/research-analysis-and-publications/state-service/state-service-report-2023> [accessed 1 December 2023].

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.

APS Code of Conduct (section 13)

(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 this Act), or any instrument made under an Act; or

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

(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.

Breaches of the Code of Conduct (section 15)

(1) An Agency Head may impose the following sanctions on an APS employee in the Agency who is found ... to have breached the Code of Conduct:

(a) termination of employment;

(b) reduction in classification;

(c) re-assignment of duties;

(d) reduction in salary;

(e) deductions from salary, by way of fine;

(f) a reprimand.

Senior Executive Service (SES)

Paragraph 35(3)(c) — For the purpose of carrying out the function of the SES, each SES employee: by personal example and other appropriate means, promotes the APS Values, the APS Employment Principles and compliance with the Code of Conduct.

Agency Heads

Section 12 — An Agency Head must uphold and promote the APS Values and APS Employment Principles.

Subsection 14(1) — Agency Heads are bound by the Code of Conduct in the same way as APS employees.^a

Secretaries

Subsection 57(2) — The responsibilities of the Secretary of a Department are as follows:

(a) to manage the affairs of the Department efficiently, effectively, economically and ethically;

(c) implement measures directed at ensuring that the Department complies with the law;

(i) to assist the Agency Minister to fulfil the Agency Minister's accountability obligations to the Parliament to provide factual information, as required by the Parliament, in relation to the operation and administration of the Department; ...

Heads of Executive Agencies

Subsection 66(3) — The Head of an Executive Agency is accountable to the government, the Parliament and the public in the same way as the Secretary of a Department.

Note a: Subsection 14(2) provides that statutory office holders are bound by the Code of Conduct, subject to any regulations made under subsection 14(2A). The regulations may make provision in relation to the extent to which statutory office holders are bound by the Code of Conduct.

Commonwealth finance law

1.11 The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) establishes the overarching governance, performance and accountability framework for resource use and management within the Commonwealth public sector as a whole. It is a principles-based framework that imposes high expectations on the sector, including ‘high standards of governance, performance and accountability’.⁴⁵ It is part of the Commonwealth finance law.⁴⁶

1.12 The interaction between the PS Act and Commonwealth finance law is recognised in section 32 of the PGPA Act, which provides that the finance law is an Australian law for the purposes of subsection 13(4) of the PS Act.⁴⁷ If the PS Act applies to an official of a PGPA entity, the official will be required under subsection 13(4) of the PS Act to comply with applicable Australian laws, which include the finance law. This means that if the official contravenes the finance law, sanctions may be imposed on the official under section 15 of the PS Act.⁴⁸

1.13 The PGPA Act contains ‘general duties of officials’ applying to both the accountable authority of the PGPA entity⁴⁹ and entity officials, which are relevant to integrity, probity and ethics. The general duties relate to: acting with care and diligence; acting honestly, in good faith and for a proper purpose; not misusing one’s position; the proper use of information; and disclosing interests.⁵⁰ Taken together, the general duties establish an overarching framework for integrity, probity and ethical behaviour applying to the accountable authorities and officials of all PGPA Act entities.

1.14 There are also ‘general duties of accountable authorities’ applying to the accountable authority of a PGPA entity. These include the duty to govern the entity in a way that promotes the proper use and management of public resources for which the accountable authority is responsible.⁵¹ Proper means efficient, effective, economical and ethical use or management of public resources.⁵² The accountable authority is authorised to issue Accountable Authority Instructions, which can impose obligations additional to the minimum standards established under the PGPA Act and PGPA Rule.

45 PGPA Act, paragraph 5(c)(i).

46 Section 8 of the PGPA Act states that ‘finance law’ means the PGPA Act, or the rules (at present the Public Governance, Performance and Accountability Rule 2014 made pursuant to the PGPA Act), or any instrument made under the PGPA Act, or an Appropriation Act. The PGPA Act is available from <https://www.legislation.gov.au/Details/C2017C00269> [accessed 24 April 2024].

47 Section 32 of the PGPA Act states that: ‘To avoid doubt, the finance law is an Australian law for the purposes of subsection 13(4) of the *Public Service Act 1999* and subsection 13(4) of the *Parliamentary Service Act 1999*.’

48 Section 15 of the PS Act relates to breaches of the APS Code of Conduct.

49 An accountable authority can be a single person or a group of persons, such as a governing board.

50 Specific requirements relating to the disclosure of interests also appear in the PGPA Rule.

51 PGPA Act, paragraph 15(1)(a).

52 PGPA Act, section 8.

1.15 In addition, activity-specific frameworks will often contain ethical requirements focused on the activity they regulate. These include the frameworks for: grants administration; government procurement; government advertising; protective security; appearing before parliament; the caretaker period; liaising with lobbyists; conducting investigations; legal work; risk management; and fraud control. Members of the APS must comply with all applicable obligations established by these frameworks.⁵³

Non-APS personnel

1.16 The integrity obligations applying to contractors are managed in different ways, at an agency level, as there is no whole-of-workforce framework or approach applying across the APS. At 19 February 2024 this was the case notwithstanding the fact that a large number of contractors were doing work in and as part of the operations of APS agencies, alongside APS employees, as part of a mixed workforce.⁵⁴

Australian Public Service Commissioner

1.17 The office of Australian Public Service Commissioner (Commissioner) is established under the PS Act.⁵⁵

53 Activity-specific frameworks are discussed in Chapter 1 (paragraph 1.12) in the series of three ANAO performance audit reports on probity management in Commonwealth financial regulators, available from <https://www.anao.gov.au/work/insights/probity-management-lessons-audits-financial-regulators>. Chapter 1 of those reports also summarised the probity framework applying in the Commonwealth public sector.

54 ANAO, Effectiveness of the Management of Contractors performance audit series, Chapters 1 and 5, available from <https://www.anao.gov.au/work/audit-insights/effectiveness-the-management-contractors>.

In October 2023 the Australian Government released an 'APS Strategic Commissioning Framework' intended to manage the use of contractors and consultants in the APS and reduce integrity risks. See:

- Minister for the Public Service (media release), 'Release of APS Strategic Commissioning Framework', 24 October 2023, available from <https://ministers.pmc.gov.au/gallagher/2023/release-aps-strategic-commissioning-framework> [accessed 19 December 2023].
- Australian Public Service Commission, 'APS Strategic Commissioning Framework', 24 October 2023, available from <https://www.apsc.gov.au/publication/aps-strategic-commissioning-framework> [accessed 19 December 2023].

The APSC stated that: 'This framework sets a clear expectation that most roles and functions will be delivered by APS employees, outlines limited circumstances in which external workforces could be appropriate, and ensures the APS maximises the benefit of any external arrangements. ... Over time - when supported by APS recruitment, skilling and mobility - this approach will deepen system-wide capability and reduce the risks to integrity, expertise and public trust posed by excessive outsourcing. Monitoring and reporting arrangements will hold agencies accountable for their progress.'

In late 2023 the Department of Finance opened a consultation process on a proposed 'Commonwealth Supplier Code of Conduct' to come into effect in mid 2024. Finance stated that the proposed Code outlines the Commonwealth's 'minimum expectations' of suppliers, their personnel and their subcontractors while under contract with the Commonwealth. Among other things, the consultation draft set out a number of 'Expectations of ethical behaviour' that included the following:

1.4 Emulate the Australian Public Service (APS) Values

When a supplier is undertaking work on behalf of the Commonwealth, they must uphold similar values and behaviours to those expected of public officials in the APS Values. This is always important, but particularly relevant where a supplier interacts with, or provides services to, the Australian Public.

See Department of Finance, 'Commonwealth Supplier Code of Conduct Industry Consultation', 15 December 2023, available from <https://www.finance.gov.au/government/procurement/commonwealth-supplier-code-conduct-industry-consultation> [accessed 19 February 2024 and 24 April 2024].

55 PS Act, subsection 40(1).

1.18 Box 2 sets out the Commissioner's functions set out in the PS Act. The functions underlined in Box 2 are the main focus of this audit.⁵⁶

1.19 The Commissioner is also the Deputy Chair of the Secretaries Board established by the PS Act.⁵⁷ The PS Act sets out the board's membership⁵⁸ and functions.⁵⁹ The board also appears in other sections of the PS Act (see footnote 31).

Box 2: Australian Public Service Commissioner's functions — section 41 *Public Service Act 1999*

Commissioner's functions (section 41)

(1) The Commissioner has the following functions:

- (a) to strengthen the professionalism of the APS and facilitate continuous improvement in workforce management in the APS;
- (b) to uphold high standards of integrity and conduct in the APS;
- (c) to monitor, review and report on APS capabilities within and between Agencies to promote high standards of accountability, effectiveness and performance.

(2) Without limiting paragraph (1), the Commissioner's functions include the following:

- (a) to foster, and contribute to, leadership, high quality learning and development and career management in the APS;
- (b) to lead the thinking about, provide advice on and drive reforms to workforce management policies so that the APS is ready for future demands;
- (c) to develop, review and evaluate APS workforce management policies and practices and maintain appropriate databases;
- (d) to foster an APS workforce that reflects the diversity of the Australian population;
- (e) to promote the APS Values, the APS Employment Principles and the Code of Conduct;
- (f) to evaluate the extent to which Agencies incorporate and uphold the APS Values and the APS Employment Principles;
- (g) to partner with Secretaries in the stewardship of the APS^a;
- (h) to provide advice and assistance to Agencies on public service matters;

⁵⁶ The audit approach is discussed further in paragraphs 1.88 to 1.90.

⁵⁷ PS Act, subsection 64(1).

⁵⁸ PS Act, subsection 64(2) provides that the Secretaries Board consists of: the Secretary of the Department of the Prime Minister and Cabinet (chair), the other departmental secretaries, the Commissioner, and other persons nominated in writing by the chair. The *State of the Service Report 2022–23* (discussed later in this chapter) listed the members of the Board from 1 July 2022 to 30 June 2023. The 'other' member was the CEO of the National Indigenous Australians Agency.

⁵⁹ PS Act, subsection 64(3) provides that the Secretaries Board has the following functions: (a) to take responsibility for the stewardship of the APS and for developing and implementing strategies to improve the APS; (b) to identify strategic priorities for the APS and consider issues that affect the APS; (c) to set an annual work program, and direct subcommittees to develop strategies to address APS-wide issues and make recommendations to the Secretaries Board; (d) to draw together advice from senior leaders in government, business and the community; (e) to work collaboratively and model leadership behaviours.

- (i) to work with other governments (including foreign governments) on matters relating to public sector workforce management, leadership and career management;
- (j) to review any matter relating to the APS;
- (k) to review any matter relating to the APS referred to the Commissioner by the Public Service Minister, and report on that matter to the Public Service Minister;
- (l) to evaluate the adequacy of systems and procedures in Agencies for ensuring compliance with the Code of Conduct;
- (m) to inquire, in accordance with section 41A, into alleged breaches of the Code of Conduct by Agency Heads;
- (n) to inquire into and determine, in accordance with section 41B, whether an APS employee, or a former APS employee, has breached the Code of Conduct;
- (o) to inquire, subject to the regulations, into public interest disclosures (within the meaning of the Public Interest Disclosure Act 2013), to the extent that the disclosures relate to alleged breaches of the Code of Conduct;
- (p) such other functions as are conferred on the Commissioner by this Act, the regulations or any other law;
- (q) such other functions as the Prime Minister, by legislative instrument, directs the Commissioner to perform;
- (r) to do anything incidental to or conducive to the performance of any of the Commissioner's functions.

Note a: ANAO comment:

- paragraph 57(1)(c) provides that the roles of the Secretary of a Department include 'leader, providing stewardship within the Department and, in partnership with the Secretaries Board, across the APS'; and
- paragraph 64(3)(a) provides that one of the functions of the Secretaries Board is 'to take responsibility for the stewardship of the APS and for developing and implementing strategies to improve the APS'.

Commissioner's Directions

1.20 The Commissioner may issue written directions in relation to any of the APS Values for the purpose of: ensuring that the APS incorporates and upholds them; and determining (where necessary) their scope or application.⁶⁰ The *Australian Public Service Commissioner's Directions 2022*, which commenced on 1 February 2022,⁶¹ include directions relating to the APS Values and Integrity of the APS. Box 3 sets out those parts of the directions.

Box 3: Australian Public Service Commissioner's Directions 2022

Part 2 – APS Values

Overview of this part (section 11)

Application of the APS Values

⁶⁰ PS Act, subsection 11(1).

⁶¹ Australian Public Service Commission, *Australian Public Service Commissioner's Directions 2022*, available from <https://www.apsc.gov.au/circulars-guidance-and-advice/circular-20222-commencement-australian-public-service-commissioners-directions-2022> [accessed 28 November 2023].

The APS Values, and these Directions, set out standards and outcomes that are required of APS employees and Agency Heads.

The APS Values can overlap, and actions can involve the application of more than one APS Value.

Each of the APS Values is of equal importance.

APS to incorporate and uphold APS Values (section 12)

(1) The APS must incorporate and uphold the APS Values.

Ethical (section 14)

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

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

- (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) providing leadership in policy development, implementation, program management and regulation;
- (h) supporting systems that give APS employees appropriate opportunities to develop and demonstrate leadership qualities.

Accountable (section 16)

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

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

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

Impartial (section 17)

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

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

- (a) serving the Government of the day with 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 conclude that the individual could not serve the Government of the day impartially;
- (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.

Part 3 – Integrity of the APS

Integrity training for APS employees (section 19)

(1) An Agency Head who engages a person as an ongoing APS employee must make arrangements for the APS employee to:

- (a) undergo a program of training about integrity; and
- (b) do so within 6 months of being engaged.

(2) An Agency Head who engages a person as a non-ongoing APS employee must make arrangements for the APS employee to:

- (a) undergo a program of training about integrity; and
- (b) do so as soon as practicable after being engaged.

Australian Public Service Commission

1.21 The Commissioner and APS employees assisting the Commissioner⁶² together constitute a statutory agency under the PS Act, known as the Australian Public Service Commission (APSC).⁶³ In

62 The Commissioner is also the Agency Head for the APSC under the PS Act, and the Accountable Authority for the APSC under the PGPA Act.

63 PS Act, subsection 40(3).

2022–23 the departmental expenses of the APSC were \$80.8 million.⁶⁴ At 30 June 2023, the APSC had 373 employees.⁶⁵

1.22 Box 4 sets out the APSC's purpose as expressed in its recent corporate plans.

Box 4: Australian Public Service Commission corporate plans — purpose statement

Corporate plan 2022–26 (signed 26 August 2022)

Purpose

Our purpose is to position the Australian Public Service (APS) workforce for the future to ensure it meets the demands and expectations of the Australian Government and people.

Approach

We work collaboratively as a valued and trusted partner to the APS; one that provides sound stewardship and advice, and is regarded as an exemplar of reform.^a

Corporate plan 2023–27 (signed August 2023)

Purpose

To position the APS workforce for the future to ensure it meets the demands and expectations of the Australian Government, Parliament and people.^b

Note a: Australian Public Service Commission, *Corporate plan 2022–26*, 26 August 2022, p. 1, available from https://previewapi.transparency.gov.au/delivery/assets/80a82ed1-3e33-027b-b7e0-6493f97f18f8/6676cc37-836a-4422-a155-dce226debe05/apcs_corporate_plan_2022-26.pdf [accessed 28 November 2023].

Note b: Australian Public Service Commission, *Corporate Plan 2023–27*, August 2023, p. 1, available from https://www.apsc.gov.au/sites/default/files/2023-08/23552%20APSC%20-%20Corporate%20Plan%202023-27_Web.pdf [accessed 28 November 2023].

1.23 The APSC is part of the Prime Minister and Cabinet Portfolio.⁶⁶ The PS Act provides for certain powers to be exercised by the Prime Minister, Public Service Minister or agency minister (responsible ministers). Section 78 of the PS Act provides for the delegation of ministerial powers and those of the Commissioner. At November 2023, the responsible ministers were the Prime Minister, Minister for the Public Service, and Assistant Minister for the Public Service.

2023 APSC capability review

1.24 The 2023 capability review of the APSC⁶⁷, the first in a planned program of reviews of APS agencies, considered that the APSC's 'most important focus areas' included: leading on integrity for

64 Australian Public Service Commission, *Annual Report 2022-23*, October 2023, p. 44, available from <https://www.transparency.gov.au/publications/prime-minister-and-cabinet/australian-public-service-commission/australian-public-service-commission-annual-report-2022-23-incorporating-the-report-of-the-merit-protection-commissioner> [accessed 7 May 2024].

65 *ibid.*, p. 91.

66 The Department of the Prime Minister and Cabinet (PM&C) is the Department of State in the portfolio. The Prime Minister is the portfolio minister.

67 Australian Public Service Commission, *Capability Review: Australian Public Service Commission*, June 2023, available from <https://www.apsc.gov.au/initiatives-and-programs/workforce-information/research-analysis-and-publications/capability-review-australian-public-service-commission> [accessed 1 December 2023].

the APS by focusing resources to assert itself as a leader on integrity; providing clear, authoritative guidance to agencies, with a stronger position stance; and building whole-of-service capability.⁶⁸

Integrity resources

1.25 The APSC provides a variety of information and resources on integrity, including through its website.⁶⁹

1.26 An APSC fact sheet on 'Defining integrity' states the following.

What do we mean when referring to integrity?

Integrity in the APS is the pursuit of high standards of professionalism—both in *what* we do and in *how* we do it. It is the foundation of trust on which public service effectiveness is built. Integrity is the craft of bringing ethics and values to life through our work and our behaviour, and earning the trust of the public in our ability to deliver the best outcomes for Australia.

Integrity covers several different and overlapping aspects that relate to our conduct, how we work individually and as a collective, and includes:

- **compliance** with legislative frameworks, policies and practices, including those set by APS agencies – compliance ensures standards for integrity are being met
- a **values-based approach** that promotes ethical decision-making and reflection in how we undertake work as APS employees
- **institutional integrity**, where organisational systems, policies and practices are purposeful, legitimate and trustworthy

68 The APSC capability review stated at p. 11 that:

The Commission also has areas to improve, which are discussed in the report. In considering the future challenges for the APS, and for the Commission to fulfil a more central role in government, these are the most important focus areas:

Providing clear, authoritative guidance to agencies, with a stronger position stance. This was identified by many agency heads. Advice cannot be vague and optional. The Commission needs to be firmer, and drive implementation of advice as well as evaluating where it has been actioned.

Improving its understanding of the needs of agencies and building whole-of-service capability where the APS needs it.

Undertaking more focused and deliberate engagement. This will help build the Commission's influence and two-way information sharing and discussion on policies, directions and capability development.

Leading on integrity for the APS. The Commission effectively implemented a suite of pro-integrity measures for the APS during 2021–22. However, there is more to do and the Commission needs to focus resources to assert itself as a leader on integrity, along with the Attorney-General's Department and the Department of the Prime Minister and Cabinet.

The APSC capability review also stated at p. 16 that:

A particular point of difference between stakeholders and staff related to the integrity agenda. Most staff see the Commission as fulfilling its role in upholding the integrity of the APS through guidance material, while stakeholders saw a more substantial role for the Commission, with stronger direction and leadership.

69 See for example:

- Australian Public Service Commission, 'Integrity', 8 December 2021, available from <https://www.apsc.gov.au/working-aps/integrity> [accessed 18 December 2023].
- Australian Public Service Commission, 'Integrity resources', 28 April 2022, available from <https://www.apsc.gov.au/working-aps/integrity/integrity-resources> [accessed 18 December 2023].

- **pro-integrity culture**, in which there is a positive, conscious effort to make integrity a central consideration of all activities.⁷⁰ [emphasis in original]

1.27 The APSC also provides the following short definition of integrity in its fact sheet on ‘Defining integrity’.

From a public service context, integrity is:

the pursuit of high standards of APS professionalism, which in turn means doing the right thing at the right time to deliver the best outcomes for Australia sought by the government of the day.⁷¹ [emphasis in original]

Roles and responsibilities

1.28 Within the Commonwealth public sector, which includes the APS, there is both collective and individual responsibility for maintaining integrity, probity and ethical conduct — shared by framework policy owners, the heads of public sector organisations, and their personnel. The approach taken to compliance by each of these actors is fundamental to integrity outcomes in the public sector context, as ‘compliance ensures standards for integrity are met’.⁷²

1.29 In the APS *State of the Service Report 2022–23*, the Commissioner stated that:

The Australian Public Service, through its 104 agencies, and more than 170,000 staff, undertakes diverse work which affects all Australians.

The foundation for this, and the requirements of our jobs – what we do, and how we do it – is set out in law, especially the Public Service Act and the Public Governance, Performance and Accountability Act. As public servants, we serve the Government, the Parliament and the Australian people. The way we do this must be in keeping with the APS Values and the APS Code of Conduct.⁷³

1.30 In the APS *State of the Service Report 2021–22*, the APSC stated that:

The bedrock of the APS is its culture – a culture built upon impartiality, commitment to service, accountability, respect, and the highest standards of ethical behaviour.⁷⁴

70 Australian Public Service Commission, ‘Fact sheet: Defining Integrity’, 9 December 2021, available from <https://www.apsc.gov.au/working-aps/integrity/integrity-resources/fact-sheet-defining-integrity> [accessed 18 December 2023].

71 *ibid.*

See also Australian Public Service Commission, ‘Working in the APS: Integrity’, 20 November 2020, available from <https://www.apsc.gov.au/working-aps> [accessed 18 December 2023], which states that: ‘Integrity in the APS is the pursuit of high standards of APS professionalism, which in turn means doing the right thing at the right time to deliver the best outcomes for Australia sought by the government of the day.’

72 Australian Public Service Commission, *Fact sheet: Defining Integrity*, 9 December 2021, available from <https://www.apsc.gov.au/working-aps/integrity/integrity-resources/fact-sheet-defining-integrity> [accessed 18 December 2023].

73 Australian Public Service Commission, *State of the Service Report 2022–23*, 10 November 2023, ‘A message from the Commissioner’, p. 8, available from <https://www.apsc.gov.au/initiatives-and-programs/workforce-information/research-analysis-and-publications/state-service/state-service-report-2023> [accessed 1 December 2023].

74 APSC, *State of the Service Report 2021–22*, 3 November 2022, p. 5, available from <https://www.apsc.gov.au/sites/default/files/2022-11/APS%20State%20of%20the%20Service%20Report%202021%20%28Accessible%29%E2%80%939322.pdf> [accessed 15 December 2023].

1.31 In the Commonwealth public sector, framework policy owners establish the rules of operation in key areas and then largely rely on the accountable authorities of PGPA Act entities and the agency heads of APS agencies to be responsible for culture and compliance within public sector organisations. In that respect the frameworks are devolved and largely self-regulating. Under the principles-based approach, mandatory rules are largely set to control actions where risks are deemed highest. Key policy owners include the Department of Finance for the PGPA Act framework and the APSC for the PS Act integrity framework. The PS Act also identifies: a 'stewardship' function for the Secretaries Board established under the Act; a 'stewardship' role for secretaries; and that a function of the Commissioner is 'to partner with Secretaries in the stewardship of the APS'.⁷⁵

1.32 The role of policy owners in maintaining a culture of integrity in the sector, including respect for the rule of law, has been a focus of recent reviews, initiatives and investigations relating to the APS and its performance. These are discussed in the next section.

Reviews, initiatives and investigations relating to the APS

2019 Independent review of the APS (Thodey review)

1.33 The 2019 *Independent review of the APS* (Thodey review)⁷⁶ recommended the reinforcement of APS institutional integrity to sustain the highest standards of ethics and build a pro-integrity culture and practices in the APS (Recommendation 7).⁷⁷

1.34 The related 2020 *Report into consultations regarding APS approaches to ensure institutional integrity* (Sedgwick report) set out the findings of consultations by Mr Stephen Sedgwick, a former Public Service Commissioner and Finance secretary, and made recommendations to assist in devising

75 The Secretaries Board is established by subsection 64(1) of the PS Act. It is discussed in paragraph 1.72 of this audit. Under paragraph 64(3)(a) of the PS Act, the functions of the Secretaries Board include the following: 'to take responsibility for the stewardship of the APS and for developing and implementing strategies to improve the APS'.

Under paragraph 57(1)(c) of the PS Act, the role of a secretary includes the following: 'leader, providing stewardship within the Department and, in partnership with the Secretaries Board, across the APS'. Under paragraph 41(2)(g) of the PS Act, the functions of the Commissioner include: 'to partner with Secretaries in the stewardship of the APS.'

76 Department of the Prime Minister and Cabinet, *Our Public Service, Our Future. Independent Review of the Australian Public Service*, 20 September 2019, available from <https://www.apsreview.gov.au/index.htm> [accessed 5 December 2023].

77 Recommendation 7 of the Thodey review was to:

Reinforce APS institutional integrity to sustain the highest standards of ethics.

- APS Commissioner to work with Secretaries Board and agencies with responsibility for integrity to build pro-integrity culture and practices in the APS.
- Amend the *Public Service Act 1999* to: provide own-motion powers for the APS Commissioner to initiate investigations and reviews; require agencies to provide integrity information to the APSC; and include requirements to ensure agency heads and SES avoid or manage potential conflicts of interest after leaving the APS.
- APSC to embed integrity guidance in APS-wide induction, training and other core systems and processes.
- APSC and Finance to ensure all agencies extend APS integrity requirements to service providers, long-term APS contractors and consultants.

a response to recommendation 7 of the Thodey review.⁷⁸ Appendix 3 of this audit report outlines details of key recommendations related to the Thodey review and other relevant recommendations made in the other reviews discussed below.

2022 government APS reform agenda

1.35 On 13 October 2022 the Australian Government set out an 'APS Reform agenda' that 'will build on the Thodey Review'.⁷⁹ The government stated that the agenda had four priority areas. These were an APS that: embodies integrity in everything it does; puts people and business at the centre of policy and services; is a model employer; and has the capability to do its job well.

1.36 The Australian Government indicated that integrity was the first of the four priorities, as follows.

Priority One: An APS that embodies integrity in everything it does

I'll start with integrity – because the public service is one of the critical pillars of political integrity.

It must be empowered to be honest and truly independent.

To defend legality and due process.

And to deliver advice that the government of the day might not want to hear just as loudly as the advice that we do.

This cannot just be done at a department level, or a secretary level, or even a deputy secretary level.

Every single public servant has a role to play when it comes to making sure that the APS uses its position and influence wisely, and uses that power to do well by others.⁸⁰

1.37 In May 2023, the government outlined eight outcomes that its agenda was expected to achieve. The outcomes included the following.

Outcome 1: Public sector employees act with and champion integrity

Outcome 2: Public service employees are stewards of the public service⁸¹

78 Stephen Sedgwick AO, *Report into consultations regarding APS approaches to ensure institutional integrity*, October 2020, available from <https://www.apsc.gov.au/about-us/who-we-are/media-releases/report-consultations-regarding-aps-approaches-institutional-integrity> and <https://www.apsc.gov.au/working-aps/integrity/integrity-resources/report-consultations-regarding-aps-approaches-institutional-integrity> [accessed 5 December 2023].

79 Minister for the Public Service, 'Albanese Government's APS Reform agenda', speech, 13 October 2022, Institute of Public Administration Australia, available from <https://ministers.pmc.gov.au/gallagher/2022/albanese-governments-aps-reform-agenda> [accessed 4 December 2023].

See also Australian Government, 'APS Reform', available from <https://www.apsreform.gov.au/> [accessed 15 December 2023].

80 Minister for the Public Service, 'Albanese Government's APS Reform agenda', speech, 13 October 2022, Institute of Public Administration Australia, available from <https://ministers.pmc.gov.au/gallagher/2022/albanese-governments-aps-reform-agenda> [accessed 4 December 2023].

81 Minister for the Public Service, May 2023, as reported in Australian Public Service Commission, *State of the Service Report 2022–23*, 10 November 2023, p. 20, available from <https://www.apsc.gov.au/initiatives-and-programs/workforce-information/research-analysis-and-publications/state-service/state-service-report-2023> [accessed 1 December 2023].

1.38 As part of its agenda, in June 2023 the government introduced the Public Service Amendment Bill 2023 to Parliament, to amend the PS Act. One change was to add ‘stewardship’ as a sixth APS Value.⁸² The Bill stated the following.

Stewardship

The APS builds its capability and institutional knowledge, and supports the public interest now and into the future, by understanding the long-term impacts of what it does.

1.39 The explanatory memorandum for the Bill stated that the amendments in the Bill:

support the Government’s APS Reform priority to create an APS that acts with integrity in everything it does. Initiatives in this area will build public trust and strengthen standards of integrity in our federal government. Specifically, the Bill proposes to ... include a new APS Value of Stewardship, highlighting the important and enduring role that all public servants play in stewarding the APS, and serving Government, the Parliament, and the Australian public, now and into the future ...⁸³

[it] complements the stewardship duties of Secretaries (subsection 57(c)), Secretaries Board (subsection 64(3)(a)); and the Commissioner (subsection 41(2)(g)), by supporting APS employees to understand their role and individual contributions in stewarding the public service.⁸⁴

1.40 As discussed in the explanatory memorandum, the term ‘stewardship’ appears in a number of places in the PS Act. It has not previously been defined in the PS Act.

1.41 In a December 2022 address to the APS, the Secretary of the Department of the Prime Minister and Cabinet (PM&C) discussed stewardship, stating that ‘Alongside our roles of policy, impartial advice and service delivery, there is another key responsibility for the public service: stewardship.’ The secretary further stated that:

Stewardship is the ability to anticipate, plan, record outcomes, and learn. Stewardship is about now and the endless future, a public service with a shared memory and capacity to act when required.⁸⁵

1.42 In November 2023 the APSC described the new value, and its implications for APS integrity, as follows.

This proposed new value aligns with the Australian Government’s priority for an APS that embodies integrity in everything it does. It highlights the important and enduring role that all public servants play in stewarding the APS, and serving the Government, Parliament and Australian public. Stewardship underpins the integrity of advice and implementation of Government policies

82 In the 13 October 2022 speech on the government’s APS Reform agenda, the Minister for the Public Service stated that:

As referenced in the Thodey review, stewardship can encompass building a service [APS] that is committed to the public interest and sustains genuine partnerships and is the holder of institutional knowledge, throughout changes in government and societal shifts.

83 Explanatory memorandum, p. 3. The Bill and Explanatory Memorandum are available from https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r7044 [accessed 3 December 2023].

84 *ibid.*, p. 9.

85 Department of the Prime Minister and Cabinet, ‘Secretary Professor Glyn Davis AC IPAA Annual Address to the Australian Public Service 2022’, speech, 8 December 2022, available from <https://www.pmc.gov.au/news/secretary-professor-glyn-davis-ac-ipaa-annual-address-australian-public-service-2022> [accessed 19 April 2024].

and programs. It also builds trust through the collective harnessing of experience, diversity and resources for the ongoing and sustainable delivery of policies and programs.

Stewardship captures the notion of responsibility for how an institution performs now and into the future. It is central to a trusted, professional and high-performing public service. It means taking steps today to ensure the APS is equipped to address tomorrow's challenges and continues to support the Australian Government and the Parliament and meet the interests of the Australian community.⁸⁶

1.43 The Public Service Amendment Bill 2023 received royal assent on 11 June 2024 and is now known as the *Public Service Amendment Act 2024*. The Minister for the Public Service provided a progress report on implementation of the government's APS reform agenda in an 'Annual statement on APS Reform' on 2 November 2023.⁸⁷

2023 Royal Commission into the Robodebt Scheme

1.44 The July 2023 Report of the Royal Commission into the Robodebt Scheme (Royal Commission) reviewed a Department of Human Services scheme which was found not to comply with the *Social Security Act 1991*.⁸⁸

1.45 The Royal Commission included a chapter on 'Improving the Australian Public Service' (Chapter 23). The chapter included commentary on the application of the APS Values (parts one and four), recent APS reviews (part two), APS structural arrangements (part three), the obligations of APS senior executives and agency heads (part five), and record-keeping failures (part seven).⁸⁹

86 Australian Public Service Commission, *State of the Service Report 2022–23*, 10 November 2023, p. 48, available from <https://www.apsc.gov.au/initiatives-and-programs/workforce-information/research-analysis-and-publications/state-service/state-service-report-2023> [accessed 1 December 2023].

87 Minister for the Public Service, 'Annual statement on APS Reform', speech, 2 November 2023, available from <https://ministers.pmc.gov.au/gallagher/2023/annual-statement-aps-reform> [accessed 12 December 2023]. The *Australian Public Service Reform Annual Progress Report 2023* is available online. APS Reform, *Australian Public Service Reform Annual Progress Report 2023*, undated, available from <https://www.apsreform.gov.au/sites/default/files/resource/download/APS%20Reform%20Annual%20Progress%20Report%201.pdf> [accessed 3 April 2024].

88 Catherine Holmes AC SC, *Report of the Royal Commission into the Robodebt Scheme*, 7 July 2023, available from <https://robodebt.royalcommission.gov.au/publications/report> [accessed 4 December 2023]. The origins of the Royal Commission were described as follows, at p. (v) of the report.

The Royal Commission into the Robodebt Scheme was established by Letters Patent on 18 August 2022 under the *Royal Commissions Act 1902* (Cth) to inquire into the Robodebt Scheme (the Scheme), and I was appointed Royal Commissioner. The Scheme was a proposal developed by the Department of Human Services (DHS), put forward as a budget measure by the Minister for Social Services in 2015 and begun that year (initially in pilot form and expanded in subsequent budgets). It was designed to recover supposed overpayments from welfare recipients going back to the financial year 2010–11 and relied heavily on a process known as "income averaging" to assess income and entitlement to benefit. As used, it neither produced accurate results nor complied with the income calculation provisions of the *Social Security Act 1991* (Cth). By the end of 2016, the scheme was the subject of heavy public criticism but was nonetheless persisted with until November 2019, when it was announced that debts would no longer be raised solely on the basis of averaged income. That was followed in 2020 by the settlement of a class action and a decision to reduce all debts raised in whole or part through averaging to zero. In June 2020 then prime minister, the Hon Scott Morrison MP, apologised for the Scheme.

89 *ibid.*, Report Volume 1, pp. 635–51.

1.46 The Royal Commission made 57 recommendations⁹⁰, including the following recommendations directly affecting the APSC.

Recommendation 23.2: Obligations of public servants

The APSC should, as recommended by the Thodey Review, deliver whole-of-service induction on essential knowledge required for public servants.

Recommendation 23.7: Agency heads being held to account

The Public Service Act should be amended to make it clear that the Australian Public Service Commissioner can inquire into the conduct of former Agency Heads. Also, the Public Service Act should be amended to allow for a disciplinary declaration to be made against former APS employees and former Agency Heads.

Recommendation 23.8: Documenting decisions and discussions

The Australian Public Service Commission should develop standards for documenting important decisions and discussions, and the delivery of training on those standards.⁹¹

1.47 The Royal Commissioner's letter of transmittal to the Governor-General also advised that:

I have provided to you an additional chapter of the report which has not been included in the bound report and is sealed. It recommends the referral of individuals for civil action or criminal prosecution. I recommend that this additional chapter remain sealed and not be tabled with the rest of the report so as not to prejudice the conduct of any future civil action or criminal prosecution.

I am also submitting relevant parts of the additional chapter of the report to heads of various Commonwealth agencies; the Australian Public Service Commissioner, the National Anti-Corruption Commissioner, the President of the Law Society of the Australian Capital [sic] Territory and the Australian Federal Police.⁹²

1.48 In the preface to the report, the Royal Commissioner stated the following.

It is remarkable how little interest there seems to have been in ensuring the Scheme's legality, how rushed its implementation was, how little thought was given to how it would affect welfare recipients and the lengths to which public servants were prepared to go to oblige ministers on a quest for savings. Truly dismaying was the revelation of dishonesty and collusion to prevent the Scheme's lack of legal foundation coming to light. Equally disheartening was the ineffectiveness of what one might consider institutional checks and balances – the Commonwealth Ombudsman's Office, the Office of Legal Services Coordination, the Office of the Australian Information Commissioner and the Administrative Appeals Tribunal – in presenting any hindrance to the Scheme's continuance.

The report makes a number of recommendations. Some are directed at strengthening the public service more broadly, some to improving the processes of the Department of Social Services and Services Australia. Others are concerned with reinforcing the capability of oversight agencies. A sealed chapter contains referrals of information concerning some persons for further investigation by other bodies. That in part is intended as a means of holding individuals to account, in order to reinforce the importance of public service officers' acting with integrity.

But as to how effective any recommended change can be, I want to make two points. First, whether a public service can be developed with sufficient robustness to ensure that something of the like of the

90 Catherine Holmes AC SC, *Report of the Royal Commission into the Robodebt Scheme*, Report Volume 1, p. xiii. The report stated that the Commissioner had made 57 recommendations.

91 *ibid.*, Report Volume 1, pp. xx–xi.

92 *ibid.*, Report Volume 1, Royal Commissioner's transmittal letter, 7 July 2023, p. i.

Robodebt Scheme could not occur again will depend on the will of the government of the day, because culture is set from the top down.⁹³

1.49 On 10 July 2023, the Secretary of PM&C and the Commissioner released a joint message to the APS on the Royal Commission, advising the following.

- A taskforce led by PM&C, the Attorney-General's Department, and the APSC would be established to support Ministers in preparing the Australian Government's response to the Royal Commission recommendations.
- Separate to this, the APSC would oversee a process to determine if public servants with adverse findings had breached the APS Code of Conduct. This process would be established under the Commissioner's powers in the PS Act and would be 'designed to be fair, independent, and consistent.'
- The APSC had engaged Mr Stephen Sedgwick AO to exercise these powers as an Independent Reviewer. Mr Sedgwick would make inquiries and determinations about whether an individual referred for inquiry had breached the APS Code of Conduct.⁹⁴

Code of Conduct processes

1.50 On 3 August 2023 the APSC provided additional information on the Code of Conduct processes, including the appointment of a supplementary reviewer and a sanctions adviser.⁹⁵ The APSC also stated that:

The Royal Commission only referred individuals to the Australian Public Service Commissioner in the sealed section of its report who, if found to have breached the Code of Conduct, could be subject to a sanction. This means that only current APS employees who may be subject to sanctions were proposed for a possible Code of Conduct investigation by the APSC.

To ensure equitable treatment of current APS employees, former APS employees and former APS Agency Heads, further consideration was given to whether additional referrals to the centralised code of conduct mechanism, was warranted with respect to:

- former APS employees, by Agency Heads, in consultation with the Code of Conduct Taskforce in the APSC;
- current APS employees mentioned in the open version of the Royal Commission report but not referred in the sealed section, by Agency Heads, in consultation with the Code of Conduct Taskforce in the APSC; and
- former Agency Heads, with the Secretary of the Department of the Prime Minister and Cabinet advising the Minister for the Public Service to make referrals under section 41(2)(k) of the *Public Service Act 1999* to the Australian Public Service Commissioner.

93 Catherine Holmes AC SC, *Report of the Royal Commission into the Robodebt Scheme*, Report Volume 1, p. iii.

94 Professor Glyn Davis AC and Dr Gordon de Brouwer PSM, 'A message to you from PM&C Secretary Davis and Commissioner de Brouwer on the Royal Commission into the Robodebt Scheme', 10 July 2023, available from <https://www.apsc.gov.au/news-and-events/open-letters-australian-public-service/message-you-pmc-secretary-davis-and-aps-commissioner-de-brouwer-royal-commission-robodebt-scheme> [accessed 4 December 2023].

95 Australian Public Service Commission, 'Robodebt Code of Conduct process', available from <https://www.apsc.gov.au/working-aps/integrity/robodebt-code-conduct-process> [accessed 4 December 2023].

The [APS] Commissioner has now received 16 referrals to the APSC's centralised code of conduct mechanism, consisting of:

- current APS employees named in the sealed section of the Royal Commission's report
- former APS employees referred by their most recent Agency Head, and
- former Agency Heads referred by the Minister following advice from the Secretary of the Department of the Prime Minister and Cabinet.

1.51 The APSC provided a further update on 8 February 2024, as follows⁹⁶:

Since the last update on 3 August 2023, the Code of Conduct Taskforce in the APSC has continued inquiries into all 16 referred matters.

To date:

- 15 investigations have proceeded to the issuing of notices outlining the grounds and categories for potential breach of the APS Code of Conduct.
 - Of the 15 investigations, 4 individuals have been issued a preliminary determination that they have breached one or more elements of the APS Code of Conduct; 11 investigations remain current.
- One investigation has concluded as the individual's actions did not meet the threshold to issue a notice of suspected breach.

Final determinations and, if appropriate, decisions about sanctions will be communicated to individuals once preliminary determinations are finalised. The timeframe for the conclusion of inquiries depends on various factors, including the complexity of each matter, the number of submissions and any extensions that may be requested by respondents.

The 16 matters are complex, with a significant volume of evidence. Sufficient time is required to allow the Independent Reviewers, Mr Stephen Sedgwick AO and Ms Penny Shakespeare, to conduct the inquiries in a manner that is robust and affords respondents appropriate procedural fairness.

Government response to Royal Commission recommendations

1.52 The Australian Government tabled its response to the Royal Commission's recommendations on 13 November 2023.⁹⁷ In respect to the APS, the ministerial foreword to the response stated that:

the Royal Commission found serious failings within the Australian Public Service and with the institutional checks and balances that should have put a stop to the Robodebt Scheme long before the Federal Court found it unlawful.⁹⁸

1.53 The response also stated that 'The Commission produced 56 valuable recommendations, which are principally directed at strengthening the Australian Public Service and capability of oversight agencies.'⁹⁹

96 Australian Public Service Commission, 'Robodebt Code of Conduct process', available from <https://www.apsc.gov.au/working-aps/integrity/robodebt-code-conduct-process> [accessed 19 February 2024].

97 Commonwealth of Australia, Department of the Prime Minister and Cabinet, *Royal Commission into the Robodebt Scheme – Government Response*, November 2023, available from <https://www.pmc.gov.au/resources/government-response-royal-commission-robodebt-scheme> [accessed 4 December 2023].

98 *ibid.*, 'Ministerial Foreword', Attorney-General and Minister for the Public Service, p. 3.

99 *ibid.*, 'Australian Government Response to the Report of the Royal Commission into the Robodebt Scheme', p. 5.

1.54 The government announced that it had accepted or accepted in principle the 56 recommendations made by the Royal Commission.¹⁰⁰ The government accepted the three recommendations directly affecting the APSC, as discussed in paragraph 1.46.¹⁰¹

2023 APS integrity action plan

1.55 The APS Secretaries Board published an *APS Integrity Action Plan*¹⁰² and *Integrity Good Practice Guide*¹⁰³ on 17 November 2023.

1.56 These documents were accompanied by ‘A message to all APS staff on APS integrity’ by the Secretary of PM&C and the Commissioner¹⁰⁴ which stated the following.

Integrity is deeply important to our work in the public service. It underpins the trust of the Australian public, who rely on us to serve their interests and deliver the best outcomes for Australia.

The Secretaries Board is committed to promoting a pro-integrity culture where all staff feel confident to contribute ideas, provide frank and independent advice and report mistakes. In this spirit, Secretaries Board set up the APS Integrity Taskforce.

The Taskforce was asked to take a ‘bird’s-eye’ view of the APS integrity landscape, to identify gaps and look for opportunities to learn from and build upon the important work already progressing across the service. The work of the Taskforce complements the Integrity pillar of the government’s APS Reform agenda and the establishment of the National Anti-Corruption Commission. It is particularly pertinent in the context of the release of the Government’s Response to the Robodebt Royal Commission this week.

We encourage all staff to reflect on how integrity shapes our work for the Australian public. The ‘Integrity Good Practice Guide’ includes a range of practical examples of how you can contribute to a pro-integrity culture.

1.57 In an opening chapter on ‘The opportunity and why it matters’ in the APS Integrity Action Plan, the APS Integrity Taskforce (taskforce) stated that:

The integrity of the public service is one of the key drivers of public trust in government institutions. Recent lessons in public administration offer us a crucial opportunity for reflection,

100 The government response stated at p. 8 that the Commission ‘made 56 recommendations and one closing observation’ relating to repeal of section 34 of the *Freedom of Information Act 1982*. The Royal Commission report stated at p. xiii that the Commissioner had made 57 recommendations.

The government response also stated, at p. 8, that: ‘Where a recommendation has been accepted in principle, the Government is committed to achieve the objective of the recommendation but has either identified an alternative means of doing so, or considers that further consideration is needed.’

101 *ibid.*, ‘Australian Government Response to the Report of the Royal Commission into the Robodebt Scheme’, pp. 36–39.

102 Department of the Prime Minister and Cabinet, APS Integrity Taskforce, *Louder Than Words: An APS Integrity Action Plan*, November 2023, available from <https://www.pmc.gov.au/resources/louder-words-aps-integrity-action-plan> [accessed 11 December 2023].

103 Department of the Prime Minister and Cabinet, APS Integrity Taskforce, *Integrity Good Practice Guide*, November 2023, available from <https://www.pmc.gov.au/resources/integrity-good-practice-guide> [accessed 11 December 2023].

104 Professor Glyn Davis AC and Dr Gordon de Brouwer PSM, ‘A message to all APS staff on APS integrity’, 17 November 2023, available from <https://www.pmc.gov.au/news/message-all-aps-staff-aps-integrity> [accessed 16 June 2024].

learning and action on integrity across the Australian Public Service (APS). We should grab it with both hands.

If failures in public administration do occur, we need to be willing to learn from these mistakes. Otherwise we risk eroding trust, which can undermine the APS as an effective democratic institution.

Integrity is a broad concept. At its heart it is concerned with individual and institutional trustworthiness, and demands high standards of ethical behaviour and respect for the law. The Australian Public Service Commission (APSC) defines integrity as “doing the right thing at the right time” to “deliver the best outcomes for Australia sought by the government of the day”. In practice it means our behaviour matches the APS Values and we are accountable when it does not. At the systems level, integrity also refers to being ‘whole and undivided’, which means the APS needs to adopt a more strategic and coordinated approach to integrity across the service.¹⁰⁵

1.58 The taskforce indicated that it had been asked to examine ‘culture’, ‘systems’ and ‘accountability’, and considered that:

The three action areas are interdependent, and all are necessary to be a public service with integrity at its heart. While the Taskforce has made recommendations on all three areas, there is a particular emphasis on the unique role of APS leadership as cultural architects for integrity. Our capability uplift recommendations therefore largely focus on SES. Integrity requires action at all levels, but without the right tone and demonstration from the top there will be no lasting impact.¹⁰⁶

1.59 Box 5 sets out other themes highlighted by the taskforce in the opening chapter.

Box 5: Opening chapter of the 2023 APS Integrity Action Plan — ‘The opportunity and why it matters’^a

Compliance with frameworks (page 3)

The APS has strong conduct and financial probity frameworks which need to be understood and enforced. Compliance processes are important, and leaders need to adopt a positive attitude to internal assurance and external oversight. But this alone is not enough. Being overly focused on formal processes and rules risks overlooking the informal leadership-based efforts and communication that have an important impact on the ethical culture of organisations.

Cultures of fear and silence (page 3)

Where cultures are based on fear and silence, integrity cannot thrive. If the APS is serious about preventing problems, leaders need to provide the psychological safety necessary for staff to raise issues, ask questions, and point out when lines are crossed without risk of negative consequences. This means giving leaders the skills, behaviours and communication tools to build respect and trust.

Ministers and their advisers (page 3)

Leaders need to create an environment that empowers staff to perform their roles as impartial advisers in the public interest. The relationship of trust with ministers and their advisers is

105 Department of the Prime Minister and Cabinet, APS Integrity Taskforce, *Louder Than Words: An APS Integrity Action Plan*, November 2023, p. 2, available from <https://www.pmc.gov.au/resources/louder-words-aps-integrity-action-plan> [accessed 11 December 2023].

106 Department of the Prime Minister and Cabinet, APS Integrity Taskforce, *Louder Than Words: An APS Integrity Action Plan*, November 2023, p. 3.

crucial. Ministers want, and generally appreciate, candid advice that is evidence-based and solutions-focused. We have recommended bolstering work to assist ministers' offices to better understand the different and complementary role played by the public service. Equally, our staff need to feel supported by the senior executive in providing frank and fearless advice to the government of the day.

Delivery at all costs (page 4)

Role clarity, combined with ethical decision making, tempers the mindset of delivery 'at all costs' and the integrity risks it entails. Uniform induction addressing the fundamentals of being a public servant is available but needs to be more consistently implemented with a stronger focus on integrity and dealing with ambiguity. We also need leaders to give more than lip service to the importance of this obligation.

Legality (page 4)

Legality is the minimum standard expected of public servants. More work is needed to make sure APS staff not only uphold their obligations but are empowered to model the highest ethical standards of behaviour.

Note a: Department of the Prime Minister and Cabinet, APS Integrity Taskforce, *Louder Than Words: An APS Integrity Action Plan*, November 2023, pp. 2–5.

1.60 The taskforce indicated that it had sought to avoid duplication and used its recommendations 'to identify gaps or strengthen and uplift existing work or good practices'.¹⁰⁷ It made 15 recommendations and stated that five related to 'culture', five to 'systems' and five to 'accountability'.¹⁰⁸ The majority of the recommendations focused on improving the APS' understanding and or application of existing professional, legal and performance expectations under the PS Act framework.

1.61 The taskforce's *Integrity Good Practice Guide* stated that:

There is currently a high volume of activity across the Commonwealth to strengthen integrity systems and culture' and indicated that it 'presents initiatives that can be readily implemented across the integrity "lifecycle" of an entity, from strategy through to implementation, monitoring and evaluation'.¹⁰⁹

1.62 The document included sections on: implementing an integrity strategy; integrity champions and leadership; an integrated approach to integrity; a baseline of integrity knowledge; integrity rewards and recognition; integrity conversations and regular communications; integrity and ethics advice; integrity reporting channels; integrity evaluation and oversight; integrity data; and a finance integrity metrics register. the taskforce further stated that: 'The emphasis is on integrity culture rather than pure compliance with integrity obligations.'¹¹⁰

107 Department of the Prime Minister and Cabinet, APS Integrity Taskforce, *Louder Than Words: An APS Integrity Action Plan*, November 2023, p. 5, available from <https://www.pmc.gov.au/resources/louder-words-aps-integrity-action-plan> [accessed 11 December 2023].

108 *ibid.*, pp. 7–8.

109 Department of the Prime Minister and Cabinet, APS Integrity Taskforce, *Integrity Good Practice Guide*, November 2023, p. 2, available from <https://www.pmc.gov.au/resources/integrity-good-practice-guide> [accessed 11 December 2023].

110 *ibid.*, p. 2.

2023 code of conduct inquiry and termination — Secretary Pezzullo

1.63 On 26 September 2023 the APSC announced¹¹¹ that the Commissioner had received a referral from the Minister for Home Affairs ‘after concerns were raised about Secretary of the Department of Home Affairs, Mr Michael Pezzullo AO’. The APSC stated that Mr Pezzullo had stood aside as secretary and that the Commissioner had appointed a former APS Commissioner (Ms Lynelle Briggs AO) to lead an inquiry into alleged breaches of the APS Code of Conduct.

1.64 On 27 November 2023 the APSC further announced¹¹² that the referral from the Minister for Home Affairs had been received on 24 September 2023 and that the subsequent inquiry had:

determined that Mr Pezzullo breached the Australian Public Service Code of Conduct on at least 14 occasions in relation to 5 overarching allegations, those allegations being that Mr Pezzullo:

- used his duty, power, status or authority to seek to gain a benefit or advantage for himself,
- engaged in gossip and disrespectful critique of Ministers and public servants,
- failed to maintain confidentiality of sensitive government information,
- failed to act apolitically in his employment,
- failed to disclose a conflict of interest

By way of sanction, Ms Briggs recommended that Mr Pezzullo’s appointment as a Secretary be terminated pursuant to section 59 of the Public Service Act.

1.65 On 27 November 2023 the Prime Minister announced¹¹³ that Mr Pezzullo’s appointment as Secretary of the Department of Home Affairs had been terminated and that:

This action was based on a recommendation to me by the Secretary of the Department of the Prime Minister and Cabinet and the Australian Public Service Commissioner, following an independent inquiry by Lynelle Briggs. That inquiry found breaches of the Australian Public Service Code of Conduct by Mr Pezzullo. Mr Pezzullo fully cooperated with the inquiry.

1.66 The appointment of a new Secretary of the Department of Home Affairs was announced on 28 November 2023 and the appointment commenced on that day.¹¹⁴

111 Australian Public Service Commission, ‘Media statement: Referral of Michael Pezzullo to the Australian Public Service Commissioner’, 26 September 2023, available from <https://www.apsc.gov.au/about-us/working-commission/who-we-are/media-releases-and-statements/media-statement-referral-michael-pezzullo-australian-public-service-commissioner> [accessed 4 December 2023].

112 Australian Public Service Commission, ‘Media statement on the inquiry into possible breaches of the APS Code of Conduct by Mr Michael Pezzullo AO’, 27 November 2023, available from <https://www.apsc.gov.au/about-us/working-commission/who-we-are/media-releases-and-statements/media-statement-inquiry-possible-breaches-aps-code-conduct-mr-michael-pezzullo-ao> [accessed 4 December 2023].

113 Prime Minister, ‘Secretary of the Department of Home Affairs, Media statement’, 27 November 2023, available from <https://www.pm.gov.au/media/secretary-department-home-affairs> [accessed 4 December 2023].

114 The government announcement of 28 November 2023 did not mention whether a merit-based appointment process had been adopted. The Minister for the Public Service had announced on 2 November 2023 that:

The next phase of APS reforms will include requirements for the PM&C Secretary and the APS Commissioner to conduct merit-based appointments processes for Secretary roles to build rigour into the advice provided to the Prime Minister on candidates.

Minister for the Public Service, *Annual statement on APS Reform* (speech), 2 November 2023, available from <https://ministers.pmc.gov.au/gallagher/2023/annual-statement-aps-reform> [accessed 12 December 2023].

1.67 Mr Pezzullo was appointed as a secretary in October 2014 and was a member of the Secretaries Board discussed in paragraph 1.72. The board was established following amendments to the PS Act which took effect in 2013 and has had an APS ‘stewardship’ function since its creation.

State of the Service Report 2022–23

1.68 Subsection 44(1) of the PS Act states that the Commissioner must give a report to the agency minister, for presentation to the Parliament, on the state of the APS during the past year. Subsection 44(3) requires the report to be laid before each House of Parliament by 30 November 2023.

1.69 The Commissioner provided the *State of the Service Report 2022–23* to the Assistant Minister for the Public Service on 6 November 2023¹¹⁵ and the report was presented for tabling in the Parliament on 29 November 2023.¹¹⁶ This was the 26th such report.

1.70 In the report, the APSC observed that:

Building community trust in the Australian Public Service is a priority, and there is a renewed focus on strengthening leadership and integrity across the service. Recommendations arising from the Royal Commission into the Robodebt Scheme have been agreed, or agreed in principle, by the Australian Government. Code of Conduct matters raised by the Royal Commission are being assessed. The APS Integrity Taskforce has worked to identify system-wide improvements to support a pro-integrity culture at all levels.¹¹⁷

1.71 The report included commentary on recent criticisms of APS integrity, rebuilding trust, and strengthening leadership and integrity (see Box 6).

Box 6: *State of the Service Report 2022–23*

A message from the APS Commissioner (page 9)

The Australian Public Service, through its 104 agencies, and more than 170,000 staff, undertakes diverse work which affects all Australians.

The foundation for this, and the requirements of our jobs – what we do, and how we do it – is set out in law, especially the Public Service Act and the Public Governance, Performance and Accountability Act. As public servants, we serve the Government, the Parliament and the Australian people. The way we do this must be in keeping with the APS Values and the APS Code of Conduct.

This report covers inquiries and other key issues for the APS over the past year, and how we are responding to them. Whether it is agencies considering the findings of major reviews like the Robodebt Royal Commission, or an individual employee reflecting on a wrong call, what matters is that the APS is a workplace where people can provide frank, evidence-based advice, and change course when needed.

115 APSC, *State of the Service Report 2022-23*, letter of transmittal, p. 3, available from <https://www.apsc.gov.au/initiatives-and-programs/workforce-information/research-analysis-and-publications/state-service/state-service-report-2023> [accessed 13 December 2023].

116 Assistant Minister for the Public Service, ‘APS reforms already having a positive impact on Australia’s public service’, media release, 29 November 2023, available from <https://ministers.pmc.gov.au/gorman/2023/aps-reforms-already-having-positive-impact-australias-public-service> [accessed 13 December 2023].

117 Australian Public Service Commission, *State of the Service Report 2022–23*, 10 November 2023, ‘Leadership’ chapter, p. 75, available from <https://www.apsc.gov.au/initiatives-and-programs/workforce-information/research-analysis-and-publications/state-service/state-service-report-2023> [accessed 1 December 2023].

Operating context (page 17)

It [the Australian Government] has announced a plan to build a stronger Australian Public Service through public sector reform. APS Reform is a service-wide undertaking to strengthen and empower the public service and increase trust and confidence in Australia's public sector institutions.

Frank, honest and evidence-based advice (page 76)

Leaders in the Australian Public Service have a responsibility to serve the Government, the Parliament and the Australian public. They do so by providing advice that is relevant and comprehensive, is not affected by fear of consequences, and does not withhold important facts or bad news. These responsibilities are made clear in the Australian Public Service Commissioner's Directions 2022.

Recent public, critical examinations of the APS have found that these principles have not always been upheld. The Royal Commission into the Robodebt Scheme highlights failures in providing frank, evidence-based advice and implementing programs in accordance with the law.

Rebuilding trust in the APS is a priority. It includes reinforcing a culture with integrity at its core. It includes creating an environment in which leaders and employees are robust in the way they formulate advice to Government, and authentic in how they put it forward. Rebuilding trust also means that public servants should have front of mind their responsibility to achieve the best results for the Australian community and the Government, as made clear in the APS Value – Committed to service.

There is a strong and renewed focus on strengthening leadership and integrity across the APS.

Identifying and developing leadership talent (page 82)

Strong public sector leadership that has integrity, can navigate complexity and draw on diversity of opinion is critical to deliver the Australian Government's reform agenda. It is also critical to strengthen the APS as an institution.

This is particularly important as the APS responds to the findings of the Royal Commission into the Robodebt Scheme. The APS will need to learn from the findings and systematically focus on identifying leaders capable of delivering for Government, with the right behaviours and approaches for the future, while developing leadership capability at all levels.

Integrity (page 85)

The work of the Australian Public Service affects all members of the Australian community. The APS can improve and maintain the trust of the community by acting with integrity and being accountable in the way it implements Australian Government policies and programs. The APS is expected to lead the way on respectful and ethical workplaces.

Ethics Advisory Service (page 93)

The APSC's Ethics Advisory Service provides information, policy advice and guidance to APS employees at all levels on the application of the APS Values and the Code of Conduct to promote ethical decision-making across the public service. In 2022–23, the Ethics Advisory Service received 400 enquiries – 137 from individual APS employees, and 139 from agency human resources areas and managers. The remaining 124 enquiries were from former employees, were anonymous, or out of scope.

Code of Conduct (page 172)

In the 2023 Australian Public Service Agency Survey, agencies reported that 555 employees were the subject of an investigation into a suspected breach of the APS Code of Conduct that was finalised in 2022–23. Table A2.1 [of the report] presents the number of APS employees investigated by agencies for suspected breaches of individual elements of the APS Code of Conduct and the number of breach

findings in 2022–23. One employee can be investigated for multiple elements of the Code of Conduct of the *Public Service Act 1999*.

Secretaries Board

1.72 As outlined in Table A4.1 of the *State of the Service Report 2022–23*, the Commissioner is the Deputy Chair of the Secretaries Board. Appendix 4 of the *State of the Service Report 2022–23* reported on the board and its subcommittees. The report stated that:

Established under the *Public Service Act 1999*, the Secretaries Board is responsible for stewardship of the Australian Public Service, including:

- identifying strategic priorities and issues that affect the APS
- developing and implementing strategies to improve the APS
- drawing together advice from senior leaders in government, business and the community.

The Secretaries Board achieves this while working collaboratively and modelling leadership behaviours.¹¹⁸

1.73 The *State of the Service Report 2022–23* reproduced a ‘Secretaries Charter of Leadership Behaviours’ (charter) that was released in August 2022.¹¹⁹ The charter stated the following about its purpose.

The Charter of Leadership Behaviours sets out the behaviours that we, as Secretaries, expect of ourselves and our SES, and want to see in leaders at all levels of the APS.

The Charter focuses on behaviours that support modern systems leadership within the construct of the APS Values and Code of Conduct.

We encourage all APS leaders to consider how you can live up to these behaviours, where relevant to your role.¹²⁰

1.74 The charter stated that the expected leadership behaviours were: ‘be Dynamic’, ‘be Respectful’, ‘have Integrity’, ‘Value others’, and ‘Empower people’ (‘DRIVE’). In respect to integrity, the charter stated the following.

have **Integrity**

Be open, honest and accountable

Take responsibility for what happens around you

Have courage to call out unacceptable behaviour¹²¹ [emphasis in original]

1.75 The *State of the Service Report 2021–22* had also included a leadership capabilities model. That report stated that:

118 Australian Public Service Commission, *State of the Service Report 2022–23*, 10 November 2023, ‘Leadership’ chapter, p. 201.

119 Australian Public Service Commission, *State of the Service Report 2022–23*, 10 November 2023, ‘Leadership’ chapter, p. 78.

See also Australian Public Service Commission, ‘Secretaries Charter of Leadership Behaviours’, 25 August 2022, available from <https://www.apsc.gov.au/initiatives-and-programs/learning-and-development/secretaries-charter-leadership-behaviours> [accessed 14 December 2023].

120 *ibid.*, Appendix 4–Secretaries Board, pp. 201–202.

121 *ibid.*, p. 78.

The APSC has strengthened the capability of public servants to model, champion and advance institutional integrity through a new leadership capabilities model, endorsed by the Secretaries Talent Council and Deputy Secretaries Talent Council: VICEED.¹²²

1.76 The *State of the Service Report 2021–22* stated that the ‘VICEED Leadership Capabilities Model’ had six leadership capabilities: ‘Visionary’, ‘Influential’, ‘Collaborative’, ‘Delivers’, ‘Enabling’ and ‘Entrepreneurial’ (‘VICEED’). The model also included the statement that a leader ‘Models, champions and advances institutional integrity’.¹²³ The *State of the Service Report 2021–22* was released in November 2022. In addition to setting out ‘VICEED’, it included a section on the charter (‘DRIVE’) released in August 2022.¹²⁴ The report did not explain the relationship between ‘VICEED’ and ‘DRIVE’.

1.77 Appendix 4 of the *State of the Service Report 2022–23* reported that during the reporting period (1 July 2022 to 30 June 2023) there had been a change of personnel for seven of the 18 positions¹²⁵ on the Secretaries Board.¹²⁶ This represents 39 per cent turnover on the Secretaries Board. ANAO analysis indicates the following.

- From 1 July 2022 to 31 December 2023, there had been a change of personnel for 12 of the 18 positions on the Secretaries Board (67 per cent turnover).¹²⁷
- From 1 July 2022 to 31 December 2023, for the 16 Australian Government departments, 11 of the 16 secretary positions had a change of personnel (69 per cent turnover).¹²⁸

Integrity maturity guidance

1.78 In April 2022 the APSC released a non-mandatory *Integrity Metrics Resource* directed to APS agencies. It was intended to assist agencies to measure, monitor and report on their integrity performance. The resource was intended to support agencies to understand their current integrity measurement capability and make informed decisions on where to focus future effort to lift

122 Australian Public Service Commission, *State of the Service Report 2021–22*, 3 November 2022, pp. 15–16, available from <https://www.apsc.gov.au/sites/default/files/2022-11/APS%20State%20of%20the%20Service%20Report%202021%20%28Accessible%29%E2%80%939322.pdf> [accessed 15 December 2023].

123 *ibid.*, p. 15.

The APSC website states that: ‘The Secretaries Talent Council, with the endorsement of the Secretaries Board and COO Committee, released the [VICEED] APS Leadership Capability Framework to make clear the leadership capabilities considered critical for success in the most senior roles in the APS. The Framework was updated as part of the development of the *APS Workforce Strategy 2025* to include driving a pro-integrity culture, a citizen centric focus and a commitment to life-long learning.’ See APSC, ‘Leadership Capabilities’, 30 July 2021, available from <https://www.apsc.gov.au/initiatives-and-programs/learning-and-development/leadership-capabilities> [accessed 15 December 2023].

124 Australian Public Service Commission, *State of the Service Report 2021–22*, 3 November 2022, pp. 56–58.

125 The number of persons on the Board reduced from 19 to 18 on 11 May 2023 as the Secretary for Public Sector Reform in PM&C was appointed as the APS Commissioner.

126 Australian Public Service Commission, *State of the Service Report 2022–23*, 10 November 2023, Table A4.1, pp. 201–202, available from <https://www.apsc.gov.au/initiatives-and-programs/workforce-information/research-analysis-and-publications/state-service/state-service-report-2023> [accessed 1 December 2023].

127 The Secretaries Board includes persons who are not secretaries, such as the APS Commissioner. For this analysis turnover included all appointments, departures and transfers of board members. One transfer was the Secretary for Public Sector Reform in PM&C, who was appointed APS Commissioner.

128 For this analysis turnover included all appointments, departures and transfers into and out of departmental secretary positions.

integrity measurement, monitoring and reporting. The APSC stated that it was considered good practice for agencies to undertake this activity at regular intervals.¹²⁹

1.79 In December 2022 the Australian Commission for Law Enforcement Integrity (ACLEI) released a *Commonwealth Integrity Maturity Framework* to support the design, implementation and review of the effectiveness of integrity frameworks in Commonwealth entities.¹³⁰ The framework was launched in anticipation of the National Anti-Corruption Commission's (NACC) establishment and was subsequently placed on the NACC website.¹³¹ ACLEI was subsumed by the NACC from 1 July 2023. The NACC has stated that the project has drawn from the APSC's *Integrity Metrics Maturity Model*. Entities decide how to use the integrity maturity resources.

1.80 The November 2023 APS Integrity Action Plan stated that:

Integrity maturity self-assessments not only embed a culture of continuous improvement but also start an important cultural conversation about what integrity means to each agency and its staff.¹³²

1.81 The APS Integrity Action Plan also stated that secretaries would 'upscale integrity maturity across the Commonwealth' by: undertaking an agency self-assessment against the *Commonwealth Integrity Maturity Framework* and reporting back to the Secretaries Board by September 2024 on plans to upscale their agency's integrity maturity; support agency heads within their portfolios to do the same; and circulating the *Integrity Good Practice Guide* released with the APS Integrity Action Plan.¹³³

National Anti-Corruption Commission

1.82 The NACC commenced on 1 July 2023. It is established under the *National Anti-Corruption Commission Act 2022* to investigate allegations of serious or systemic corrupt conduct within the Commonwealth public sector, including conduct that occurred before it was established.¹³⁴ The NACC reports publicly on the number of referrals it has received and the number of investigations it has opened.¹³⁵

129 Australian Public Service Commission, *Integrity Metrics Resource*, 28 April 2022, available from <https://www.apsc.gov.au/working-aps/integrity/integrity-metrics-resource> and <https://www.apsc.gov.au/sites/default/files/2022-05/Integrity%20Metrics%20Resource.pdf> [accessed 15 December 2023].

130 The *Commonwealth Integrity Maturity Framework* is now accessible on the National Anti-Corruption Commission website. National Anti-Corruption Commission, *Commonwealth Integrity Maturity Framework*, available from <https://www.nacc.gov.au/commonwealth-integrity-maturity-framework> [accessed 16 June 2024].

131 National Anti-Corruption Commission, *Commonwealth Integrity Maturity Framework*, available from <https://www.nacc.gov.au/commonwealth-integrity-maturity-framework> [accessed 11 December 2023].

132 Department of the Prime Minister and Cabinet, APS Integrity Taskforce, *Louder Than Words: An APS Integrity Action Plan*, November 2023, p. 21, available from <https://www.pmc.gov.au/resources/louder-words-aps-integrity-action-plan> [accessed 11 December 2023].

133 *ibid.*, p. 21.

134 National Anti-Corruption Commission, 'Overview of the NACC', available from <https://www.nacc.gov.au/about-nacc/overview> [accessed 11 December 2023].

135 National Anti-Corruption Commission, 'Update: referrals, assessment and investigations', 6 December 2023, available from <https://www.nacc.gov.au/news-and-media/update-referrals-assessment-and-investigations-06-DEC-2023> [11 December 2023].

1.83 The NACC also has a mandate to educate the public service and the public about corruption risks and prevention.¹³⁶ As discussed in paragraph 1.79, the NACC has adopted the *Commonwealth Integrity Maturity Framework* as part of its work in this regard.

Parliamentary inquiries and previous audits

1.84 On 27 June 2023, the Parliament's Joint Committee of Public Accounts and Audit (JCPAA) adopted an inquiry into probity and ethics in the Australian Public Sector, 'with a view to examining whether there are systemic factors contributing to poor ethical behaviour in government agencies, and identifying opportunities to strengthen government integrity and accountability'.¹³⁷ The JCPAA indicated that the inquiry would have particular regard to any matters contained in or connected to five Auditor-General reports.¹³⁸ The inquiry followed recent JCPAA inquiries that had reviewed entities' grants administration and procurement, including issues relating to probity, compliance

136 National Anti-Corruption Commission, 'Overview of the NACC', available from <https://www.nacc.gov.au/about-nacc/overview> [accessed 11 December 2023].

137 Joint Committee of Public Accounts and Audit, 'Inquiry into probity and ethics in the Australian Public Sector', inquiry page, available from https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Public_Accounts_and_Audit/AustralianPublicSector [accessed 11 December 2023].

138 The five Auditor-General reports were:

- Auditor-General Report No.31 2022–23, *Administration of the Community Health and Hospitals Program*, ANAO, Canberra, 2023, available from <https://www.anao.gov.au/work/performance-audit/administration-of-the-community-health-and-hospitals-program> [accessed 15 December 2023]. Amongst other things, the ANAO found that the Department of Health and Aged Care's grants administration was ineffective and fell short of ethical requirements. In particular, the department deliberately breached the Commonwealth Grants Rules and Guidelines (CGRGs) and failed to advise government where there was no legislative authority for grant expenditure. Appendix 4 of the audit report set out key ethical behaviour requirements and instances of entity non-compliance. The department is an APS agency.
- Auditor-General Report No.18 2022–23, *Acquisition, Management and Leasing of Artworks by Artbank*, ANAO, Canberra, 2023, available from <https://www.anao.gov.au/work/performance-audit/acquisition-management-and-leasing-artworks-artbank> [accessed 15 December 2023]. The ANAO examined the department's approach to acquiring, managing and leasing Australian contemporary art under the Artbank program. The ANAO found issues in licensing practices. Fifteen duplicate copies of 14 time-based digital works were created so that those works could be rented 22 times to more than one client at a time. The department is an APS agency.
- Auditor-General Report No.30 2022–23, *Probity Management in Financial Regulators — Australian Prudential Regulation Authority*, ANAO, Canberra, 2023, available from <https://www.anao.gov.au/work/performance-audit/probity-management-financial-regulators-australian-prudential-regulation-authority> [accessed 15 December 2023]; Auditor-General Report No.36 2022–23, *Probity Management in Financial Regulators — Australian Securities and Investments Commission*, ANAO, Canberra, 2023, available from <https://www.anao.gov.au/work/performance-audit/probity-management-financial-regulators-australian-securities-and-investments-commission> [accessed 15 December 2023]; and Auditor-General Report No.38 2022–23, *Probity Management in Financial Regulators — Australian Competition and Consumer Commission*, ANAO, Canberra, 2023, available from <https://www.anao.gov.au/work/performance-audit/probity-management-financial-regulators-australian-competition-and-consumer-commission> [accessed 15 December 2023].

with whole-of-government frameworks, and the role of framework owners.¹³⁹ As part of its grants and procurement inquiries, the JCPAA considered findings in relevant ANAO performance audit reports, and ANAO submissions to the committee.

1.85 The ANAO's submission to the JCPAA inquiry into probity and ethics identified performance audits which had made findings relating to probity, ethics and integrity. It also included commentary on areas where audit evidence indicated that the public sector regularly falls short of expectations set out in its regulatory frameworks. These areas are procurement, grants administration, record keeping, performance measurement and reporting, and accountability for performance.¹⁴⁰

Rationale for undertaking the audit

1.86 The Australian Parliament has provided, in the PS Act, that all members of the APS are subject to the integrity, probity and ethical obligations specified in the Act. The Parliament has also provided that one of the three broad functions of the Commissioner under the Act is 'to uphold high standards of integrity and conduct in the APS'.¹⁴¹ The function of upholding APS integrity standards occurs in a changing and often dynamic operating environment, which in recent years has featured the following.

- Reviews, initiatives and investigations which have often focused on perceived shortcomings in upholding APS integrity, probity and ethics, including at the highest levels of APS leadership and the Secretaries Board.
- Australian Government statements that the Royal Commission Robodebt Scheme identified 'serious failings within the Australian Public Service'.¹⁴² The APSC has stated that 'Rebuilding trust in the APS is a priority'¹⁴³ and that this process includes 'reinforcing a culture with integrity at its core'.¹⁴⁴

139 The JCPAA reported on its grants and procurement inquiries in:

- *Report 495 Inquiry into Commonwealth grants administration*, June 2023, available from https://www.aph.gov.au/parliamentary_business/committees/joint/public_accounts_and_audit/~/link.aspx?id=57B1FDE43FD348FE97E6A9B3C9D52AA7&z=z [accessed 15 December 2023].
- Report 498: 'Commitment issues' – An inquiry into Commonwealth procurement, August 2023, available from https://www.aph.gov.au/parliamentary_business/committees/joint/public_accounts_and_audit/~/link.aspx?id=8D910891B0724A72BD2621E9AFB70D9D&z=z [accessed 15 December 2023].

140 Australian National Audit Office, Submission to the JCPAA Inquiry into probity and ethics in the Australian Public Sector (submission 5), 'Appendix 2: Selected areas where audit evidence indicates that the sector regularly falls short of expectations set out in its regulatory frameworks', pp. 14–16, available from https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Public_Accounts_and_Audit/AustralianPublicSector/Submissions [accessed 11 December 2023].

141 Subsection 41(1) of the PS Act lists three broad Commissioner functions. Subsection 41(2) of the PS Act lists a further 18 Commissioner functions.

142 Commonwealth of Australia, Department of the Prime Minister and Cabinet, *Royal Commission into the Robodebt Scheme – Government Response*, November 2023, 'Ministerial Foreword', Attorney-General and Minister for the Public Service, p. 3, available from <https://www.pmc.gov.au/resources/government-response-royal-commission-robodebt-scheme> [accessed 4 December 2023]. See paragraph 1.52 of this audit report.

143 Australian Public Service Commission, *State of the Service Report 2022–23*, 10 November 2023, p. 76, available from <https://www.apsc.gov.au/initiatives-and-programs/workforce-information/research-analysis-and-publications/state-service/state-service-report-2023> [accessed 1 December 2023].

144 *ibid*, p. 76. See Box 6 and paragraph 1.70 of this audit report.

- Leadership change at the top of the APS, with 69 per cent turnover of departmental secretaries between July 2022 and December 2023.¹⁴⁵
- Growth in APS employment. The APSC reported in March 2024 that at 31 December 2023 the APS headcount was 177,442, a 9.9 per cent increase since December 2022.¹⁴⁶
- Establishment of the National Anti-Corruption Commission to: detect, investigate and report on serious or systemic corruption in the Commonwealth public sector; and educate the sector and the public about corruption risks and prevention.¹⁴⁷

1.87 There is ongoing parliamentary interest in APS integrity, probity and ethics, including by the JCPAA, which in June 2023 adopted an Inquiry into probity and ethics in the Australian Public Sector. This audit provides independent assurance and reporting to the Parliament on the APSC's administration of statutory functions relating to upholding high standards of integrity and ethical conduct in the APS.

Audit approach

Audit objective, criteria and scope

1.88 The audit objective was to assess the effectiveness of the APSC's administration of statutory functions relating to upholding high standards of integrity and ethical conduct in the APS.

1.89 To form a conclusion against the audit objective, the following high-level criteria were adopted.

- Has the APSC effectively promoted the APS Values and Code of Conduct?
- Has the APSC effectively monitored and evaluated agencies' implementation of the APS Values and Code of Conduct?
- Has the APSC effectively contributed to stewardship of the APS?

1.90 The ANAO reviewed the APSC's administration for the period July 2022 to December 2023.

Audit methodology

1.91 The audit procedures included: reviewing APSC records; and meetings with the Commissioner, APSC officials and relevant non-APSC officials.

1.92 The ANAO's review focused on the following functions of the Commissioner set out in the PS Act.

- Promote the APS values — pursuant to paragraph 41(2)(e).
- Promote the APS Code of Conduct — pursuant to paragraph 41(2)(e).
- Provide advice and assistance to APS agencies on public service matters — pursuant to paragraph 41(2)(h).

145 See paragraph 1.77 of this audit report.

146 APSC, 'APS Employment Data 31 December 2023: At a glance', available from <https://www.apsc.gov.au/data-release/aps-employment-data-31-december-2023/glance> [accessed 24 April 2024]. Footnote 32 of this audit report summarises APSC reporting on APS employee numbers.

147 National Anti-Corruption Commission, 'Overview of the NACC', available from <https://www.nacc.gov.au/about-nacc/overview> [accessed 24 April 2024].

- Evaluate the extent to which agencies incorporate and uphold the APS values — pursuant to paragraph 41(2)(f).
- Evaluate the adequacy of systems and procedures in agencies for ensuring compliance with the Code of Conduct — pursuant to paragraph 41(2)(l).
- Partner with secretaries in the stewardship of the APS — pursuant to paragraph 41(2)(g).
- Partner with other APS agency heads in the stewardship of the APS — not listed as a function in the PS Act.

1.93 The audit was conducted in accordance with ANAO Auditing Standards at a cost to the ANAO of approximately \$705,000.

1.94 The team members for the audit were Grace Guilfoyle, Rebecca Helgeby, Laura Trobbiani, Jo Rattray-Wood, Stephanie Gill and Susan Drennan.

2. Promote, advise and assist

Areas examined

This chapter examines whether the Australian Public Service Commission (APSC) has effectively: promoted the Australian Public Service (APS) Values and Code of Conduct; and provided advice and assistance to APS agencies on public service matters. The audit review period was July 2022 to December 2023.

Conclusion

The APSC was partly effective in promoting the APS Values and Code of Conduct and in providing advice and assistance to APS agencies on public service matters. The APSC did not have a strategy, linked to outcomes which can be measured, for promoting the APS Values and Code of Conduct and its approach to this function was largely activity-driven.

While the APSC communicated integrity and ethical requirements and expectations through a variety of activities, including training and guidance, they were not guided by a risk-based strategy. APSC guidance was revised or new guidance issued, to manage identified risks and issues, without reference to a forward engagement strategy.

The APSC had limited arrangements in place to provide assurance to the Commissioner and Parliament that it had effectively promoted the APS Values and Code of Conduct.

Areas for improvement

The ANAO made three recommendations aimed at: developing a strategy to support the APSC's promotion of the APS Values and Code of Conduct; developing a strategy to support the APSC's evaluation of its suite of integrity training; and reviewing record-keeping arrangements for its governance committees.

The ANAO identified three opportunities for improvement, relating to: referencing the full suite of APSC key integrity products in the Ethics Contact Officer network (EConet) pulse survey; reviewing APSC enterprise-level risks relating to integrity functions against the APS operating environment; and improved record keeping for meetings of the EConet and Cross-agency Code of Conduct Practitioners' Forum.

2.1 The Australian Parliament has provided, in the *Public Service Act 1999* (PS Act), that all members of the APS are subject to the integrity, probity and ethical obligations specified in the PS Act. The Parliament has also provided that one of the three broad functions of the Australian Public Service Commissioner (Commissioner) under the Act is 'to uphold high standards of integrity and conduct in the APS'.¹⁴⁸

2.2 More specifically, the Commissioner, supported by the APSC, has statutory functions under the PS Act to:

- 'promote the APS Values, the APS Employment Principles and the Code of Conduct' — pursuant to paragraph 41(2)(e) of the PS Act¹⁴⁹; and

¹⁴⁸ Subsection 41(1) of the PS Act lists three broad Commissioner functions. Subsection 41(2) of the PS Act lists a further 18 Commissioner functions.

¹⁴⁹ This audit did not examine the APS Employment Principles.

- ‘provide advice and assistance to Agencies on public service matters’ — pursuant to paragraph 41(2)(h) of the PS Act.

2.3 In the context of a devolved and largely self-regulatory framework such as that established by the PS Act¹⁵⁰, the effective promotion of expectations and obligations by the framework policy owner, and effective support to agencies, are necessary elements in upholding high standards of integrity and conduct in the APS, as expected by the Parliament.

Has the APSC effectively promoted the APS Values and Code of Conduct?

The APSC did not have a strategy, linked to outcomes which can be measured, for promoting the APS Values and Code of Conduct during the audit review period and its approach to this function was largely activity-driven. The APSC had two strategies with components relating to the promotion of integrity, ethics and the APS Values and Code of Conduct — an ‘APS Workforce Strategy’ and ‘APS Academy Engagement and Communication’ strategy. These two strategies, when read together, do not equate to a strategy for promoting the APS Values and Code of Conduct.

The APSC provided or administered guidance, support and training/event offerings intended to promote the APS Values and Code of Conduct. While the APSC communicated integrity and ethical requirements and expectations through these activities, they were not guided by a risk-based strategy.

The APSC had limited arrangements in place to provide assurance to the Commissioner and Parliament that it had effectively promoted the APS Values and Code of Conduct. Data collection and feedback received on APSC training and guidance did not link to a structured approach to assessing whether the APSC’s activities to ‘promote’ were achieving their intended purpose. There was no record of the APSC’s most senior internal committees — the Executive Board and Executive Committee — discussing issues relating to the APS Values during the audit review period. Issues relating to the APS Code of Conduct were discussed at 13 per cent of Executive Board meetings and five per cent of Executive Committee meetings. More generally, there were deficiencies in the APSC’s record keeping arrangements for its governance committees.

The enterprise-level risks documented in the APSC’s enterprise risk register did not directly relate to the APSC’s delivery of its statutory functions relating to the APS Values, Code of Conduct or integrity. This was in the context of an operating environment which featured ongoing scrutiny of perceived shortcomings in upholding APS integrity, including at the highest levels of APS leadership.

2.4 The effective promotion of the APS Values and Code of Conduct is necessary to ensure that APS officials are aware of and comply with their obligations, and provides Parliament and the public with confidence that APS officials are meeting professional and behavioural expectations.

¹⁵⁰ Discussed in paragraphs 1.28 to 1.32.

Strategy for promoting the APS Values and Code of Conduct

2.5 A strategy can assist an entity in articulating, documenting and achieving its intended outcomes. By identifying objectives and the planned actions to achieve them, a strategy assists in resource allocation, achieving focus and efficiency in work effort, and provides a framework to monitor and assess progress against objectives. A strategy can help assess effectiveness in achieving objectives by establishing clear and measurable performance expectations, identifying the information to be collected for assessment and evaluation purposes, and establishing a framework for progress reporting and evaluation against the documented expectations.¹⁵¹

2.6 The APSC does not have a strategy for promoting the APS Values and Code of Conduct.

Other strategies

2.7 The APSC has developed two strategies that have components relating to the promotion of integrity, ethics and the APS Values and Code of Conduct.¹⁵²

- *Delivering for Tomorrow: APS Workforce Strategy 2025* (released in 2021).
- APS Academy Engagement and Communication strategy (developed in 2021).¹⁵³

Delivering for Tomorrow: APS Workforce Strategy (Workforce Strategy)

2.8 The APSC published its workforce strategy in 2021, with the following objective:

For the APS to operate as one enterprise, with a high-performing workforce to deliver effectively and efficiently for the Government, the Parliament and the Australian public.

151 For example, in its APS Academy resources on 'Strategy, Policy & Evaluation', the APSC states the following regarding strategy and evaluation.

Strategy: Understanding the strategic objectives, purpose and desired outcome is critical to effective policy development.

Evaluation: Robust evaluation is critical at all stages of policy development to achieve desired strategic outcomes. Outcomes must be reviewed and tested regularly to ensure they are on track to being achieved. The public service must also learn from previous evaluation findings, and make adjustments to improve and stop activities that are not leading to desired outcomes.

See APSC, Australian Public Service Academy, 'Strategy, Policy & Evaluation', available from <https://www.apsacademy.gov.au/aps-craft/strategy-policy-evaluation> [accessed 16 June 2024].

152 The APSC was also developing two further strategies, at 9 February 2024, with components relating to integrity, ethics, and the APS Values or Code of Conduct. These were: Engagement and Communications Strategy; and Stewardship as an APS Value – Short form Communications Plan. The latter relates to the change to the PS Act to add 'stewardship' as an APS Value (discussed in paragraphs 1.38 to 1.42, and 4.29 to 4.33).

On 9 February 2024 the APSC also provided the ANAO with a draft 'APSC Integrity Roadmap'. The draft 'APSC Integrity Roadmap' is discussed further in paragraphs 2.27, 2.28 and 4.33.

153 The APSC advised the ANAO in March 2024:

The Engagement and Communication strategy was not developed to be a specific strategy for ensuring the APS Values and Code of Conduct were communicated to and promoted within Agencies.

2.9 The APSC did not identify the Workforce Strategy as a guide for its own promotion of the APS Values and Code of Conduct.¹⁵⁴ It sets out three areas of action¹⁵⁵, one of which relates explicitly to strengthening integrity:

Strengthen integrity and purposeful leadership

We will ensure that our leadership continues to shape our behaviour, our purpose and our delivery of outcomes, and that the APS is highly regarded for our integrity and citizen-centric focus.¹⁵⁶

2.10 The Workforce Strategy contextualises the three areas of action with general statements relating to integrity and the APS Values and Code of Conduct, as follows.

Our workforce will operate in accordance with the APS Values and Code of Conduct: Impartial, Committed to Service, Accountable, Respectful, Ethical

To be positioned for the future we need our workforce to be: Professional, engaged and committed to integrity¹⁵⁷

2.11 The Workforce Strategy states that: 'Increasing the integrity of the APS workforce is critical to building and maintaining citizens' trust, and to the effectiveness of the APS.'¹⁵⁸ One of the short-term measures of success identified in the strategy is: 'An APS workforce that models and promotes a pro-integrity culture.'¹⁵⁹ One of the longer term measures is: 'Contribute to citizen satisfaction through a pro-integrity culture.'¹⁶⁰

2.12 A section on 'What are we doing?' mentions 'Pro-integrity training for all staff', and a section on 'What else will we do?' mentions 'Strengthen training and guidance materials to reinforce APS integrity'.¹⁶¹

2.13 Additional commentary in the strategy on 'What we're already doing' mentions 'Reinforce pro-integrity culture through the development of tools and guidance, and through APS-wide induction, mandatory integrity training and other core systems.' Additional commentary on 'What else we will do' mentions 'Review and strengthen training and guidance materials to **reinforce APS integrity**, including supporting agencies to establish improved metrics for monitoring integrity culture across the APS' [emphasis in original].¹⁶²

2.14 Attachment one of the Workforce Strategy, which relates to 'Measuring and monitoring success/outcomes' identifies what 'Sample measures of success may include'. The strategy states

154 The APSC advised the ANAO in March 2024 that 'the primary focus of the Strategy is to strengthen workforce planning across the APS.'

155 These are:

- Action 1: Attract, build and retain skills, expertise and talent
- Action 2: Embrace data, technology and flexible and responsive workforce models
- Action 3: Strengthen integrity and purposeful leadership

156 APSC, *Delivering for Tomorrow: APS Workforce Strategy 2025*, 2021, p. 5.

157 *ibid.*, p. 5.

158 *ibid.*, p. 13.

159 *ibid.*, p. 5. At p. 34 the short term measure is expressed as 'Model and promote a pro-integrity culture.'

160 *ibid.*, p. 34.

161 *ibid.*, p. 19.

162 *ibid.*, p. 35. Commentary relating to Action 1 (Attract, build and retain skills, expertise and talent) also mentions integrity training in the section on 'What else we will do' at p. 24, as follows: 'Implement an **APS induction program** that reinforces key **APS qualities of integrity, service delivery and advice**, and supports government' [emphasis in original].

that 'This list is not a comprehensive list. Measures of success will be defined and agreed with initiative leads as the Strategy is being implemented'. The APSC advised the ANAO in December 2023 that 'Implementation leads for whole of APS initiatives were allocated to support implementation of the workforce strategy.' The APSC prepared a document titled *WFS 2025 Actions – Leads Summary*, which outlines an 'Initiative Lead (Responsible)'. There is no information on what the initiative lead's responsibilities and reporting requirements are and there is no evidence of measures of success being defined and agreed with initiative leads.

2.15 In March 2021 the APSC provided the Secretaries Board with a high-level implementation plan for the Workforce Strategy. The APSC did not report on its progress against this implementation plan during the audit review period. There was evidence of reporting to the Secretaries Board on activities related to the Workforce Strategy. This reporting was not clearly linked to progress against the Workforce Strategy.

2.16 The Workforce Strategy also states that 'The APS Secretaries Board are the owners of intended outcomes, with implementation and progress reported to the board annually'.¹⁶³ There is no record of the Secretaries Board being provided with updates on implementation of the strategy during the audit review period.

2.17 The APSC prepared a draft of the *Delivering for Tomorrow–APS Workforce Strategy 2025: 2023 Mid-Point Evaluation* (mid-point evaluation) on 11 September 2023. The APSC advised the ANAO in March 2024 that the Executive Committee received an update on the Strategy and mid-point evaluation on 20 March 2024.¹⁶⁴ While the agenda for this meeting indicated that there would be an 'Update on the mid-point evaluation for the workforce strategy', the meeting minutes did not record an update or discussion regarding the mid-point evaluation or the Workforce Strategy, nor was there evidence that the mid-point evaluation had been provided to the Executive Committee.

APS Academy Engagement and Communication Strategy

2.18 The APS Academy was launched on 1 July 2021 to 'support the APS workforce in building the skills and knowledge which are unique and essential to working in the Australian public service.' It is administered by the APSC.

2.19 The APS Academy states that 'APS Craft is the fundamental capabilities needed to deliver great policy and services.' Integrity is one of the six APS Craft capabilities.¹⁶⁵ The training delivered by the APSC is discussed further in paragraphs 2.37 to 2.57.

163 *ibid.*, p. 19. At p. 38 the strategy states that 'The Strategy will be assessed and evaluated regularly. Progress will be reported to the Secretaries Board and the Chief Operating Officers Committee (COO Committee) and publicly reported in the APS Commissioner's annual State of the Service Report.' At p. 47 the strategy states, in respect to 'Accountability and reporting', that: 'Secretaries Board are accountable owners of planned benefits' and 'Implementation progress reported annually to Secretaries Board, accompanied by strategic APS labour force insights'.

164 The Executive Committee comprises of the Commissioner (Chair), Deputy Commissioners, Assistant Commissioners, Executive Directors, the Commissioner's Executive Officer, and others as required.

165 The six APS Craft capabilities are: Integrity; Working in Government; Engagement and Partnership; Implementation and Services; Strategy, Policy and Evaluation; and Leadership and Management.

2.20 The APSC has published an *Australian Public Service Academy Engagement and Communication Strategy – APS Agencies* (Academy Strategy), which states that:

Strategy purpose

This strategy is focused on engagement with Agencies to understand what their capability needs are whilst understanding where the APS Academy can best support them, as well as to look for opportunities of work occurring within agencies which can be scaled up across the broader APS to deliver greater impact.

2.21 The APSC does not identify the Academy Strategy as a guide for its own promotion of the APS Values and Code of Conduct. The APSC advised the ANAO in March 2023 that:

The APS Academy Strategy was designed as a holistic approach for the APS Academy to ascertain how we engage with agencies and manage communications and promotion of Academy offerings. It is not designed as a guide to promote specific learning offerings such as APS Values and Code of Conduct. The approach to, and activities related to, promotion of these learning offerings are addressed by specific activities under projects such as the Induction Pathway.

2.22 The Academy Strategy refers to the APS Values once¹⁶⁶ and does not refer to the Code of Conduct or to 'integrity'. This is the case notwithstanding that the Workforce Strategy released in 2021 repeatedly references integrity training in its commentary on 'What are we doing?' and 'What else will we do?' to increase the integrity of the APS workforce (see paragraphs 2.8 to 2.17).

2.23 The Academy Strategy does not include targets or timeframes to measure success.

2.24 The APSC could not demonstrate regular reporting to, or monitoring by, the APSC Executive Committee on the implementation and effectiveness of the Academy Strategy. For the period covered by this audit (July 2022 to December 2023) there were four quarterly communications channel reports presented to the APSC Executive Committee. The reports contained details of various communication activities conducted by the APSC, including: email marketing; videography; social media insights; websites; internal communications; and media insights. This reporting was broader than the APS Academy prescribed activities and did not report on the Academy Strategy.

2.25 The APSC does not have a documented strategy to support the Commissioner's statutory function to 'promote' the APS Values and Code of Conduct, or to guide its efforts in this respect. This is a long-standing function that would benefit from the adoption of a strategic approach. As discussed in Chapter 1 of this audit (see paragraph 1.86), integrity issues, challenges and initiatives have been a prominent feature of the APS operating environment in recent years and a strategy would enable the APSC to document and guide its objectives, key activities and desired outcomes in that context.

Strategies in development

2.26 On 17 November 2023, the Secretaries Board published an *APS Integrity Action Plan* prepared by the APS Integrity Taskforce (taskforce). As discussed in paragraphs 1.55 to 1.61, the taskforce indicated that it had been asked to examine three areas: culture, systems and accountability. The taskforce made 15 recommendations and 46 supporting actions. Thirteen of

¹⁶⁶ The APS Values were referenced in the attachment to the strategy where it identified the Secretaries Board as having responsibility for promoting the APS Values and contributing to APS capability.

these actions identified the APSC as the lead or co-lead. These actions spanned 10 recommendations across the three areas of culture, systems and accountability.

2.27 The APSC was developing an 'Integrity Roadmap' during this audit. The APSC advised its Audit and Risk Management Committee in March 2024 that the goal of the Integrity Roadmap was to:

Produce a single overarching Integrity Roadmap for the APSC, consolidating integrity initiatives the APSC has a role in (lead or partner).

2.28 On 15 April 2024, the APSC Executive Board endorsed the Integrity Roadmap and the Roadmap's transition from development to implementation phase. The Executive Board noted and discussed the next steps on how the Integrity Roadmap would interact with the 2024–25 Performance Reporting Framework. On 23 April 2024, the APSC advised the ANAO that the Integrity Roadmap was intended to be published in May 2024. At 6 June 2024, the Integrity Roadmap was not published on the APSC's website.

2.29 Internal APSC reporting indicates that for the 26 actions in the *APS Integrity Action Plan* the APSC was identified as the lead or co-lead. The APSC's draft Integrity Roadmap did not include implementation plans for these 26 actions and 13 related recommendations, or performance measures to assess implementation progress. The APSC advised the ANAO in April 2024 that it was developing plans on how it intends to implement agreed actions from the *APS Integrity Action Plan*.

Recommendation no. 1

2.30 The Australian Public Service Commission develop a strategy to document and guide its objectives, key activities, relationships with key stakeholders, and desired outcomes relating to the statutory function to 'promote' the APS Values and Code of Conduct set out in paragraph 41(2)(e) of the *Public Service Act 1999*.

Australian Public Service Commission response: *Agreed.*

2.31 *The Commission will develop an overarching integrity strategy that will document how the Commission upholds high standards of integrity and conduct in the APS. The strategy will bring together the broad suite of initiatives that contribute to its function to promote the APS Values, the APS Employment Principles and the Code of Conduct as set out in paragraph 41(2)(e) of the Public Service Act 1999, including the APSC Integrity Roadmap and the APSC Communications and Engagement Plan.*

Commissioner's Directions

2.32 Subsection 11(1) of the PS Act provides that the Commissioner 'may issue directions in writing in relation to any of the APS Values for the purpose of ... ensuring that the APS incorporates and upholds the APS Values.'

2.33 The *Australian Public Service Commissioner's Directions 2022* (2022 directions) commenced on 1 February 2022. The Commissioner included directions relating to the APS Values and integrity

of the APS.¹⁶⁷ The 2022 directions were in effect for the period examined in this audit (July 2022 to December 2023).

2.34 On 1 February 2022 the APSC published 'Circular 2022/2: Commencement of the Australian Public Service Commissioner's Directions 2022' on its website.¹⁶⁸ The circular stated that it was prepared to advise agencies that the 2022 directions had been made and their starting date. The circular also highlighted new provisions, provided guidance and advice on what agencies should do next¹⁶⁹, and referenced sources of further information and points of contact within the APSC. The circular included an attachment that provided a detailed comparison between the previous (2016) and revised (2022) directions, and links to relevant information and the 2022 directions. In March 2024, the APSC advised the ANAO that in anticipation of the release of the revised directions, the APSC engaged with agencies, for example, by communicating the proposed amendments to human resource practitioners across the service and seeking their feedback on the proposed amendments.

2.35 In respect to integrity processes, Circular 2022/2 highlighted that under the 2022 directions, agency heads were required to consult with the Commissioner about suspected breaches of the Code of Conduct by Senior Executive Service (SES) employees. In particular, agency heads were required to consult on the process for determining whether the employee breached the Code of Conduct, and if the agency head was considering imposing a sanction, what sanction would be imposed. These requirements are discussed further in 2.117 to 2.129 of this audit.

2.36 Circular 2022/2 also highlighted that the Commissioner had mandated integrity training requirements for new APS employees, as follows:

The Directions require Agency Heads to arrange for employees new to the APS to undergo a training program about integrity. The Commission has made an e-learning module available for this purpose. Agencies may seek the Commissioner's approval to use a different integrity training program.

Education and support including training and guidance

2.37 As discussed in paragraph 1.4, all members of the APS are subject to integrity obligations specified by Parliament in the PS Act, including the APS Values and Code of Conduct.

2.38 At 30 June 2023 the APS employee headcount was 170,332. Table 2.1 outlines the number of APS employees by classification at 30 June 2023.¹⁷⁰ At March 2024, there were 100 agencies, led by 16 secretaries and 84 other agency heads.

¹⁶⁷ These elements of the directions are set out in Box 3 of this audit.

¹⁶⁸ APSC, *Circular 2022/2: Commencement of the Australian Public Service Commissioner's Directions 2022*, APSC, Canberra, 2022, available from <https://www.apsc.gov.au/circulars-guidance-and-advice/circular-2022-commencement-australian-public-service-commissioners-directions-2022> [accessed 28 November 2023].

¹⁶⁹ This included: 'review and update internal policies and procedures to ensure that they appropriately reflect any changes in the new Directions' and 'Agencies should review and update their existing delegations'.

¹⁷⁰ APSC, *State of the Service Report 2022–23*, APSC, Canberra, 26 September 2023, p. 32, available from <https://www.apsc.gov.au/initiatives-and-programs/workforce-information/research-analysis-and-publications/state-service/state-service-report-2023> [accessed 8 February 2024].

Table 2.1: APS employees by classification level, at 30 June 2023

Classification	Number of employees	Percentage of employees
Trainee	688	0.4
Graduate	1,513	0.9
APS1	2,704	1.6
APS2	4,441	2.6
APS3	16,664	9.8
APS4	28,451	16.7
APS5	24,222	14.2
APS6	39,017	22.9
Sub-total (APS, trainees, graduates)	117,700	69.1
EL1 ^a	34,358	20.2
EL2 ^a	15,068	8.8
Sub-total (EL^a)	49,426	29.0
SES Band 1	2,368	1.4
SES Band 2	682	0.4
SES Band 3	156	0.1
Sub-total (SES)	3,206	1.9
Total	170,332	100

Note a: EL refers to executive level staff.

Source: ANAO analysis of APSC information contained in the *State of the Service Report 2022–23*.

2.39 While the APSC does not have a strategy to guide its promotion of the APS Values and Code of Conduct set out in paragraph 41(2)(e) of the PS Act, it has stated over time that education and support activities are part of its approach. By way of example, education, training and capability building, including through the APS Academy established in July 2021, were referenced in the *APS Workforce Strategy 2025* discussed in paragraphs 2.8 to 2.17. The APSC's *Corporate Plan 2022–26* also stated that:

By ensuring that high-quality and current guidance and training materials on APS integrity culture are available to public servants, the Commission will support a strong culture of integrity in the APS and foster trust in the integrity of the public service.¹⁷¹

Training and guidance

2.40 The APSC has developed a suite of training and guidance materials on integrity, including the APS Values and Code of Conduct.

Key integrity training/events

2.41 The APSC advised the ANAO in November 2023 that it has 12 key integrity training courses/events, which are listed in Table 2.2. This includes integrity training for all APS employees

¹⁷¹ APSC, *Corporate Plan 2022–26*, p. 19.

— such as Integrity in the APS eLearning — and training targeted at specific classification levels, such as the SES Integrity Masterclass. In March 2024, the APSC advised the ANAO that only the ‘Integrity in the APS’ course is mandatory (shaded in light blue in Table 2.2).

2.42 Seven of the courses or events demonstrated a focus on the Code of Conduct, the APS Values, ethics or integrity; four partly demonstrated such a focus; and for one course, the Senior Executive Stewardship program, there were no course materials. The APSC advised the ANAO in November 2023 that this is because participants develop the content.

Table 2.2: Key integrity training or events identified by the APSC

Course	Integrity focused ^a	Accessible on APS Academy website	Completions July 2022 to December 2023	Percentage of completion by cohort and target cohort
SES Integrity Masterclass	Yes	Yes	244 completions	7.6 (SES)
Integrity in the APS eLearning The only key integrity course that is mandatory	Yes	Yes	3,547 completions	Information not available ^b (All new APS employees within the reporting period who do not have mandated integrity training delivered by their own agency)
Introduction to the NACC eLearning (not owned by APS Academy)	Partly (covers mechanics of National Anti-Corruption Commission)	Yes ^c	1,462 completions	0.9 (All APS)
Integrity craft conversation — live event ^d	Yes	Yes	April 2023 — 51 attendees live and 60 watched recording	0.1 (All APS)
Leadership Edge (EL2) — integrity module	Yes	Yes	350 completions	2.3 (EL2)
Breakthrough conversations (EL–SES) ^e	Yes	Yes	36 completions	0.2 (EL2–SES)
SES Orientation	Yes	Yes	313 completions	9.8 (SES)
SES Band 1 Leadership Development Program	Partly	Yes	108 completions	4.6 (SES Band 1)
SES Band 2 Leadership	Partly	Yes	23 completions	3.4 (SES Band 2)

Course	Integrity focused ^a	Accessible on APS Academy website	Completions July 2022 to December 2023	Percentage of completion by cohort and target cohort
Development Program				
The APS Graduate Development Program	Partly	Yes	182 completions (all of 2022) 284 completions 2023	30.8 (Graduates)
Delivering in Partnership with Government and Community Program	Yes	No	11 completions (one iteration)	Information not available ^f (SES Band 2 and Band 3 with prior adaptive leadership program experience)
Senior Executive Stewardship program for SES Band 3 and agency head	Possibly Tailored to needs of the cohort ^g	No	16 participants	6.2 (SES Band 3 and agency heads)

Note a: The ANAO examined if the content included the APS Values, Code of Conduct, or terms related to ethics and integrity. The content's integrity focus was measured by considering if the primary or secondary focus of the training/events was on integrity, resulting in a score of 'yes', 'partly', 'possibly', or 'no'.

Note b: Mandatory courses are shaded light blue. The APSC advised the ANAO in March 2024 that this is the only key integrity training that is mandatory. The APSC monitors which agencies are using the mandatory learning, through agency self-reporting in the annual APS Agency Survey, however does not track detailed course analytics of completion rates of individual staff members within those agencies. The APSC advised the ANAO in October 2023 that it receives reporting for agency participants who complete the course via the Academy's APSLearn system. The APSC further advised the ANAO in November 2023 that there are a number of agencies who host this learning in their internal learning systems therefore the APSC does not centrally hold participation rates.

Note c: Also publicly accessible on the National Anti-Corruption Commission's website. NACC, *Introduction to the National Anti-Corruption Commission module*, NACC, Canberra, 2023, available from <https://www.nacc.gov.au/introduction-national-anti-corruption-commission-module> [accessed 5 February 2024].

Note d: The Integrity craft conversation — live events are not courses. Sessions are typically held on a monthly basis to highlight key topics.

Note e: In March 2024, the APSC advised the ANAO that it had completed the design for repurposing Breakthrough conversations. The course is now branded as Empowering Conversations and is only for EL2 level staff.

Note f: Not all SES Band 2 and Band 3 level officers have the requisite experience to attend the course so the percentage of completion by cohort and target cohort cannot be determined.

Note g: The APSC advised the ANAO in November 2023 that participants are not provided with course content. This is developed during the course. The APSC's course website states that: 'Each iteration of the program is highly contextualised and tailored to the needs of the cohort and current operating environment'.

Source: ANAO analysis of APSC information.

Key integrity guidance documents

2.43 The APSC advised the ANAO in November 2023 that it has six key integrity guidance documents, which are listed in Table 2.3. Five of these six key guidance documents (83 per cent) demonstrated a focus on integrity and or ethics and one partially demonstrated this.

Table 2.3: Key integrity guidance identified by the APSC

Guidance			ANAO assessment	
Title	Website publication date (1) and document publication date (2)	Publication history as advised by APSC	Integrity focused? ^a	Accessible on APSC website?
APS Values and Code of Conduct in Practice	1. May 2018 2. August 2017 ^b	2003 (first edition) 2005 (second) February 2016 (third) August 2017 (fourth)	Yes	Yes
Handling Misconduct — A human resource manager's guide	1. February 2022 2. 2021	2008 (first) 2015 (second) February 2022 (third)	Yes	Yes
Social media: Guidance for Australian Public Service Employees and Agencies	1. September 2020 2. Document not dated	Circulars 2008/8; 2009/6; 2012/1 Making public comment on social media — 2017 September 2020 (first)	Yes	Yes
Guidance for Agency Heads — Gifts and Benefits	1. November 2021 2. Document not dated ^b	2019 (first) 2021 (second) December 2023 (third)	Yes	Yes
SES Performance Leadership Framework	1. August 2023 2. Document not dated	August 2023 (first)	Partly	Yes
Integrity Metrics Resource	1. April 2022 2. 2022 ^b	May 2022 (first)	Yes	Yes

Note a: The ANAO examined if the content included the APS Values, Code of Conduct, or terms related to ethics and integrity. Integrity focused was measured by considering if the primary or secondary focus of the guidance was on integrity, resulting in a score of 'yes', 'partly' or 'no' respectively.

Note b: The APSC advised the ANAO in March 2024 that 'many of the publications are at least 10 years old in some form'.

Source: ANAO analysis of APSC information.

2.44 In the absence of a sector engagement strategy, the APSC advised the ANAO in November 2023 that it 'reviews and updates its guidance material to address areas of need emerging from government priorities, agency feedback, and Agency Survey and EAS [Ethics Advisory Service] data'. The APSC further advised in February 2024 that 'Integrity and Ethics guidance is reviewed as needed, rather than according to a particular schedule.' The following are examples of APSC guidance being revised or issued, during the audit review period, to manage identified risks and issues.

- On 3 April 2023, in preparation for the October 2023 referendum on an Aboriginal and Torres Strait Islander Voice, the APSC released guidance for APS employees on personal engagement in the referendum for APS employees.

- On 16 October 2023, after the outcome of the referendum was known, a message to all APS staff was released jointly from the Commissioner, the Chief Executive Officer of the National Indigenous Australians Agency (NIAA) and the Secretary of the Department of the Prime Minister and Cabinet (PM&C). The message included general guidance about continuing to uphold the APS Values of ‘impartial advice, service for the Australian people, and an accountable Service which is respectful and ethical’.
- On 30 October 2023 the APSC updated its guidance for agency heads regarding reporting on gifts and benefits, to clarify reporting requirements relating to airline lounge memberships.¹⁷²

2.45 In relation to the guidance on APS Values and Code of Conduct in Practice, the APSC advised the ANAO in November 2023 that:

It will be updated again in 2024 to take account of legislative changes arising from the APS Reform agenda, most notably, the inclusion of Stewardship as a new APS Value, and other areas of need identified through the EAS, SES conduct consultations, and agency head conduct matters, such as additional guidance on post-separation employment and relationships in the workplace.

2.46 The APSC advised the ANAO in October 2023 that it did not intend to update its integrity guidance following the Code of Conduct referral and inquiry discussed in paragraphs 1.63 to 1.67. In March 2024 the APSC advised the ANAO that it does not have a policy to update its core guidance in response to particular inquiries into individuals that are currently or recently in the public domain. The APSC further advised that ‘in response to the Integrity Taskforce Report and the Robodebt Royal Commission Report, new guidance on recordkeeping and conflict of interest will be developed by the APSC over the course of 2024.’

2.47 As noted in paragraph 1.86, the function of upholding APS integrity standards occurs in a changing and often dynamic operating environment, which in recent years has featured reviews, initiatives and investigations requiring follow-up by the APSC. In addition, the National Anti-Corruption Commission (NACC) began operations on 1 July 2023. To effectively promote the APS Values and Code of Conduct, the APSC must translate developments in the operating environment into fit-for-purpose training and guidance material, in a timely manner. Documenting objectives, key activities and desired outcomes would assist the APSC in promoting the APS Values and Code of Conduct.

Audience: targeting and reach

2.48 To ensure the effectiveness of training/event and guidance offerings, planning needs to have regard to the intended audience, and the offerings need to be accessible by the planned recipients. For example, general awareness training may target, and may need to be effectively provided to, all APS officials. Other training may be targeted to specific APS cohorts.

¹⁷² The APSC advised the ANAO in November 2023 that:

the Commissioner advised Agency Heads of their personal reporting obligations with respect to airline lounge memberships, as reflected in revised public Guidance on Gifts and Benefits, and the strong expectation this reporting be replicated internally in relation to SES employees. This clarification and strengthening of the Commission's policy on agency head transparency with regard to gifts and benefits was developed with the Secretary of PM&C, in response to recent public debate.

2.49 The *Australian Public Service Commissioner's Directions 2022* require agency heads who engage staff as APS employees to make arrangements for employees to undergo a program of training about integrity.¹⁷³ The APSC advised the ANAO in March 2024 that it: monitors which agencies are using the mandatory learning with their staff through agency self-reporting in the annual APS Agency Survey (agency survey); 'however does not track detailed course analytics of completion rates of individual staff members within those agencies.'¹⁷⁴ APSC documentation indicates that in 2023, 96 of the 99 APS agencies (97 per cent) reported that they had met this requirement. To deliver the training, 81 APS agencies (84 per cent) reported using the APSC's e-learning module 'Integrity in the APS'.¹⁷⁵

2.50 In 2021–22, five APS agencies self-reported that they did not meet the requirement to deliver integrity training.¹⁷⁶ The APSC advised the ANAO in October 2023 that: 'given ... resourcing constraints in 2022, it required the function to prioritise work based on critical need, therefore at the time the agencies were not directly contacted'.

2.51 In 2022–23, three APS agencies self-reported that they did not meet the training requirement.¹⁷⁷ The APSC wrote to these agencies and reminded them of the requirement that employees undertake mandatory integrity training. The APSC also asked these agencies follow-up questions and offered to assist the agency to 'overcome any barriers your agency may be experiencing in complying with the Commissioner's Direction'.

2.52 As discussed in paragraph 2.41, the APSC advised the ANAO in November 2023 that it has 12 key integrity training courses or events, which were outlined in Table 2.2. Table 2.4 outlines the target cohorts for the key training and events.

173 Different requirements apply depending on the nature of the person's employment. The requirement to complete training does not apply if a person has previously been engaged as an APS employee and the person completed a program of training about integrity in relation to that engagement.

Australian Government, *Australian Public Service Commissioner's Directions 2022*, Australian Government, available from <https://www.legislation.gov.au/Details/F2023C01079> [accessed 7 December 2023].

174 The APS Agency Survey is discussed further in paragraph 2.70.

175 APSC records state 'Small proportions of agencies provided agency specific training as endorsed by the Commission (6 agencies, 6%), or yet to be endorsed (3 agencies, 3%) or other methods (6 agencies, 6%).'

176 These were the Australian Bureau of Statistics, Australian Electoral Commission, Food Standards Australia New Zealand, Professional Services Review and Royal Australian Mint.

177 These were the Australian Office of Financial Management, National Disability Insurance Agency and Royal Australian Mint.

Table 2.4: Targeting of key integrity training courses and events identified by the APSC

Group	Number of key integrity courses/events targeted at the group ^a	Percentage of key integrity courses targeted at the group (%) ^b
All new APS employees within the reporting period who do not have mandated integrity training delivered by their own agency	1	8
Cross-section APS staff	2 ^c	17
Graduates	1	8
EL1 and EL2	1	8
SES	5	42
EL2 to SES Band 3	1	8
SES Band 2 and 3 with prior adaptive leadership program experience	1	8

Note a: This table does not include the integrity learning resources that are available via the APS Academy Integrity Craft webpage. See Australian Public Service Academy, *Integrity*, APS Academy, Canberra, 2021, available from <https://www.apsacademy.gov.au/aps-craft/integrity#resources> [accessed 2 April 2024].

Note b: Total does not equal 100 due to rounding. The APS Academy has capacity targets for all facilitated learning delivery, which does not include eLearning training.

Note c: This includes the Integrity craft conversation — live events, which are not training courses. Sessions are typically held on a monthly basis to highlight key topics.

Source: ANAO analysis of APSC information.

2.53 The majority of key training/events target the SES (42 per cent), which at 30 June 2023 comprised 3,206 officials or 1.9 per cent of all APS employees (see Table 2.1).¹⁷⁸ The APSC advised the ANAO in March 2024 that it has ‘a direct responsibility to providing learning at both the Induction, and the SES levels for the broader APS ecosystem.’ The APSC further advised that ‘the Academy built a foundation on recommendations coming out of the Sedgwick report ... which provide further context about APS needs and gaps in relation to Integrity. These recommendations led to the creation and delivery of the foundational eLearning module Integrity in the APS and the SES Integrity Masterclass Series.’ Recommendation two of the Sedgwick report (see paragraph 1.34 and Appendix 3 of this audit report) was that:

The APSC, in collaboration with departments and agencies, examine current practices across the APS with a view to develop and promulgate (through enhanced guidance or Commissioner’s Directions, as necessary) clear and common expectations regarding the knowledge required by APS employees soon after entry and at key stages of their subsequent career to ensure they

¹⁷⁸ Paragraph 35(3)(c) of the PS Act requires that each SES employee ‘by personal example and other appropriate means, promotes the APS Values, the APS Employment Principles and compliance with the Code of Conduct’.

achieve a level of **awareness** of the APS's integrity frameworks and policies, appropriate to their role and responsibilities.¹⁷⁹ [emphasis in original]

2.54 The commentary in the Sedgwick report relating to Recommendation 2 included that:

A likely outcome is that the APS Commissioner, in time, will issue updated guidance (supported, as necessary, with revisions to the Commissioner's Directions and other guidance) that promulgate the core principles that agencies and the APSC should reflect in training and other interventions provided to build integrity awareness across an APS employee's life cycle and, if necessary, encourage or mandate their take up:

- at induction for all new entrants;
- at entry to management level positions (notionally, for EL appointments, but this may vary in large agencies, and should encompass APS employees with contract management responsibilities); and
- at entry to the SES.¹⁸⁰

2.55 In November 2023, the APSC advised the ANAO that the APS Academy Management Committee considers measures in the corporate plan when developing its key priorities, transformation projects and partnerships. The APSC's *Corporate Plan 2022–26* specified a target for Learner Engagement. The APS Academy Management Committee monitors 'Learner Engagements'.¹⁸¹ In 2022–23 the target for Learner Engagements was 32,000 with 104,564 engagements were achieved.¹⁸²

2.56 APSC documentation indicates that in 2022–23, the average capacity across all APS Academy course deliveries was 79 per cent.¹⁸³ In April 2024, the APSC advised the ANAO that it does not set attendance or completion targets for the whole of the APS for any courses. This includes its key integrity courses.¹⁸⁴

2.57 Five of the six key integrity guidance materials (outlined in Table 2.3) are located in a dedicated integrity portal on the APSC website. The APSC advised the ANAO in January 2024 that it promotes its guidance by including links (to the content in its Integrity portal) in other APSC webpages. The APSC reports web article views in its Engagement and Performance Quarterly Reports. While hits to a webpage cannot infer how many people read guidance, knowing the

179 Stephen Sedgwick AO, *Report into consultations regarding APS approaches to ensure institutional integrity*, October 2020, p. 18, available from <https://www.apsc.gov.au/about-us/who-we-are/media-releases/report-consultations-regarding-aps-approaches-institutional-integrity> and <https://www.apsc.gov.au/working-aps/integrity/integrity-resources/report-consultations-regarding-aps-approaches-institutional-integrity> [accessed 5 December 2023].

180 *ibid.*, p. 19.

181 Learner engagements include facilitated and self-directed course enrolments, toolkit views, video views, web article views and event registrations. The APSC monitors the total number of times a user engages with a: facilitated course (registered); e-learning course (enrolled); Event (attended, registered); web article (unique view by a user); video (unique view by a user); and toolkit (unique view by a user).

182 Two of the 12 key integrity training courses are not part of the APS Academy, therefore are not included in the above reporting.

183 When calculating capacity an assumption is made that all course deliveries have a maximum capacity of 18. The calculation of average capacity is as follows: sum of enrolments / (total number of deliveries x 18).

184 Officials new to the APS are required to complete the 'Integrity in the APS' eLearning module (or an authorised and approved alternative) within the first six months of commencement. Completion of the module is monitored by individual agencies. The Introduction to the NACC eLearning is developed and owned by the National Anti-Corruption Commission.

number of hits can provide the APSC with some general indication of use of the guidance and can inform its development of relevant material.

Other communication channels and resources

2.58 The APSC has communicated integrity and ethical requirements and expectations by using general circulars, direct emails¹⁸⁵ and open letters to the APS, and other means such as media releases and updates on specific issues. Case study 1 outlines communications of this type released by the APSC relating to integrity or ethics, in the period examined in this audit.

Case study 1. APSC communications relating to integrity or ethics — July 2022 to December 2023

During the audit review period (July 2022 to December 2023) the APSC published the following circulars, open letters and statements related to integrity or ethics.

- ‘Circular 2022/2: Commencement of the Australian Public Service Commissioner’s Directions 2022’ (first issued in February 2022) was on the APSC website during the audit review period. The circular stated that it was prepared to advise agencies on the 2022 directions.
- 28 August 2023, ‘Circular 2023/7: Upholding Integrity in SES Recruitment’. This circular focused on the Commissioner’s participation in all SES recruitment processes, to ensure integrity in recruitment processes, but did not relate to recruiting people of integrity.
- 10 July 2023, ‘A message to you from PM&C Secretary ... and APS Commissioner... on the Royal Commission into the Robodebt Scheme’. This message focused on next steps following public release of the Royal Commission report. It also included some statements on APS integrity obligations, including that: ‘We know the vast majority of public servants are committed to providing quality advice and dedicated service consistent with the APS values and code of conduct.’^a
- 17 November 2023, ‘A message to all APS staff on APS integrity’ by the Secretary PM&C and the Commissioner. This message was released with the ‘APS Integrity Action Plan’ and ‘Integrity Good Practice Guide’ and included statements on APS integrity obligations, including that: ‘We encourage all staff to reflect on how integrity shapes our work for the Australian public.’^b
- 16 October 2023, ‘A message to all APS employees on the referendum’. This message made a number of observations on the conduct of the referendum, including that: ‘Throughout the process the public service retained its impartiality ... Such actions create public confidence in the integrity of the APS ... We commit to continue upholding these values of impartial advice, service for the Australian people, and an accountable Service which is respectful and ethical.’
- In late 2023 the APSC issued media statements and updates on Code of Conduct processes relating to the Royal Commission into the Robodebt Scheme^c and Secretary Pezzullo.^d These were procedural communications on the handling of 17 high profile

185 The APSC advised the ANAO in February 2024 that direct email is the Commissioner’s preferred option for communicating with staff across the APS.

referrals or investigations into Code of Conduct matters — 16 relating to the Royal Commission and one relating to Secretary Pezzullo.

Note a: Discussed in paragraph 2.41.

Note b: Discussed in paragraph 1.56.

Note c: Discussed in paragraphs 1.63 to 1.64.

Note d: Discussed in paragraphs 1.65 to 1.66.

2.59 The APSC has a range of integrity learning resources that are available via the APS Academy Integrity Craft webpage. These include Integrity fact sheets, Integrity in the APS podcast series, ATO corruption and fraud awareness case studies, NACC resources and Public Interest Disclosure resources.

2.60 The APSC advised the ANAO in November 2023 that it seeks to promote and maintain integrity through APSC officials' presentations or participation at professional conferences and events. During the audit review period this activity included:

- an APSC official participating in a panel discussion on 'Integrity in the Australian Government' as part of Fraud Awareness Week in November 2022;
- an APSC official presenting on Integrity Metrics Resources, and participating in a panel discussion, at the APS Public Sector Anti-Corruption Conference in November 2022; and
- the Commissioner presenting on 'The Ethics of Robodebt; Lesson in Leadership' at the Australian Human Resources Institute Conference in August 2023.

Accessibility of resources

2.61 The APSC has established a framework to facilitate accessibility. The *APS Learning Quality Framework* (the framework) includes four design standards related to the development and delivery of learning experiences.¹⁸⁶ One of the standards, 'user-centric', requires that the 'Design is inclusive, relevant and supports continuous learning'. Two of the three related actions under the framework for user-centric learning design suggest that learning initiatives should be inclusive of all APS employees across Australia.¹⁸⁷

2.62 The following 'key' APSC integrity training and guidance materials are readily accessible from the APS Academy or APSC website.

186 The APSC describes the APS Learning Quality Framework as a model for assessing, building and distributing appropriate learning initiatives. It utilises four standards: Purposeful; User-Centric; Adaptable; and Impactful. The four standards are intended to provide all contributors to capability development across the APS with a consistent approach to high-quality learning design.

Australian Public Service Academy, *APS Learning Quality Framework and Design Standards*, APSC, Canberra, May 2022, available from <https://www.apsc.gov.au/initiatives-and-programs/learning-and-development/learning-quality-framework> [accessed 23 January 2024].

187 These actions are that:

The learning experience is inclusive by design for people with diverse backgrounds, abilities, locations, work contexts, and learning needs.

Learning design is curated, integrated and can reach everyone anywhere, anytime.

Australian Public Service Academy, *APS Learning Quality Framework and Design Standards*, APSC, Canberra, May 2022, p. 9, available from <https://www.apsc.gov.au/initiatives-and-programs/learning-and-development/learning-quality-framework> [accessed 5 February 2024].

- Ten of the 12 key integrity training courses/events are available through the APS Academy.¹⁸⁸
- All six of the APSC's key integrity guidance materials are published on its website.

2.63 APS employees can access the APSC's 'Integrity in the APS' podcast series from the APS Academy without requiring an APSLearn profile.¹⁸⁹

Feedback on resources

2.64 The APSC has set up avenues for users to provide feedback on its key integrity training courses/events and guidance documents.

2.65 Training/event participants have the option to provide feedback in a survey/questionnaire format. The APSC receives feedback on all its key integrity training/events.¹⁹⁰ Less than half of the 12 training courses reviewed by the ANAO had course performance monitoring results recorded in the APSC's internal Engagement and Performance quarterly reports for the last three quarters of 2022–23.¹⁹¹ For the training included in the quarterly reports for this period (last three quarters of 2022–23), the feedback indicated a positive shift in capability, noting that feedback typically relates to a participant's self-reported experience.¹⁹²

2.66 The APSC website, where its key integrity guidance is published, includes a feedback option asking if the page was helpful and a section for optional comments. The APSC advised the ANAO in November 2023 that it was not aware of receiving much feedback through this avenue.

2.67 The APSC also receives feedback through its pulse survey of ECONet¹⁹³ members and the agency survey. These are discussed further in paragraphs 2.68 to 2.79. The feedback received on APSC training/events and guidance does not link to a structured approach to assessing whether APSC promotional activities are achieving their intended purpose. Further, as discussed in paragraph 2.65, internal reporting on training course performance monitoring results is incomplete.

Assurance that education and support arrangements are fit for purpose

2.68 The APSC advised the ANAO in November 2023 that it has two key mechanisms to inform its view on whether training and guidance is fit for purpose and enables the APSC to achieve its statutory function of promoting the APS Values and the Code of Conduct.

188 The remaining two (Delivering in Partnership with Government and Community Program and Senior Executive Stewardship program for SES Band 3 and Agency Head) involve a nomination process.

189 APSC, *Integrity in the APS Podcast Series*, APS, available from <https://www.apsacademy.gov.au/integrity-aps-podcast-series> [accessed on 11 December 2023].

190 The 'Introduction to the NACC' eLearning is not owned by the APS Academy.

191 The quarterly reports include progress against corporate plan targets, learner engagement and course performance monitoring using post course feedback survey results.

192 A self-assessment differs from a third-party assessment of a participant's understanding.

193 ECONet is described by the APSC as 'an information sharing, intelligence gathering network of working level ethics officers (APS 6 - EL 2'S)'. It is discussed further in paragraphs 2.71 to 2.72.

Australian Government, *Ethics Contact Officer Network (ECONet)*, Australian Public Service Academy, Canberra, 2023, available from <https://www.apsacademy.gov.au/ethics-contact-officer-network-ECONet> [accessed 20 December 2023].

- The agency survey completed by agencies, with responses approved by agency heads or another senior representative.¹⁹⁴
- A pilot pulse survey of EONet members. EONet is described by the APSC as ‘an information sharing, intelligence gathering network of working level ethics officers (APS 6–EL 2’S)’.¹⁹⁵

2.69 The two surveys are outlined in Table 2.5.

Table 2.5: EONet pulse survey and APS Agency Survey in 2023

Survey	Respondents	Respondent position/level	Number of responses	Response rate (%)	Is integrity the key focus of the survey?
EONet pulse survey 2023	EONet members	APS6 to EL2	22	55	Yes
APS Agency Survey 2023	Individual APS agencies	Agency head or senior agency representative ^a	99	100	No

Note a: The APSC advised the ANAO in March 2024 that the survey is completed by one or more employees within each APS agency and that an agency head or other senior agency representative approves the response before submission.

Source: ANAO analysis.

APS Agency Survey

2.70 The APSC conducts an annual survey of all APS agencies with at least 20 employees. The survey ‘collects information on a range of workforce initiatives, strategies and compliance matters, including the number and type of APS Code of Conduct breaches’.¹⁹⁶ As part of the survey, the APSC collects data specific to each entity’s use of integrity resources. A number of questions in the survey on APSC integrity resources (relating to training and guidance) also appeared in the EONet pilot pulse survey, and are discussed in the next section.

194 The APSC advised the ANAO in March 2024 that ‘the APS Agency Survey is completed by one or more employees within each APS agency. An Agency Head or other senior representative of the agency approves the response before submission.’

195 Australian Government, *Ethics Contact Officer Network (EONet)*, Australian Public Service Academy, Canberra, 2023, available from <https://www.apsacademy.gov.au/ethics-contact-officer-network-EONet> [accessed 20 December 2023].

196 APSC, *State of the Service Report 2022-23*, APSC, Canberra, 2023, p. 219, available from <https://www.apsc.gov.au/initiatives-and-programs/workforce-information/research-analysis-and-publications/state-service/state-service-report-2023> [accessed on 2 February 2024].

ECONet pilot Pulse Survey

2.71 The APSC convenes quarterly ECONet meetings.¹⁹⁷ As discussed in paragraph 2.71, it is a network of working level ethics officers, with representatives from government portfolios.¹⁹⁸ The membership fact sheet states that ECONet has the following purpose:

- provide a forum for discussion on contemporary ethics and integrity issues;
- build capability for ethical decision-making across the APS;
- share knowledge, experience and best practice among agencies;
- profile emerging ethics and integrity issues; and
- support and advise on the Commission's pro-integrity work.

2.72 The APSC sent the first ECONet pilot Pulse Survey to members on 22 June 2023. The survey is intended to collect data relating to each entity's use of integrity resources. The survey provided for respondents to include further information regarding their answers.

2.73 The ECONet pulse survey and agency survey included two of the same questions on APSC integrity resources.

- Which of the following APSC integrity resources have you used over the last 12 months?
- Are there other ethics and integrity resources or support you would like to see made available?

2.74 Both the ECONet pulse survey and agency survey listed the same nine APSC integrity resources, and an option to record 'none of the above'. The surveys included two of the 12 (17 per cent) 'key' APSC training courses and four of the six (67 per cent) 'key' APSC guidance materials.¹⁹⁹

Opportunity for improvement

2.75 The Australian Public Service Commission consider referencing the full suite of key integrity resources in the APS Agency Survey and ECONet pulse survey as applicable, as a means of receiving additional feedback and assurance on those resources.

2.76 Six of the 22 respondents (27 per cent) to the ECONet survey responded 'yes' to requiring further resources. For the agency survey, APSC documentation states that: 'Only a small number of agencies indicated interest in other resources, of these 7 agencies were interested in guidance or meeting requirements for the new National Anti-Corruption Commission'.

197 Meetings of ECONet are discussed in paragraphs 2.106 and 2.107.

198 There are 15 portfolios which reflect a minister's area of responsibility as a member of Cabinet. These portfolios are: Agriculture, Fisheries and Forestry; Attorney-General's; Climate Change; Energy, the Environment and Water; Defence; Education, Employment and Workplace Relations; Finance; Foreign Affairs and Trade; Health and Aged Care; Home Affairs, Industry, Science and Resources; Infrastructure, Transport, Regional Development, Communications and the Arts; Prime Minister and Cabinet; Social Services; and Treasury.

Not all agencies that are a part of these portfolios have representatives on ECONET. At 2 November 2023, ECONet consisted of 108 members from 63 entities.

199 The APSC's 'key' integrity training and guidance materials, as advised by the APSC, are listed in Tables 2.3 and 2.4 of this audit.

2.77 Overall, feedback from agencies in relation to the integrity resources used by agencies was generally positive.

2.78 In respect to follow-up actions, the APSC advised the ANAO in November 2023 as follows.

- It 'reviews and updates its guidance material to address areas of need emerging from government priorities, agency feedback, and Agency Survey and EAS data.'
- Following receipt of the ECONet survey results, it was considering what additional support agencies require and may publish a newsletter between meetings of ECONet.
- It is unable to conduct more than a broad summary or ad-hoc analysis due to resourcing constraints.

2.79 Data collection is not guided by a strategic approach. The APSC collects data on some training courses and selected integrity resources. Data collection is not driven by a strategy that identifies what the APSC is seeking to achieve, including what data needs to be collected to enable it to gain assurance that its training and guidance is fit for purpose and is effective in promoting the APS Values and Code of Conduct.

Recommendation no. 2

2.80 The Australian Public Service Commission develop and implement an evaluation strategy for its integrity training to determine if its suite of integrity training is achieving the intended outcomes.

Australian Public Service Commission response: *Agreed.*

2.81 *The APSC will develop and implement an evaluation plan, consistent with the Commonwealth Evaluation Policy, which encompasses its integrity training and awareness offerings, to determine how they support its objectives and outcomes consistent with strategy developed in response to Recommendation 1, and to inform appropriate interventions and adjustments to achieve intended outcomes.*

APSC's internal monitoring and reporting on APS integrity issues²⁰⁰

APSC governance committees

2.82 The APSC's website states that the Executive Board 'is the key decision making group in the Commission. It provides strategic oversight and support to the Commissioner. The Executive Board considers and determines the business, operational and policy strategies of the APSC.'²⁰¹ The Executive Board's terms of reference indicate that its function relates to providing advice to the Commissioner about effective economic and ethical operations of the APSC.²⁰²

200 The ANAO did not review the APSC's governance and administration of its internal ethical and control frameworks.

201 The Executive Board comprises of: the Commissioner (Chair); Deputy Commissioners; and the Deputy Secretary Public Sector Reform, Department of the Prime Minister and Cabinet (from 11 May 2023 to 31 December 2023). The Executive Board's terms of reference state that 'advisors' are: the Enabling Services Assistant Commissioner; Chief Financial Officer; Commissioner's Executive Officer; and others as required. *APSC Organisation structure*, APSC, Canberra, April 2024, available from <https://www.apsc.gov.au/about-us/working-commission/who-we-are/organisation-structure> [accessed 16 June 2024].

202 The Executive Board also reviews and endorses the APS State of the Service Report.

2.83 The APSC’s Executive Committee also ‘provides strategic oversight and support for the Commissioner.’²⁰³ The Executive Committee’s terms of reference do not outline functions relating to integrity and ethics. APSC records indicate that the Executive Committee receives updates on matters relating to integrity and ethics.

2.84 Table 2.6 indicates that the APSC did not have complete records for these two committees for the audit review period (July 2022 to December 2023).

Table 2.6: Senior APSC governance committees with functions relating to integrity and ethics — meetings between July 2022 and December 2023

Name	Meetings held	Meeting papers available (%)	Meeting minutes available (%)
Executive Board	31	100	65
Executive Committee	77 ^a (estimate)	39	29

Note a: The APSC was not able to provide a list of dates that meetings were held for the Executive Committee, therefore the Executive Committee terms of reference (which state that meetings are to be held weekly) were used to estimate the number of meetings that should have been held during the period examined by the ANAO.

Source: ANAO analysis of APSC documents.

2.85 The APSC advised the ANAO in March 2024 that ‘the TORs [terms of reference] do not require there to be papers for every meeting or every item.’ The APSC further advised that it has records of the agendas of 53 Executive Committee meetings. The APSC provided evidence of 34 Executive Committee meetings.

Recommendation no. 3

2.86 The Australian Public Service Commission should review record keeping arrangements for its governance committees.

Australian Public Service Commission response: Agreed.

2.87 *The APSC will review and enhance its record keeping arrangements for governance committees.*

2.88 During the audit review period, the Executive Board and Executive Committee considered papers relating to the APSC’s corporate plan and future directions, which included references to ethical and behavioural issues in the wider APS as features of the APSC’s operating environment.

- In July 2023 the Executive Board received a paper on APSC workshops convened to develop its corporate plan.²⁰⁴ The paper included information on the APSC’s ‘operating context’ and identified seven ‘major themes’ in the APSC’s ‘operating environment’. The major themes included: ‘Ethical: diversity and inclusion, stewardship, trust and

203 The Executive Committee comprises of: the Commissioner (Chair); Deputy Commissioners; Assistant Commissioners; Executive Directors; the Commissioner’s Executive Officer; and others as required.

204 The APSC engaged Synergy Group Australia Pty Ltd through open tender to provide ‘Management support services’ to review the corporate plan. The initial contract value was \$38,500. The final contract value was \$104,500 after amendments.

decision-making'; and 'Legal: legislative changes, corruption, obligations, behaviour'. The paper stated that the APSC's 'top 3 risks' related to:

1. Reputation. Risk to reputation if the Commission fails to deliver on its legislated priorities.
 2. Influence vs. control. Acknowledging what we can control and what we can influence across the APS.
 3. Managing Expectations. Increasingly high expectations of many stakeholders.
- In August 2023 the Executive Board received an early draft of a scoping document on setting the APSC's five-year strategic vision and agenda. The paper stated that:
The APSC has a number of pressing drivers for strategic and operational change including the whole-of-APS people related integrity/ethics issues, integration of the Government's ambitious APS Reform agenda, and an organisational Capability Review.

2.89 These papers indicate that the Executive Board and Executive Committee considered sector wide issues relating to the APS Values and Code of Conduct at a high level, in the context of developing the APSC's Corporate Plan and a future strategic vision and agenda. Outside this context, during the audit review period:

- there is no record of the Executive Board or Executive Committee discussing issues relating to the APS Values; and
- issues relating to the APS Code of Conduct were discussed at 13 per cent of Executive Board meetings and five per cent of Executive Committee meetings.

2.90 Further, as summarised in Table 2.7:

- no meeting papers for the Executive Board or Executive Committee discussed the APS Values; and
- seven per cent of Executive Board papers, and five per cent of Executive Committee papers, discussed the APS Code of Conduct.

Table 2.7: Consideration of APS Values and Code of Conduct by APSC Executive Board and Executive Committee — July 2022 to December 2023

Meeting	Meeting papers ^a which discussed APS Values	Meetings with recorded discussion of APS Values	Meeting papers ^a which discussed Code of Conduct	Meetings with recorded discussion of Code of Conduct
Executive Board	0 (0%)	0 (0%)	2 (7%)	4 (13%)
Executive Committee	0 (0%)	0 (0%)	4 (5%)	4 (5%)

Note a: For meetings where papers were not provided, the ANAO considered if the APS Values or Code of Conduct were identified in the meeting agenda.

Source: ANAO analysis of APSC documentation.

APSC's identification of enterprise risks relating to APS integrity issues

Enterprise Risk Register

2.91 The 'APSC Enterprise Risk Register–November 2023' (risk register) identified five enterprise-level risks. These are: 1. Mis-management of relationships with delivery partners; 2. Mis-understanding of APS workforce needs; 3. Ineffective support for APS capability growth; 4. Inadequate resource management; and 5. Inadequate support for staff wellbeing. The risk register indicated that these risk descriptions linked to the 'key enterprise risks associated with the delivery of our purpose and priorities in 2022–23', as set out in the 'Risk oversight and management' section of the 2022–26 Corporate Plan (dated 26 August 2022).

2.92 There are references in the risk register to the government's reform agenda (in the consequence section), the APS Reform Office and APS Reform (in the controls section), and the taskforce led by PM&C (in the treatment section).

2.93 None of the enterprise-level risks documented in the risk register related directly to the APSC's delivery of its statutory functions, relating to the APS Values, Code of Conduct, ethics or integrity. This was in the context of an operating environment (discussed in paragraph 1.86) which has featured:

- reviews, initiatives and investigations focused on perceived shortcomings in upholding APS integrity, probity and ethics, including at the highest levels of APS leadership;
- statements by the Australian Government that the Royal Commission into the Robodebt Scheme had identified 'serious failings within the Australian Public Service'²⁰⁵; and
- acknowledgement by the APSC that 'Rebuilding trust in the APS is a priority'.²⁰⁶

Opportunity for improvement

2.94 The Australian Public Service Commission consider reviewing its enterprise-level risks relating to integrity functions against the APS operating environment.

Corporate plan

2.95 The APSC's 2023–27 *Corporate Plan* was released in August 2023 and describes one of its key activities as: 'Uphold the high standards of integrity and conduct in the APS'. Table 2.8 reproduces the 'key enterprise risks and treatments' in the corporate plan, associated with the delivery of this key activity.

205 Commonwealth of Australia, Department of the Prime Minister and Cabinet, *Royal Commission into the Robodebt Scheme – Government Response*, November 2023, 'Ministerial Foreword', Attorney-General and Minister for the Public Service, p. 3, available from <https://www.pmc.gov.au/resources/government-response-royal-commission-robodebt-scheme> [accessed 4 December 2023].

206 Australian Public Service Commission, *State of the Service Report 2022–23*, 10 November 2023, p. 76, available from <https://www.apsc.gov.au/initiatives-and-programs/workforce-information/research-analysis-and-publications/state-service/state-service-report-2023> [accessed 1 December 2023].

Table 2.8: APSC 2023–27 Corporate Plan

Key activity	Key risks	Treatments
Uphold the high standards of integrity and conduct in the APS	<ul style="list-style-type: none"> Perceived or actual failures by the Commission to create systems and a culture that cultivates positive conduct and integrity in decision making and policy implementation across the APS. Inadequate assurance processes to monitor agencies' adoption of the APS Values and Employment Principles and evaluate the adequacy of systems and procedures in Agencies for ensuring compliance with the Code of Conduct give rise to potential vulnerabilities that undermine the integrity of the APS. Perceived or actual failure to uphold integrity within the Commission, undermining trust, credibility and the Commission's ability to operate transparently and fairly. 	<ul style="list-style-type: none"> Robust internal policies, procedures, training and frameworks for integrity matters. Regular audit and assurance activities in relation to integrity matters. Transparency is essential in demonstrating integrity in everything we do.

Source: Australian Public Service Commission, *2023–27 Corporate Plan*, August 2023, p. 9, available from https://www.apsc.gov.au/sites/default/files/2023-08/23552%20APSC%20-%20Corporate%20Plan%202023-27_Web.pdf.

2.96 External reporting and performance measurement in the APSC's *2023–27 Corporate Plan* — relating to integrity, ethics, the APS Values and Code of Conduct — is reviewed in paragraphs 3.33 to 3.39, as the relevant APSC performance measure is: 'Effectively monitor and evaluate agencies' implementation of the APS Values and Code of Conduct'.²⁰⁷

Has the APSC effectively provided advice and assistance to agencies on public service matters?

The ANAO reviewed six APSC mechanisms in operation during the audit review period to provide advice and assistance to APS agencies on public service matters: the Integrity Agencies Group (IAG); the Ethics Advisory Service (EAS); EConet; Cross-agency Code of Conduct Practitioners' Forum (conduct forum); agency survey; and consultation and advice on suspected breaches of the APS Code of Conduct.

The IAG offers opportunities for information-sharing amongst participants. The EAS received 684 enquiries during the audit review period. The APSC is not able to demonstrate what advice or assistance it provided on public service matters to the agencies represented at meetings of EConet or the conduct forum.

The APSC used the 2021 agency survey results to develop its *Integrity Metrics Resource*, which was released in 2022. If used by agencies, it provides a basis to focus their efforts to lift integrity measurement, monitoring and reporting.

²⁰⁷ Australian Public Service Commission, *2023–27 Corporate Plan*, August 2023, 'Performance measure 1', pp. 17–18, available from https://www.apsc.gov.au/sites/default/files/2023-08/23552%20APSC%20-%20Corporate%20Plan%202023-27_Web.pdf.

The 2023–27 Corporate Plan is the first time that the APSC has used this performance measure. Previous corporate plans included the following performance measure: 'Develop and implement initiatives to strengthen integrity culture to the APS'.

During the audit review period, APSC guidance was revised or new guidance issued, to manage identified risks and issues, without reference to a forward engagement strategy. The APSC issued timely guidance and advice for APS agency heads in 2023, relating to the management of Code of Conduct reviews following the report of the Royal Commission into the Robodebt Scheme.

2.97 Paragraph 41(2)(h) of the PS Act provides that a function of the Commissioner is ‘to provide advice and assistance to Agencies on public service matters’. The effective provision of such advice and assistance helps APS agencies operate in a consistent and appropriate manner in accordance with legal requirements and the expectations of Parliament and the community.

2.98 The ANAO examined whether the APSC has effectively assisted the Commissioner to provide advice and assistance to agencies on public service matters, focusing on the following.²⁰⁸

- The Integrity Agencies Group.
- The APSC’s Ethics Advisory Service, which is available to all APS employees, including agency heads and senior executives.
- The EConet.
- The Cross-agency Code of Conduct Practitioners’ Forum.
- The agency survey.
- Consultation and advice on suspected breaches of the APS Code of Conduct.

Integrity Agencies Group

2.99 The terms of reference for the IAG state that it is a ‘forum for coordination, enhancement and promotion of institutional integrity across the Commonwealth’.²⁰⁹ The Commissioner chairs the IAG²¹⁰ and secretariat support is provided by the APSC.

2.100 The IAG met three times during the audit review period (July 2022 to December 2023). At these meetings members received updates on integrity matters in the sector, such as the establishment of the NACC. The APSC also provided an update at two of the three meetings.

2.101 The IAG offers opportunities for information-sharing amongst participants. Information sharing can assist members’ awareness and understanding of integrity related issues and developments in the sector.

208 The ANAO did not review the quality of APSC advice provided to the Commissioner, as part of its role to assist the Commissioner to perform advisory, inquiry or review functions under the PS Act.

209 Australian Public Service Commission, ‘Integrity Agencies Group’, 26 April 2024, available from <https://www.apsc.gov.au/working-aps/integrity/integrity-agencies-group> [accessed 27 April 2024].

210 The IAG meets at least twice a year and includes: the Australian Public Service Commissioner (Chair); Deputy Australian Public Service Commissioner; Merit Protection Commissioner; Secretary, Attorney-General’s Department; Chief Executive Officer, Australian Criminal Intelligence Commission; Auditor-General; Commonwealth Director of Public Prosecutions; Deputy Secretary, Department of the Prime Minister and Cabinet; National Anti-Corruption Commissioner; Commonwealth Ombudsman; Inspector-General of Intelligence and Security; Australian Information Commissioner; President of the Australian Human Rights Commission; Chief Executive Officer, Independent Parliamentary Expenses Authority; Australian Federal Police Commissioner; Inspector General and Taxation Ombudsman; and the Inspector General of Water Compliance.

Ethics Advisory Service

2.102 The APSC maintains the EAS to provide advice and assistance to APS employees. The EAS Client Service Charter states that:

The Service aims to support ethical decision-making in the Australian Public Service (APS), in line with Australian Public Service Commissioner's statutory functions, and the Australian Public Service Commission's strategic priorities to uphold high standards of integrity and conduct in the APS.

The Service is available to all APS employees, including Agency Heads and senior executives.

2.103 The EAS Client Service Charter also identifies the specific services that are within its scope, as follows.

We provide:

- Information, policy advice and guidance on the application of the APS Values and Code of Conduct, and the APS misconduct framework ...
- Options, considerations, and strategies to help APS employees work through ethical issues and dilemmas, and to assist them to make sound judgements and choices.

We do not provide:

- An avenue for:
 - Reporting, handling, investigating, or resolving complaints or allegations of misconduct (unless the matter falls within the remit of the Commissioner's statutory functions).
 - Reviewing, disputing, or providing determinations on:
 - The merits or outcome of any misconduct, allegations, investigations or decisions; or
 - Whether a particular scenario is ethical or could be a breach of the APS Code of Conduct.
- Case management or advocacy ...

2.104 APSC records indicate that during the audit review period, the EAS received 684 enquiries, which are outlined in Table 2.9. The APSC records in a spreadsheet high level information on these enquiries, which are categorised by type. The types of enquiry are: conflict of interest; misconduct; harassment and bullying; performance management; and other. There is no evidence of controls in place or assurance over the completeness and accuracy of the data. Spreadsheets lack formalised change/version control and reporting, thereby increasing the risk of error. This can make spreadsheets unreliable corporate data handling tools as accidental or deliberate changes can be made to data, without there being a record of when, by whom, and what change was made. Due to the nature of information collected — on an anonymous and confidential basis — analysis is limited and the APSC has not created a database for this purpose.

Table 2.9: Enquiries received by the Ethics Advisory Service — July 2022 to December 2023

Type of enquiry	Number of enquiries received	Percentage of enquiries (rounded)
Conflict of Interest	103	15
Misconduct	222	32
Harassment and bullying	25	4
Performance management	5	1
Other	329	48
Total	684	100

Source: APSC documentation.

2.105 APSC documentation indicates that not all enquiries received by the EAS were within the scope of its Client Service Charter. For example, enquiries that related to private industry rather than APS entities. The APSC did not provide advice in response to these enquiries. The APSC advised the ANAO in January 2024 that ‘Individuals who make out of scope enquiries through the EAS phone line or email inbox are advised in response that their enquiry is out of scope of the service, with a link to the Service Charter.’ The APSC further advised that if appropriate and depending on the nature of the query, individuals may be provided with alternative sources for seeking information and advice.²¹¹

Ethics Contact Officer network

2.106 ECONet was discussed at paragraph 2.71. It is convened by the APSC to engage with working level ethics officers in APS agencies. The ECONet website states that ‘ECONet is an information sharing, intelligence gathering network of working level ethics officers’.

2.107 The APSC advised the ANAO in November 2023 that it receives ‘insight through engagement with ECONet forums.’ ECONet met three times during the audit review period — on 25 August 2022, 22 August 2023 and 8 November 2023. The APSC prepares an agenda/key discussion topics and slides for these meetings.

2.108 The APSC did not prepare minutes of ECONet meetings and there was no documented record of discussion or outcomes from meetings. In the absence of meeting minutes or other records, the APSC was not able to demonstrate the insights it received or the advice or assistance it provided on public service matters from ECONet meetings. Since the August 2023 meeting the APSC has distributed to ECONet members the information and presentations referenced at the previous meeting. There was no evidence of APSC reporting from this network into key internal governance bodies such as the APSC Executive Board or Executive Committee.

Cross-agency Code of Conduct Practitioners’ Forum

2.109 The conduct forum is co-chaired by the APSC and the Department of Defence. It focuses on sharing expertise and best practice in applying the Code of Conduct in agencies. Membership includes representatives from nine of the 16 Departments of State plus other agencies. The APSC

²¹¹ The ANAO did not examine the appropriateness of advice provided by the EAS in response to enquiries.

advised the ANAO in March 2024 that the Department of Defence is the secretariat for the conduct forum and manages the frequency of meetings, and that during the audit review period eight meetings were held.

2.110 Typically, agendas are not distributed for these meetings and minutes are not taken. In the absence of meeting minutes or other records, the conduct forum is not able to demonstrate what advice or assistance it provided on public service matters to the agencies represented at conduct forum meetings.

Opportunity for improvement

2.111 The APSC prepare a record of discussion or outcomes of meetings of the Ethics Contact Officer network (ECONet) and, as co-chair of the Cross-agency Code of Conduct Practitioners' Forum, raise at a future forum meeting the need for improved record keeping by the forum and a forward agenda of priorities.

APS Agency Survey

2.112 As discussed in paragraph 2.70, the APSC conducts an annual agency survey. The APSC collects data specific to investigations into suspected breaches of the APS Code of Conduct by APS agencies and their use of integrity resources.

2.113 In 2023, a summary of the 2023 Agency Survey results and analysis was sent to relevant senior leaders within the APSC, along with a summary of key insights from the Code of Conduct section of the results. APSC documentation states that the information was provided 'to enable them to review their programs, inform their strategies, and evaluate related policies or procedures. It also enables [APSC] Branches to reach out to individual agencies as required.' The APSC's Integrity, Performance and Employment Policy Branch conducted meetings with four large APS agencies (Defence, Home Affairs, the Australian Taxation Office and Services Australia) in late 2023 to follow-up on APS Survey/Employee Census results regarding Code of Conduct and bullying and harassment, this is discussed further in paragraph 3.24.

Integrity Metrics Resource

2.114 The APSC used the 2021 agency survey results to complete a 'stocktake of integrity metrics used by APS agencies to measure and monitor integrity and professional standards.' This data informed the development of the APSC's *Integrity Metrics Resource* that was released in 2022 (see paragraph 1.78). The *Integrity Metrics Resource* is available on the APSC website and 'is designed to support agencies to understand their current integrity measurement capability and make informed decisions on where to focus future effort to lift integrity measurement, monitoring and reporting.'²¹² The APSC does not require agencies to use the Integrity Measurement Resource or collect information on agency self-assessments.

2.115 If used by entities, the *Integrity Metrics Resource* provides a basis to focus their efforts to lift integrity measurement, monitoring and reporting. The ANAO has previously advised the

212 APSC, *Integrity Metrics Resource*, APSC, 2022, Canberra, p. 5; available from <https://www.apsc.gov.au/working-aps/integrity/integrity-metrics-resource> [accessed 5 February 2024].

Parliament that the *Integrity Metrics Resource* potentially provides a basis for consistent integrity assessment and subsequent reporting to internal regulators and the Parliament.²¹³

Updating advice

2.116 As discussed in paragraph 2.44, during the audit review period APSC guidance was revised or new advice issued to manage identified risks and issues. This was done without reference to a forward engagement strategy. Examples included the following.

- On 3 April 2023, in preparation for the October 2023 referendum on an Aboriginal and Torres Strait Islander Voice, and in partnership with the NIAA, the APSC released guidance for APS employees on personal engagement in the referendum for APS employees.
- In October 2023, the APSC updated its guidance for agency heads regarding reporting on gifts and benefits, to clarify reporting requirements relating to airline memberships, following a request by PM&C.
- In 2023, specially prepared guidance and advice was issued to agency heads by the APSC, relating to the management of Code of Conduct reviews following the report of the Royal Commission into the Robodebt Scheme. This guidance is discussed in the next section.

Advice and support on suspected breaches of the APS Code of Conduct

Senior Executive Service

2.117 Section 64 of the *Australian Public Service Commissioner's Directions 2022* requires APS agency heads to consult with the Commissioner on suspected Code of Conduct breaches by SES employees. Agency heads must:

- (a) consult with the Commissioner on the process for determining whether the employee has breached the Code of Conduct; and
- (b) if considering imposing a sanction—consult with the Commissioner before imposing the sanction.²¹⁴

2.118 The APSC advised the ANAO in November 2023 that this requirement was introduced in response to the Sedgwick report.²¹⁵ Recommendation 8 of that report was as follows.

That, in future, any Code of Conduct allegations against SES officers be progressed in consultation with the APSC, both in respect of whether and how to investigate an allegation and, if applicable, what sanction(s) to apply (achieved through enhanced guidance or Commissioner's Directions, as necessary).²¹⁶

213 ANAO, Joint Committee of Public Accounts and Audit Inquiry into probity and ethics in the Australian public sector: Submission by the Australian National Audit Office, paragraph 32 and Appendix 4, available from https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Public_Accounts_and_Audit/AustralianPublicSector/Submissions [accessed 16 June 2024].

214 Australian Public Service Commissioner's Directions 2022, section 64, available from <https://www.legislation.gov.au/F2022L00088/latest/text> [accessed 30 January 2024].

215 The Sedgwick report is discussed in paragraph 1.34 of this audit.

216 Stephen Sedgwick AO, *Report into consultations regarding APS approaches to ensure institutional integrity*, October 2020, p. 25.

2.119 Among the reasons provided for recommendation 8 was that the APSC ‘would provide support in an advisory capacity to decision makers’²¹⁷ and the proposed approach:

would complement the APSC’s current role, through the Ethics Advisory Service, of providing general advice and guidance on integrity matters including Code of Conduct matters; but would recognise the legislated responsibilities and obligations of a member of the SES in upholding and promoting compliance with the Code, including by personal example (s35(3)(c) APS Act). In time, provided appropriate data is collected by APSC, the Commissioner may reach a better-informed view about whether to persist with a mandated advisory role in such circumstances.²¹⁸

External guidance

2.120 The 2022 Commissioner’s Directions do not include guidance on how entities are to consult with the Commissioner under section 64. The APSC website states that: ‘For further information about the Directions, you can contact the Commission’s ... Integrity and Ethics team in relation to integrity ... and Code of Conduct matters’.²¹⁹ The website also provides an email address.

2.121 The APSC has released *Handling Misconduct – A human resource manager’s guide*, which includes the section 64 requirement to consult with the Commissioner.²²⁰

2.122 The APSC has also released *Senior Executive Service - ending employment*, which includes a section on ‘Consultation on sanction for a breach of the Code of Conduct’. This guidance includes the section 64 requirement to consult with the Commissioner, and states that:

Where an Agency Head determines that the sanction for a breach of the Code by an SES employee will be termination, the consultation on the proposed sanction will inform the Commissioner’s decision as to whether termination is in the public interest.²²¹

2.123 The guidance states that in the first instance, agencies should contact the Integrity and Ethics team in the APSC and provides contact details.

Internal guidance and recording

2.124 The APSC has internal guidance that sets out what actions the APSC takes in response to being consulted by agencies under section 64 of the 2022 Commissioner’s Directions.

2.125 The guidance states that if sufficient information has been provided, APSC officials should forward the matter to the Assistance Commissioner to advise them, and propose a draft response back to the agency. Example text is provided for this purpose. The guidance also states that:

If the agency has not provided sufficient information, it may be appropriate to request that the agency provide the missing information. It is up to the Assistant Commissioner whether they deem

217 Stephen Sedgwick AO, *Report into consultations regarding APS approaches to ensure institutional integrity*, October 2020, p. 25.

218 *ibid.*

219 APSC, Circular 2022/2: Commencement of the Australian Public Service Commissioner’s Directions 2022, APSC, Canberra, 2022, available from <https://www.apsc.gov.au/circulars-guidance-and-advice/circular-2022-commencement-australian-public-service-commissioners-directions-2022> [accessed 24 April 2024].

220 APSC, *Handling Misconduct – A human resource manager’s guide*, APSC, Canberra, 2021, paragraphs 6.26–6.27, p. 51, available from <https://www.apsc.gov.au/resources/circulars-guidance-and-advice/handling-misconduct-human-resource-managers-guide> [accessed 22 April 2024].

221 APSC, *Senior Executive Service – ending employment*, APSC, Canberra, 2023, available from <https://www.apsc.gov.au/working-aps/information-aps-employment/senior-executive-service-ses/senior-executive-service-ending-employment#consultation-on-sanction-for-a-breach-of-the-code-of-conduct> [accessed 24 April 2024].

it necessary to have a telephone conversation with the agency's contact to obtain further information about a matter. For example, if the matter is particularly contentious/serious or if termination of employment is being considered.

2.126 In November 2023 the APSC advised the ANAO that there are no documented principles to guide the exercise of discretion within the APSC and the procedure is being reviewed.

2.127 The APSC's guidance also states that the details of consultation with agencies on SES conduct matters are to be recorded in the APSC's case management system (known as LEX). During the audit review period the details of such consultation were not recorded in LEX. Instead they were recorded in a spreadsheet.²²² The spreadsheet records the following information.

- The date the APSC was consulted, the reporting agency, and the contact name and details of the person providing information to the APSC.
- Details of the person alleged to have breached the Code of Conduct — their initials, their status (in terms of whether they were a current or former employee at the date of consultation) and their SES band level.
- Details of the nature of the alleged misconduct, the proposed process to determine the breach, the element of the Code of Conduct alleged to have been breached, and whether the individual has been found in breach.
- Sanction details if a sanction was imposed.
- Other relevant information (such as investigation found allegations were unsubstantiated, or employee resigned).

2.128 Information in the spreadsheet is recorded to varying levels of completeness and there is no evidence of controls in place or assurance over the completeness and accuracy of the data. The spreadsheets lack formalised change/version control and reporting, thereby increasing the risk of error.

2.129 APSC records indicate that the number of acting or substantive SES Band 1, SES Band 2 and SES Band 3 employees²²³ reported to the APSC by agencies as suspected of breaching the APS Code of Conduct, in accordance with section 64 of the 2022 Commissioner's directions, was as follows.²²⁴

- 2022 — 21 persons or 0.69 per cent of the combined SES cohort.
- 2023 — 17 persons or 0.53 per cent of the combined SES cohort.

222 The APSC advised the ANAO in April 2024 that:

The Commission no longer uses the LEX legal matter management system to record consultations with agencies on SES conduct matters. Use of both LEX and the consultation spreadsheet created unnecessary duplication of work, and the spreadsheet was preferred as it allows us to capture and view all relevant data in one place. Since providing the SOP [standard operating procedure] for the consultation process to the ANAO, the SOP has been updated to remove the reference to LEX [the APSC's case management system].

223 SES rank is identified by a numbered band, with Band 3 being the most senior rank. In a department the nomenclature is typically as follows: assistant secretary (Band 1), first assistant secretary (Band 2), deputy secretary (Band 3). However, nomenclature can differ between APS agencies, as only departments have an agency head with the title of secretary. The simplest way to identify SES rank is to establish the band of the relevant official. This data does not include agency heads or statutory office holders.

224 The percentages were calculated using the number of employees by SES classification at: 30 June 2022 for the year 2022; and 30 June 2023 for the year 2023. SES classification data was published in the 2022–23 State of the Service Report.

Inquiries by the Commissioner — advice and assistance to agencies

Royal Commission into the Robodebt Scheme

2.130 Section 41A of the PS Act provides for the Commissioner to inquire into an alleged breach of the Code of Conduct by an APS agency head, and section 41B provides for the Commissioner to inquire into an alleged breach by an APS employee or former employee.

2.131 As discussed in paragraph 1.49, on 10 July 2023 the Secretary of PM&C and the Commissioner released a joint message to the APS on the Royal Commission into the Robodebt Scheme, advising that the APSC would oversee a process to determine if public servants with adverse findings had breached the APS Code of Conduct.²²⁵ It was stated that this process would be established under the Commissioner's powers and the APSC had engaged an individual to exercise these powers as an Independent Reviewer. On 3 August 2023 the APSC announced the appointment of a supplementary reviewer and a sanctions adviser, and advised publicly that the Commissioner had received 16 referrals to the APSC's centralised Code of Conduct mechanism, consisting of: current APS employees named in the sealed section of the Royal Commission's report; former APS employees referred by their most recent agency head; and former agency heads referred by the minister following advice from the Secretary of PM&C.²²⁶

2.132 The APSC issued timely and specially prepared guidance and advice to APS agency heads relating to the management of Code of Conduct reviews following the report of the Royal Commission into the Robodebt Scheme.

2.133 The APSC issued guidance titled 'Robodebt Code of Conduct Reviews: Guidance for making a request to the Australian Public Service Commissioner'. The guidance provided information, advice and assistance to agency heads on relevant matters, including the following.

- The centralised inquiry mechanism and its operation. The guidance stated that:
This guidance is intended for Agency Heads. It contains important information about requesting the Australian Public Service Commissioner inquire into employees who have had adverse findings made against them as part of the Royal Commission Inquiry into the Robodebt Scheme to the centralised inquiry mechanism...

225 PM&C Secretary and APS Commissioner, 'A message to you from PM&C Secretary Davis and Commissioner de Brouwer on the Royal Commission into the Robodebt Scheme', 10 July 2023, available from <https://www.apsc.gov.au/news-and-events/open-letters-australian-public-service/message-you-pmc-secretary-davis-and-aps-commissioner-de-brouwer-royal-commission-robodebt-scheme> [accessed 28 March 2024].

226 Australian Public Service Commission, *Robodebt Code of Conduct process*, available from <https://www.apsc.gov.au/working-aps/integrity/robodebt-code-conduct-process> [accessed 28 March 2024].

This mechanism is established under the inquiry powers of the APS Commissioner and is intended to provide a robust, independent and consistent approach to reviewing conduct that is the subject of adverse findings in the Royal Commission.²²⁷

- The role of the taskforce established to administer and support the centralised process. The guidance stated that ‘Once a request had been made and was under investigation as part of the centralised process, the Taskforce would be responsible for all communication, updates and information sharing with the affected individuals. The Taskforce would also periodically update Agency Heads regarding progress in an investigation.’
- Distinguishing between adverse findings and commentary in the royal commission report.
- Decision-making within agencies, including in respect to different categories of APS employees affected by the process (for example, current and former APS employees and agency heads).
- The Code of Conduct investigation process. The guidance stated that the Commissioner had ‘engaged an Independent Reviewer to conduct the code of conduct reviews, and had delegated to them, under section 78 of the PS Act, powers to conduct inquiries and make determinations in relation to alleged Code Breaches’. The Taskforce had been established to support the Independent Reviewer in exercising these duties.’
- Correspondence templates for the centralised process.
- What to do if an employee was referred to more than one professional or disciplinary body. The guidance stated that ‘A concurrent referral to other professional or disciplinary bodies did not alter the enduring responsibility of Agencies to act on suspected misconduct’.
- Advising affected individuals.
- The review rights of individuals.
- ‘[T]he Agency Head’s responsibility to ensure that wellbeing issues [for individuals] have been considered and advise the Taskforce of any concerns to ensure continuity and consistency of support.’
- Further information sources and guidance prepared for this process, including:
 - ‘Robodebt Code of Conduct Reviews: Guidance for managing staff who have had adverse findings made against them’; and
 - ‘Robodebt Code of Conduct Reviews: Guidance for managing wellbeing as a result of a request to the Australian Public Service Commissioner due to an adverse finding’.
- Issues to consider should there be applications for legal assistance (prepared by the Attorney-General’s Department).

227 The guidance noted that: under the PS Act, agency heads are able to request that the Commissioner inquire into and determine whether a current or former APS employee has breached the Code; and the Commissioner may also inquire into alleged breaches of the Code by current agency heads. The guidance went on to advise that in this case, on receipt of the Royal Commission report, as agreed by the Secretaries Board, agency heads must request that the Commissioner inquire into and determine whether any employees (including non-ongoing employees and former employees) with adverse findings made against them in the Report had breached the Code of Conduct, in accordance with sections 41B and paragraph 41(2)(n) of the PS Act; and that a request should include that the Commissioner make a recommendation regarding sanction in accordance with paragraph 41B(9) of the PS Act. The guidance further noted that the Commissioner is not empowered to directly apply a sanction, and that determining what action is required from the review’s findings and recommendations would be a matter for an Agency Head as an individual’s employer.

- Timelines. The guidance stated that: 'A request should be made as timely as possible and Agency Heads will be contacted by the Taskforce if a referral is not received by close of business 12 July 2023.'

2.134 The APSC also issued guidance for APS agency heads titled 'Robodebt Code of Conduct Reviews: Role of the Independent Sanctions Adviser' (ISA). The guidance stated that:

A centralised inquiry mechanism has been established to inquire into alleged breaches of the APS Code of Conduct ... arising from the report of the Robodebt Royal Commission. This mechanism was established to provide a robust, independent and consistent approach to reviewing conduct that is the subject of adverse findings in the Royal Commission...

The ISA will provide impartial advice on sanctions for breaches of the Code of Conduct by current APS employees. The ISA is independent of the centralised inquiry mechanism and is not an APS employee. The purpose of engaging the ISA is to ensure that the APS Commissioner's sanction recommendations to agencies are consistent, proportionate and fair.

The ISA may be briefed at the conclusion of a Code of Conduct review where a breach of the Code is found. The ISA's role will be to consider available sanctions for that breach and to recommend a suitable sanction for individuals that are current APS employees to the APS Commissioner.

2.135 The APSC issued further guidance for APS agency heads, titled 'Robodebt Code of Conduct Reviews: Guidance for managing staff who have had adverse findings made against them'. The guidance included the following.

- Roles and responsibilities, including the ISA's role in advising the Commissioner, and the Commissioner's role in making recommendations to agency heads.
- Decision-making, including a proposed process should an agency head disagree with the Commissioner's sanction recommendation.
- Relevant considerations in making sanction recommendations.
- Further information sources and available guidance.

2.136 As discussed in paragraph 1.51, on 8 February 2024 the APSC provided a further update about the centralised inquiry mechanism and the 16 referred matters.²²⁸ The APSC reported that at that time, one investigation had concluded and 15 investigations had proceeded to the issuing of notices outlining the grounds and categories for potential breach of the APS Code of Conduct.²²⁹

2.137 The ANAO confirmed the accuracy of public reporting by the APSC regarding: the existence, contents and intended recipients of the sealed chapter of the Royal Commission report; the existence of Royal Commissioner orders for non-publication of the sealed chapter; the number and type of Robodebt related referrals (16); and the establishment and role of the Centralised Code of Conduct Inquiry Taskforce.

2.138 For each of the Robodebt related referrals, the ANAO reviewed APSC documentation to confirm that: the independent and supplementary reviewers had been provided with delegations and there were terms of reference for the Centralised Code of Conduct, Supplementary Reviewer and Independent Sanctions Advisor.

228 Australian Public Service Commission, 'Robodebt Code of Conduct process', available from <https://www.apsc.gov.au/working-aps/integrity/robodebt-code-conduct-process> [accessed 28 March 2024].

229 The ANAO did not examine the conduct of these review processes.

Code of Conduct inquiries (not related to the Robodebt Scheme)

2.139 As discussed in paragraph 2.130, subsection 41A of the PS Act empowers the Commissioner to investigate an allegation of a breach of the APS Code of Conduct made against an APS agency head.²³⁰ Subsection 41B of the PS Act enables the Commissioner to inquire into and determine whether an APS employee, or a former APS employee, in an agency has breached the Code of Conduct if:

- (a) the agency head or the Prime Minister requests the Commissioner to do so; and
- (b) the Commissioner considers it would be appropriate to do so.

2.140 In November 2023 the APSC advised the ANAO that it uses the following publicly available document when conducting investigations and determining sanctions.

- *Handling Misconduct – A human resource manager’s guide*²³¹, which states that:
This guide is intended to assist Australian Public Service (APS) agencies to respond effectively and proportionately to employee conduct that does not meet expectations, consistent with the purpose of the APS conduct framework to maintain public confidence in the integrity of the APS.²³²

2.141 The APSC has process documentation specific to when a complaint is received regarding an agency head or statutory officer holder. The guidance contains links to nine attachments, seven of which were marked as draft or were incomplete.

2.142 The APSC commenced six non Robodebt related Code of Conduct inquiries²³³ during the audit review period (July 2022 to December 2023).²³⁴ For each inquiry, the ANAO examined: whether the reviewers had been provided with delegations where applicable; if a contract with the reviewer existed that set out the nature of requirements of the review; and whether each reviewer was provided with documentation that would assist in ensuring quality and consistency in the exercise of the delegated powers.

2.143 For four of the six inquiries, the Commissioner was the breach decision-maker and an independent reviewer was appointed to assist the Commissioner with the inquiries. For one inquiry, an independent reviewer was the breach decision maker. For one inquiry, the Commissioner delegated relevant decision making powers to an APSC officer.

2.144 Where the Commissioner was not the decision maker, there was evidence that the relevant people had been appropriately delegated relevant powers under the PS Act. A contract was established for the one inquiry with an independent decision maker. The contract set out the nature of requirements of the review and the reviewer was provided with documentation that would assist them ensuring quality and consistency in the exercise of the delegated powers.

230 The Commissioner has no power to conduct investigations into allegations regarding former agency heads or former heads of statutory agencies or the heads of non-APS entities.

231 The guide includes information on issues such as the APS conduct framework, investigations, making breach determinations, and sanctions. There are five checklists and 13 accompanying fact sheets.
APSC, Handling Misconduct– A human resource manager’s guide, 2021.

232 *APSC, Handling Misconduct– A human resource manager’s guide*, 2021, p. 7.

233 The Code of Conduct inquiry related to Secretary Pezzullo was one of these.

234 APSC records show that another referral had been accepted during the audit review period, but had not commenced. This instance was not included in the ANAO’s review.

2.145 Each of the six inquiries included an investigation, for which the APSC established contracts with independent reviewers. Documentation was provided to four of the six reviewers to ensure quality and consistency in the review. The APSC advised the ANAO in December 2023 that two reviewers were from a law firm that ‘demonstrated this capability and understanding of the requirements of this work as part of their tender submission to be a panel supplier’ so were not supplied documentation.

2.146 In October 2023 the APSC commenced approximately monthly reporting to the Commissioner relating to new referrals/requests for inquiry²³⁵ and ongoing Code of Conduct inquiries. The content of the monthly reporting has developed over time. In January 2024 the report included details of the number of:

- ongoing inquiries and new referrals/requests for inquiry, broken down by current and former employees, agency head by agency, and current and former APS employees by agency;
- completed inquiries since the previous report;
- requests for inquiry in the last two financial years of current/former agency heads and current/former APS employees, recording the status of the decision (undertake, not undertake²³⁶ or under consideration);
- SES consultations for Code of Conduct matters under section 64 of the Commissioner’s directions for the last two financial years; and
- ongoing inquiries into suspected breaches of the Code of Conduct by current and former agency heads and APS employees, including details of the agency and relevant minister,

235 The APSC advised the ANAO in April 2024 that:

There is a difference between a “request” and a “referral” in the context of our inquiries.

For the purpose of your report, the term “requests” relates to APS employee matters; and “referral” for Agency Head matters.

For APS employees, a “request” from either an Agency Head or the Prime Minister is required for the Commissioner to be able to conduct an inquiry in accordance with section 41B and paragraph 41(2)(n) [of the PS Act]. This is because the Commissioner does not have own motion inquiry powers for APS employee inquiries ...

Given the Commissioner’s own motion powers in respect of Agency Head inquiries, the Commissioner does not require a “request” to conduct an inquiry. However, in practice, concerns regarding the alleged conduct of an Agency Head may be raised with the Commission for consideration. In this context, we have been calling this a “referral”.

236 Not all requests/referrals proceed to an inquiry.

Regulation 6.3 of the Public Service Regulations 2023 sets out the circumstances in which the Commissioner may decline to conduct, or may discontinue, an inquiry into an alleged breach of the Code of Conduct by an Agency Head. The Commissioner may conclude that conducting or continuing the inquiry would not be justified in all the circumstances. In making this decision the regulation states that the Commissioner may have regard to the following: (a) whether the allegation is vexatious, frivolous, misconceived, or lacking in substance; (b) whether sufficient detail about the allegation has been provided; (c) whether the allegation refers to specific decisions or actions by the Agency Head; (d) whether the allegation identifies conduct which, if proven, would constitute a breach of the Code of Conduct; (e) whether the allegation relates to a decision properly taken, or to policy properly adopted, by the Agency Head, with which the person making the allegation disagrees; (f) whether the cost of conducting an inquiry is justified in the circumstances.

Regulation 6.5 of the Public Service Regulations 2023 states that the Commissioner may discontinue an inquiry into an alleged breach of the Code of Conduct by an APS employee or a former APS employee if the Commissioner reasonably believes that to continue the inquiry would not be appropriate in all the circumstances.

key dates (referred, inquiry commenced) and roles (investigator, decision maker), alleged conduct, matter status and next steps.

2.147 The January 2024 report also set out 'Key [APSC] engagement with agencies on Code of Conduct processes and/or integrity related issues' during the reporting period. The report stated that this engagement activity 'is consistent with the Commissioner's functions under sections 41(1)(b) and 41(2)(f) and (l)' of the PS Act. These PS Act provisions relate to the Commissioner's functions of upholding high standards of integrity and conduct in the APS, and related evaluation activity.²³⁷ Evaluation is reviewed in the next chapter of this audit report.

²³⁷ The Commissioner's functions are set out in Box 2 of this audit report, at p. 21.

3. Evaluate

Areas examined

This chapter examines whether the Australian Public Service Commission (APSC) has effectively evaluated: the extent to which Australian Public Service (APS) agencies incorporate and uphold the APS Values; and the adequacy of systems and procedures in agencies for ensuring compliance with the APS Code of Conduct. The audit review period was July 2022 to December 2023.

Conclusion

The APSC did not have a sound basis for monitoring and evaluating the extent to which agencies incorporate and uphold the APS Values, or the adequacy of systems and procedures in agencies to ensure compliance with the Code of Conduct. There was no mechanism to provide assurance or insight to the Commissioner or the Parliament on agencies' implementation of the APS Values and Code of Conduct.

Areas for improvement

The ANAO made one recommendation aimed at developing an evaluation strategy and reviewing the APSC's current evaluation methodology.

3.1 The Parliament has provided that one of the three broad functions of the Australian Public Service Commissioner (Commissioner) under the *Public Service Act 1999* (PS Act) is 'to uphold high standards of integrity and conduct in the APS'.²³⁸ More specifically, the Commissioner, supported by the APSC, has statutory functions under the PS Act to:

- 'evaluate the extent to which Agencies incorporate and uphold the APS Values and the APS Employment Principles' — pursuant to paragraph 41(2)(f) of the PS Act²³⁹; and
- 'evaluate the adequacy of systems and procedures in Agencies for ensuring compliance with the Code of Conduct' — pursuant to paragraph 41(2)(l) of the PS Act.

Has the APSC established fit-for-purpose arrangements to evaluate the extent to which agencies incorporate and uphold the APS Values?

The APSC did not have fit-for-purpose arrangements to evaluate the extent to which agencies incorporate and uphold the APS Values, or a documented strategy linked to outcomes which could be measured.

The APSC collected information from several mechanisms and activities to inform its understanding of issues and developments in the APS and which may influence its thinking, actions and priorities. It has not leveraged the data and insights gained from its various activities to evaluate the extent to which agencies incorporate and uphold the APS Values. This does not provide the Commissioner or Parliament with broader insight or assurance on the extent to which agencies uphold the APS Values.

A capability review conducted in 2023 assessed the APSC as having a maturity rating of 'developing' in respect to 'Review and evaluation'. The APSC advised the ANAO in

238 Subsection 41(1) of the PS Act lists three broad Commissioner functions. Subsection 41(2) of the PS Act lists a further 18 Commissioner functions.

239 This audit did not examine the APS Employment Principles.

November 2023 that it has begun work to systematise its use of data to observe patterns or areas of concern for agencies.

3.2 The expectation that the Commissioner evaluate the extent to which APS agencies incorporate and uphold the APS Values has been in place since 1999.

Evaluation strategy

3.3 As discussed in paragraph 2.5, a strategy can assist an entity in articulating, documenting and achieving its intended outcomes. By identifying objectives and the planned actions to achieve them, a strategy assists in resource allocation, achieving focus and efficiency in work effort, and provides a framework to monitor and assess progress against objectives.

3.4 The APSC does not have a strategy linked to measurable outcomes for evaluating the extent to which agencies incorporate and uphold the APS Values. This is in the context of an operating environment (discussed in paragraph 1.86) which has featured:

- reviews, initiatives and investigations focused on perceived shortcomings in upholding APS integrity, probity and ethics, including at the highest levels of APS leadership;
- statements by the Australian Government that the Royal Commission into the Robodebt Scheme had identified ‘serious failings within the Australian Public Service’²⁴⁰; and
- acknowledgement by the APSC that ‘Rebuilding trust in the APS is a priority’²⁴¹ and that this process includes ‘reinforcing a culture with integrity at its core’.²⁴²

APSC activities

3.5 The APSC undertakes various activities and draws on the information gained from these activities to inform its understanding of the extent to which agencies incorporate and uphold the APS Values. These activities include:

- the Ethics Advisory Service;
- the APS Employee Census;
- the APS Agency Survey (agency survey);
- convening the Ethics Contact Officer Network (ECONet); and
- other engagement activities.

3.6 The information collected from these activities informs the APSC’s understanding of issues and developments in the APS, and may influence its thinking, actions and priorities. The various activities are not components of a documented strategy for evaluating the extent to which agencies incorporate and uphold the APS Values.

240 Commonwealth of Australia, Department of the Prime Minister and Cabinet, *Royal Commission into the Robodebt Scheme – Government Response*, November 2023, ‘Ministerial Foreword’, Attorney-General and Minister for the Public Service, p. 3, available from <https://www.pmc.gov.au/resources/government-response-royal-commission-robodebt-scheme> [accessed 4 December 2023].

241 Australian Public Service Commission, *State of the Service Report 2022–23*, 10 November 2023, p. 76, available from <https://www.apsc.gov.au/initiatives-and-programs/workforce-information/research-analysis-and-publications/state-service/state-service-report-2023> [accessed 1 December 2023].

242 *ibid*, p. 76. See Box 6 and paragraph 1.70 of this audit report.

Ethics Advisory Service

3.7 As discussed in paragraphs 2.102 to 2.105, the Ethics Advisory Service (EAS) is available to all APS employees, including agency heads and senior executives, 'to support ethical decision-making'.

3.8 The analysis of EAS information can give the APSC an indication of the extent to which agencies incorporate and uphold the APS Values and Code of Conduct. The APSC advised the ANAO in March 2024 that 'EAS data provides some indication of trends and issues across the APS; however, it cannot be relied upon to draw definitive conclusions about the extent to which agencies incorporate and uphold the Values.'²⁴³ The APSC Executive Committee typically received fortnightly reports on the total number of EAS enquiries, by type.²⁴⁴ The reporting included figures for three financial years but did not include agency-specific information. Longer term longitudinal analysis²⁴⁵ could assist the APSC to assess or evaluate the extent to which EAS data indicated whether agencies had incorporated and upheld the APS Values.

3.9 As discussed in paragraph 2.104, during the 18 month period reviewed in this audit (July 2022 to December 2023) the EAS received 684 enquiries.²⁴⁶ The number of enquiries received by the EAS is low in comparison to reporting in the 2023 APS Employee Census, which indicated that 13,253 APS employees (10.4 per cent of the 127,436 respondents) had reported they had been subject to harassment or bullying, which are types of unethical workplace behaviours.²⁴⁷ The relationship between these information sources has not been evaluated by the APSC.

APS Employee Census and APS Agency Survey

3.10 The APS Employee Census and the agency survey are produced and managed by the APSC, and information from these activities is reported in the annual State of the Service Report (the report is discussed in paragraphs 1.68 to 1.71 and Box 6).

3.11 The APSC's 2023 APS Employee Census webpage states that 'The APS Employee Census is an annual survey which is used to collect confidential attitude and opinion information from APS staff on issues in the workplace.'²⁴⁸ This includes information on experiences of

243 The APSC advised this was for various reasons, including: EAS users not being representative of the APS as a whole or of any particular agency; not all EAS users disclose their agency; advice being sought will not necessarily be a direct reflection of how their agency incorporates and upholds the Values; and issues raised may not relate to the employee's agency or the conduct of employees in their agency at all. The APSC further advised that 'EAS generally does not have visibility of the outcomes of enquiries, including those concerning agency matters, and [APSC] data thus could not present a complete picture of how agencies incorporate and uphold the Values.'

244 As discussed in Table 2.6, p. 70 of this audit report, the APSC was unable to confirm the number of meetings held by the Executive Committee or provide the ANAO with all meeting papers.

245 A longitudinal study involves repeated observations of the same variables over time.

246 This is an average of 38 enquiries per month.

247 APSC, *State of the Service Report 2022–23*, pp. 92 and 217, available from <https://www.apsc.gov.au/initiatives-and-programs/workforce-information/research-analysis-and-publications/state-service/state-service-report-2023> [accessed on 2 February 2024].

The APS Employee Census sample size for 2023 was 159,539. A total of 127,436 APS employees responded, giving a response rate of 80 per cent.

248 The webpage also states that: 'In 2023, 103 APS agencies participated in the APS Employee Census'. The sample size for 2023 was 159,539. A total of 127,436 APS employees responded, giving a response rate of 80 per cent. The census ran from Monday 8 May to Friday 9 June 2023.

APSC, *APS Employee Census 2023*, Canberra, 2023, available from <https://www.apsc.gov.au/initiatives-and-programs/workforce-information/aps-employee-census-2023> [accessed 22 January 2024].

discrimination/harassment, respect in the workplace and commitment to agency goals. This directly relates to three of the five APS Values²⁴⁹ — respectful (inclusion of peoples' rights and heritage), ethical (acting with integrity, in all that it does), and committed to service (achieving the best results for the Australian community and the government).

3.12 The census does not directly address how agencies incorporate the two remaining APS Values — impartial (the APS is apolitical and provides the government with advice that is frank, honest, timely and based on the best available evidence), and accountable (the APS is open and accountable to the Australian community under the law and within the framework of ministerial responsibility). The APSC advised the ANAO in March 2024 that the census addresses these two values as follows.

- Impartial — the census includes the question 'My SES manager routinely promotes the use of data and evidence to deliver outcomes'.
- Accountable — the census includes the question 'The people in my workgroup use time and resources efficiently.'

3.13 The analysis of census information can help the APSC assess the extent to which agencies incorporate and uphold the APS Values and Code of Conduct. Following the 2023 APS Employee Census, the Commissioner was provided with a consolidated view of initial insights, prepared by the APSC. This included census results for metrics such as leadership, employee engagement, discrimination, harassment and bullying and corruption over a five-year period.

3.14 The agency survey (discussed in paragraphs 2.70 and 2.112 to 2.114) is an annual agency self-reporting mechanism that collects data and workforce metrics from APS agencies with more than 20 APS employees for the preceding financial year. The APSC does not verify the results of the survey.²⁵⁰ The survey includes a series of questions relating to the APS Code of Conduct, including the number of employees investigated for a suspected breach of the Code of Conduct and the number of employees found to have breached the Code of Conduct.

3.15 The analysis of agency survey information can also help the APSC assess the extent to which agencies incorporate and uphold the APS Values and Code of Conduct. APSC records indicate that during the audit review period, the following analysis was undertaken by the APSC.

- As discussed in paragraph 2.114, the APSC used the 2021 agency survey results to complete a 'stocktake of integrity metrics used by APS agencies to measure and monitor integrity and professional standards.' This data informed the development of the APSC's *Integrity Metrics Resource* discussed in paragraph 1.78.
- As discussed in paragraph 2.113, in 2023 a summary of the 2023 agency survey results and analysis were provided to relevant senior leaders within the APSC, along with a summary of key insights from the Code of Conduct section of the results. APSC records indicate that the information was provided 'to enable them to review their programs, inform their strategies, and evaluate related policies or procedures. It also enables [APSC] Branches to reach out to individual agencies as required.' The APSC advised the ANAO in February 2024

249 The five APS Values are discussed in Box 1 at p. 17 of this audit report.

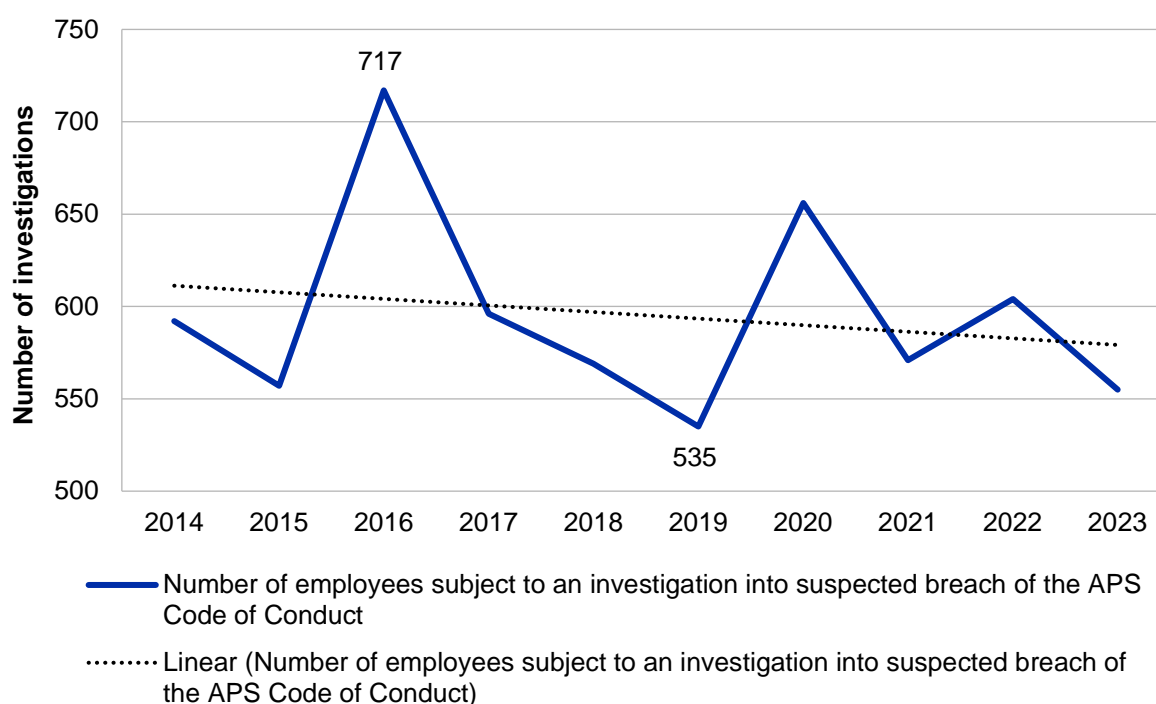
250 The APSC advised the ANAO in June 2024 that the agency head or other senior representative certifies that the information is accurate: 'To the best of my knowledge, I am satisfied that the information provided in this survey is an accurate and current assessment of my agency.' The APSC further advised '... If we are unable to interpret agency responses, APSC seeks clarification.'

that ‘the results and insights [from the agency survey] have been shared internally in some form since the survey’s inception in 2011.’

3.16 The APSC reports publicly on the information derived from the agency survey in its annual State of the Service Report, including the number of employees subject to a Code of Conduct investigation and the number of investigations and breaches against the Code of Conduct.²⁵¹

3.17 The *State of the Service Report 2022–23* reported that in ‘the 2023 Australian Public Service Agency Survey, agencies reported that 555 employees were the subject of an investigation into a suspected breach of the APS Code of Conduct that was finalised in 2022–23.’²⁵² The APSC also reported internally on the number of APS employees subject to an investigation into a suspected breach of the APS Code of Conduct from 2014 to 2023. The ANAO drew on this information for Figure 3.1.

Figure 3.1: Number of APS employees subject to investigation into suspected breach of APS Code of Conduct, 2014 to 2023



Source: ANAO analysis of APSC data obtained from the APS Agency Survey and APSC documentation.

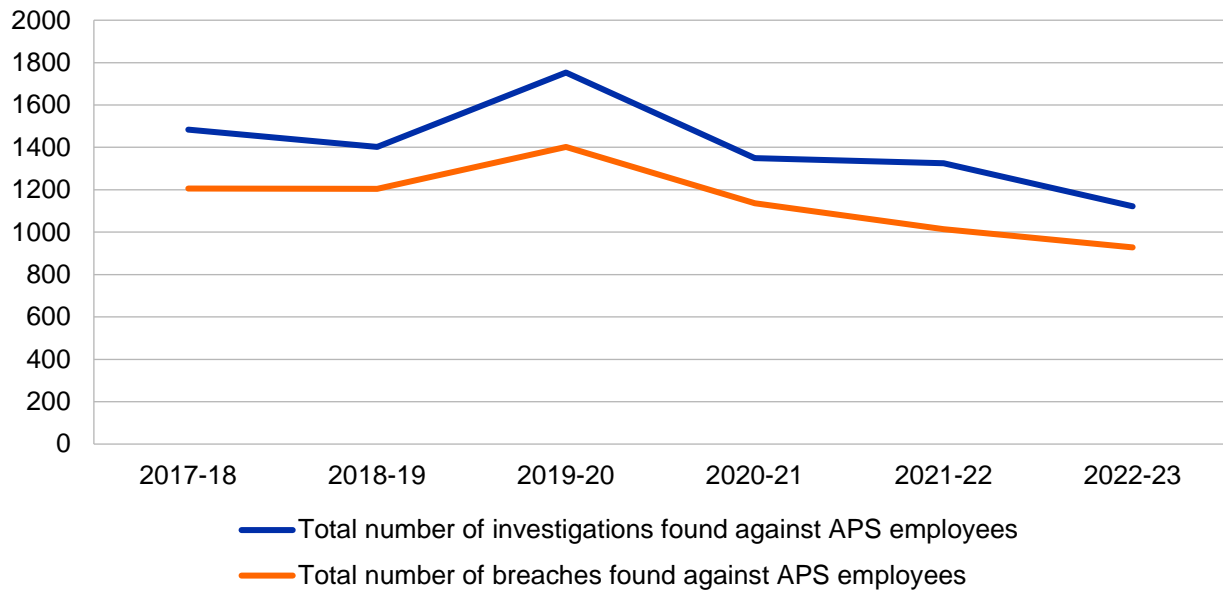
3.18 In the agency survey, the APSC gathers information on the number of investigations and breaches against each subsection of the Code of Conduct. Figure 3.2 illustrates the reported number of all investigations and breaches by subsection from 2017 to 2023. These numbers are greater than the number of employees subject to an investigation or who were found to have breached the Code

251 The Commissioner has a statutory requirement to report to Parliament on the state of the APS each year. One of the sources the APSC uses to collect information is the APS Agency Survey. APSC, *APS Agency Survey*, APSC, Canberra, 2021, available from <https://www.apsc.gov.au/initiatives-and-programs/workforce-information/research-analysis-and-publications/aps-agency-survey> [accessed 8 June 2024].

252 APSC, *State of the Service Report 2022–23*, APSC, Canberra, 2023, pp. 172–73, available from <https://www.apsc.gov.au/initiatives-and-programs/workforce-information/research-analysis-and-publications/state-service/state-service-report-2023> [accessed 25 January 2024].

of Conduct (illustrated in Figure 3.1) because an individual employee can be investigated for, or be found in breach of, multiple subsections of the Code of Conduct.

Figure 3.2: Total number of investigations and breaches against all subsections of the APS Code of Conduct, 2017–2018 to 2022–2023



Source: ANAO analysis of APSC data obtained from the APS Agency Survey and APSC documentation.

3.19 The APSC’s internal analysis, from the 2023 agency survey, states that:

The most commonly breached elements of the Code of Conduct were:

- At all times behave in a way that upholds the APS Values and APS Employment Principles, and the integrity and good reputation of the employee's Agency and the APS – 447 investigations and 389 found breached
- Behave honestly and with integrity in connection with APS employment – 195 investigations and 162 found breached
- Comply with any lawful and reasonable direction given by someone in the employee’s Agency who has authority to give the direction – 100 investigations and 87 found breached.

3.20 Table 3.1 (below) indicates the number of APS employees investigated and found in breach of the particular subsections of the APS Code of Conduct, as a percentage of total APS employees in 2022–23. The *State of the Service Report 2022–23* provides information on the outcome of Code of Conduct investigations conducted by individual agencies, and sanctions imposed for confirmed breaches (see Appendix 4).

Table 3.1: Number of APS employees investigated and found in breach of particular subsections of the APS Code of Conduct 2022–23

APS Code of Conduct — relevant subsection	Number of investigations of APS employees ^a	Investigations — percentage of total APS employees	Number of breaches found against APS employees ^a	Breaches — percentage of total APS employees
Subsection 13(1) Behave honestly and with integrity in connection with APS employment	195	0.114	162	0.095
Subsection 13(2) Act with care and diligence in connection with APS employment	67	0.039	55	0.032
Subsection 13(3) When acting in connection with APS employment, treat everyone with respect and courtesy, and without harassment	98	0.058	66	0.039
Subsection 13(4) When acting in connection with APS employment, comply with all applicable Australian laws	20	0.012	13	0.008
Subsection 13(5) Comply with any lawful and reasonable direction given by someone in the employee's Agency who has authority to give the direction	100	0.059	87	0.051
Subsection 13(6) Maintain appropriate confidentiality about dealings that the employee has with any Minister or Minister's member of staff	2	0.001	0	0.000
Subsection 13(7) Take reasonable steps to avoid any conflict of interest (real or apparent), and disclose details of any material personal interest of the employee in connection with the employee's APS employment	39	0.023	29	0.017
Subsection 13(8) Use Commonwealth resources in a proper manner and for a proper purpose	57	0.033	51	0.030
Subsection 13(9) Not provide false or misleading information in response to a request for information that is made for official purposes in connection with the employee's APS employment	43	0.025	35	0.021
Subsection 13(10) Not make improper use of: inside information, or the employee's duties, status, power or authority, in order to: a. gain, or seek to gain, a benefit or advantage for the employee or for any other person, b. cause, or seek to cause, a detriment to the employee's Agency, the Commonwealth or any other person	48	0.028	35	0.021

APS Code of Conduct — relevant subsection	Number of investigations of APS employees ^a	Investigations — percentage of total APS employees	Number of breaches found against APS employees ^a	Breaches — percentage of total APS employees
Subsection 13(11) At all times behave in a way that upholds the APS Values and APS Employment Principles, and the integrity and good reputation of the employee's Agency and the APS	447	0.262	389	0.228
Subsection 13(12) While on duty overseas, at all times behave in a way that upholds the good reputation of Australia	2	0.001	2	0.001
Subsection 13(13) Comply with any other conduct requirement that is prescribed by the regulations	4	0.002	4	0.002
Total	1122	0.659	928	0.545

Note a: One employee can be investigated and found to have breached multiple subsections of the Code of Conduct.

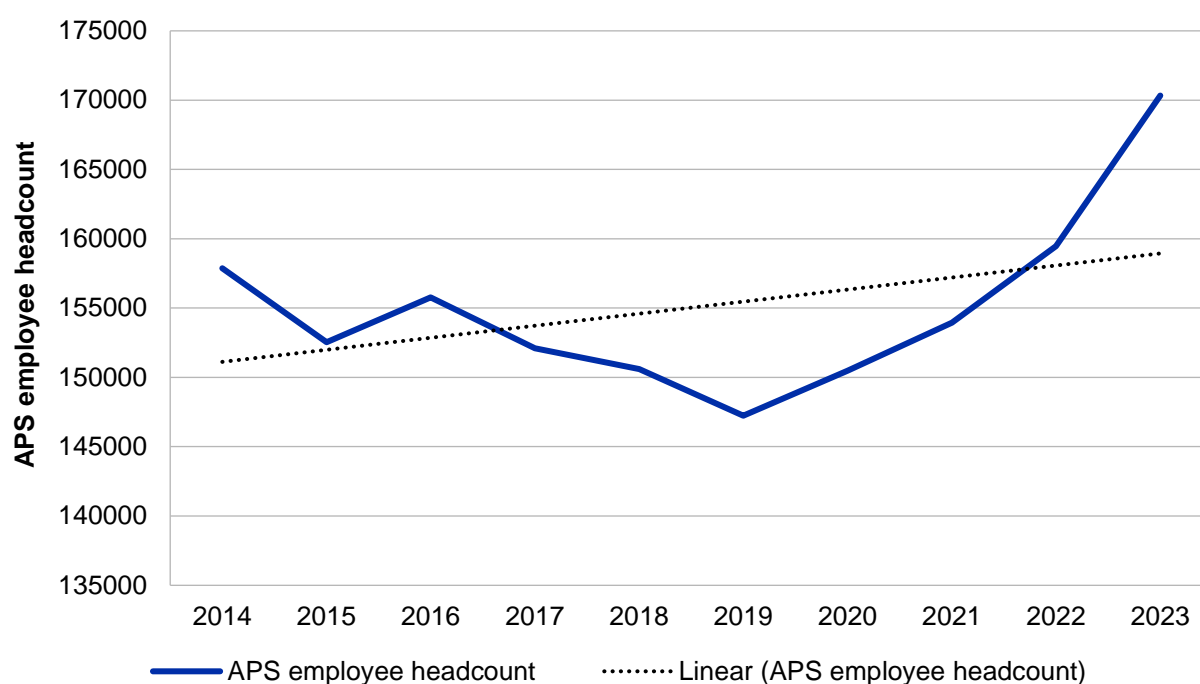
Source: ANAO analysis of APSC data obtained from the APS Agency Survey and reported in the *State of the Service Report 2022–23*.

Evaluating relationships between information sources

3.21 As discussed in paragraph 3.17, the *State of the Service Report 2022–23* reported that in the 2023 agency survey, agencies reported that 555 employees were the subject of an investigation into a suspected breach of the APS Code of Conduct that was finalised in 2022–23. This represents 0.326 per cent of the APS headcount.²⁵³ In comparison, reporting in the 2023 APS Census indicated that 13,253 APS employees (10.4 per cent of the 127,436 respondents) had reported they had been subject to harassment or bullying, which are types of unethical workplace behaviours.²⁵⁴

3.22 Further, as illustrated in Figure 3.1, the number of APS employees reported by their agencies as subject to investigation into suspected breach(es) of the APS Code of Conduct has been declining since 2014, notwithstanding the growth in APS headcount.²⁵⁵ The APS headcount between 2014 and 2023 is illustrated in Figure 3.3.²⁵⁶

Figure 3.3: Number of APS employees, 2014 to 2023



Source: ANAO analysis of APSC data obtained from the APS Agency Survey.

3.23 As discussed in paragraph 3.9 the APSC has not evaluated the relationship between data derived from different information sources, or undertaken benchmarking to assist its evaluation of

253 As discussed in paragraph 1.2, at 30 June 2023 the APS employee headcount was 170,332.

254 APSC, *State of the Service Report 2022–23*, pp. 92 and 217, available from <https://www.apsc.gov.au/initiatives-and-programs/workforce-information/research-analysis-and-publications/state-service/state-service-report-2023> [accessed on 2 February 2024].

The APS Employee Census sample size for 2023 was 159,539, as indicated in footnote 248. A total of 127,436 APS employees responded, giving a response rate of 80 per cent.

255 As discussed in paragraph 1.2 and 1.86, the APS headcount increased by 6.9 per cent between 30 June 2022 and 30 June 2023, and by 3.8 per cent in the previous year.

256 Figure 3.3 is based on reporting in the APS Agency Survey. The 2023 APS Agency Survey reported an APS headcount of 170,332 at 30 June 2023. As discussed in footnote 33, the APSC reported in March 2024 that at 31 December 2023 the APS headcount was 177,442.

agency reporting on integrity issues. For example, the APSC has not undertaken benchmarking or evaluation to establish: whether the rate of current and historical reporting by APS agencies is comparable with other jurisdictions (nationally or internationally); or whether there are material differences in APS agencies' approaches to initiating investigations into suspected breaches of the APS Code of Conduct. The APSC has not set a benchmark at the per-agency level, based on historical data, to help it monitor and evaluate agency movements against the benchmark. The APSC advised the ANAO in December 2023 that:

Given Code of Conduct matters are undertaken at the agency level, the APSC does not have an expectation of how many code of conduct matters are undertaken. This could be influenced by a range of factors, including, but not limited to the nature of the agencies functions, the geographic footprint of the agency, etc.

3.24 Internal APSC analysis has focused on understanding the 2023 agency survey data relating to the total number of complaints recorded across the various types of bullying and harassment.²⁵⁷ The analysis found that: 'Whilst most agencies reported an increased number of complaints in 2022–23, one agency accounted for around a half of the increased number of complaints'.²⁵⁸ The APSC analysis also indicated that across all agencies, sexual harassment complaints had increased by 119 per cent from the previous year. In response to these findings, the APSC engaged with four agencies where the majority of the increase in sexual harassment reporting occurred, to discuss their results.²⁵⁹ The APSC advised the ANAO in November 2023 that:

The Commission is taking a range of actions in response to the findings, including representatives of IPEP [Integrity, Performance and Employment Policy Group] meeting with the four largest agencies and a selection of others to discuss their Code of Conduct-related data. Following these meetings, the Commission will facilitate discussions between these agencies and representatives of the Community and Public Sector Union focused on sexual harassment and actions in support of the Respect at Work legislation.

3.25 In March 2024 the APSC provided the ANAO with the following advice on the quality and limitations of the APS Employee Census:

The APS Employee Census captures employee perceptions. While a useful measure alongside other data points to understand organisational climate, this employee perception data should not be interpreted as verified and investigable conduct. There are many reasons why an employee might say they had specific experiences in a perception survey, yet those experiences do not translate to official investigations of an individual's behaviour. For example, the behaviour experienced may have been reasonable management action and not harassment as perceived by the employee.

As well, in some cases the alleged perpetrator of the inappropriate behaviour may be a member of the public and therefore not subject to the APS Code of Conduct.

Additionally, where the bullying / harassment was alleged to have been perpetrated by an APS employee, a Code of Conduct investigation is not necessarily warranted. As outlined in the APSC's guidance materials, the response needs to be proportionate and alternatives to a Code of Conduct investigation (e.g. management action) may be more appropriate.

257 Where a complaint covered more than one type, a complaint was counted for each type.

258 The agency was Services Australia.

259 The agencies were Services Australia, the Australian Taxation Office, the Department of Defence and the Department of Home Affairs.

3.26 The APSC published an *APS Employee Census Explanatory Guide* with the 2023 results which included information on interpreting results, including the following caveat:

Although it can be a valuable resource and evidence base, it should be remembered that the Census is an employee perception survey. Respondents are asked to provide their opinions and perceived experiences.²⁶⁰

Ethics Contact Officer Network

3.27 As discussed in paragraphs 2.106 to 2.108, the APSC convenes the ECONet. As minutes or outcomes of these meetings are not documented the APSC is not able to demonstrate whether the meetings assisted the APSC to evaluate the extent to which agencies incorporate and uphold the APS Values.

Other APSC engagement activity

3.28 The APSC advised the ANAO in November 2023 that it acquires information on the extent to which agencies incorporate and uphold the APS Values through its ongoing interaction with APS agencies and matters brought to its attention.

3.29 As discussed in paragraphs 2.146 and 2.147, in October 2023 the APSC commenced approximately monthly reporting to the Commissioner on Code of Conduct inquiries and referrals/requests for inquiry. The 24 January 2024 report included details of 'Key [APSC] engagement with agencies on Code of Conduct processes and/or integrity related issues' during the reporting period. The report stated that this engagement activity 'is consistent with the Commissioner's functions under sections 41(1)(b) and 41(2)(f) and (l)' of the PS Act. These PS Act provisions relate to the Commissioner's functions of upholding high standards of integrity and conduct in the APS, and related evaluation activity.

3.30 Other examples of engagement activity given by the APSC included the following.

- Agencies can engage with the APSC on APS Values and Code of Conduct related matters and through this process the APSC is aware of what is happening in that agency.
 - For example, the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DITRDCA) consulted with the APSC in relation to the behaviour of some of DITRDCA's 2023 Graduate Development Program cohort. The APSC provided advice 'that DITRDCA has undertaken actions considered appropriate and in line with the APSC's guidance'.
- The Commissioner and APSC acquire information in the context of providing advice to secretaries, other agency heads and APS employees on integrity matters.
- Whole-of-government initiatives, such as the work of the APS Reform Office, and the APS Integrity Taskforce and related steering group.
- Ad hoc feedback from relevant partners and stakeholders such as the Merit Protection Commissioner is also used to inform improvements and this 'feedback is collated and stored for reference in future reviews and updates to the relevant guidance material.'

²⁶⁰ APSC, *APS Employee Census Explanatory Guide*, APSC, Canberra, 2023, p. 22, available from <https://www.apsc.gov.au/initiatives-and-programs/workforce-information/aps-employee-census-2023> [accessed 8 April 2024].

- The Integrity Agencies Group is another forum which assists the APSC in gaining an understanding of integrity related issues and developments in the sector (as discussed in paragraphs 2.99 to 2.101).

3.31 The APSC further advised the ANAO in November 2023 that it ‘leans in’ on various matters, such as the APS Values and Code of Conduct and that it ‘does not have a framework that determines when it “leans in” in terms of engagement with agencies’. For example, the Commissioner decided to write to the Secretary of the Department of Health and Aged Care on 28 July 2023 after considering findings made in the ANAO performance audit report on the administration of the Community Health and Hospitals Program. In that report the Auditor-General concluded that the Department of Health and Aged Care’s administration of the program was ineffective and fell short of ethical requirements.²⁶¹ The APSC advised the ANAO in November 2023 that it does not monitor the findings of ANAO performance audit reports.

3.32 The APSC does not undertake systematic analysis of the operating environment and insights about integrity risk gained from relevant integrity and oversight agencies.²⁶²

Performance measurement — APSC corporate plan

3.33 As discussed in paragraph 2.95, the APSC’s *2023–27 Corporate Plan* describes one of the APSC’s key activities as: ‘Uphold the high standards of integrity and conduct in the APS’ and includes one performance measure relating to the APS Values and Code of Conduct. The measure is: ‘Effectively monitor and evaluate agencies’ implementation of the APS Values and Code of Conduct’.²⁶³ The rationale provided for this measure is that:

The Commission has a legislative requirement to ‘evaluate the extent to which agencies incorporate and uphold the APS Values and APS Employment Principles’ and ‘evaluate the adequacy of systems and procedures in agencies for ensuring compliance with the APS Code of Conduct’. Therefore, the Commission has a role in monitoring and evaluating the extent to which agencies comply with the requirement under section 15(7) of the Public Service Act 1999 to ‘ensure that the procedures established under subsection (3) are made publicly available.’

This measure provides the foundation for the Commission having an increasingly authoritative role in influencing and enforcing APS Values, APS Employment Principles and compliance with the APS Code of Conduct. Several agencies are leading initiatives under the APS Reform agenda to create

261 Auditor-General Report No.31 2022–23 *Administration of the Community Health and Hospitals Program*, ANAO, Canberra, 2023, paragraph 9.

As discussed in paragraph 1.85 this is one of five ANAO audit reports considered as part of the Joint Committee of Public Accounts and Audit’s (JCPAA) inquiry into probity and ethics in the Australian public sector. The audit report was presented for tabling in Parliament on 5 June 2023 and the JCPAA adopted the inquiry on 27 June 2023.

262 For example, reports from the Commonwealth Ombudsman and Auditor-General identify risks to the successful delivery of government outcomes, including instances where performance falls short of ethical requirements, and provide insight on developments across the Australian public sector, including in respect to the management of probity and ethical requirements.

263 Australian Public Service Commission, *2023–27 Corporate Plan*, August 2023, ‘Performance measure 1’, pp. 17–18, available from https://www.apsc.gov.au/sites/default/files/2023-08/23552%20APSC%20-%20Corporate%20Plan%202023-27_Web.pdf.

This performance measure was first included in the 2023–27 Corporate Plan. Previous corporate plans included the following performance measure: ‘Develop and implement initiatives to strengthen integrity culture to the APS’.

a pro-integrity culture and systems. With this shared responsibility, the Commission recognises its own role in contributing to a pro-integrity culture.

*Under section 41(2)(f) and 41(2)(l) of the *Public Service Act 1999*.²⁶⁴

3.34 The 2023–27 *Corporate Plan* documents that the APSC's planned performance result for this measure is that: '100% of agencies have section 15(3) of the *Public Service Act 1999* APS Code of Conduct Procedures published on their public websites.'²⁶⁵ The measurement methodology is described as:

an annual audit by the APSC of each agency's public website to determine whether they comply with section 15(7) of the *Public Service Act 1999* which requires that "An Agency Head must ensure that the procedures established under subsection 15(3) are made publicly available". Results will be recorded in a spreadsheet containing results of each year of a result of compliant or not compliant.

3.35 In October 2023, the APSC introduced the annual 'audit'²⁶⁶ of whether agencies had published their Code of Conduct procedures on their public website. APSC records indicate that the APSC checked 121 agency websites and identified that 69 agencies (57 per cent) had done so. When asked by the ANAO whether or not the APSC had written to non-compliant agencies, the APSC advised in November 2023 that 'this is not a process that exists yet. This is the first time that this has been done.' The APSC further advised in November 2023 that it would write to the 52 non-compliant agencies. The APSC wrote to five non-compliant entities.

3.36 In March 2024, the APSC repeated its 'audit' and checked 110 agency websites for evidence that Code of Conduct procedures had been published. APSC records indicate that the APSC identified 76 agencies (69 per cent) had done so. The APSC's Director of Ethics and Integrity (EL2 level) followed up by email to non-compliant entities, reminding them of the obligation and seeking additional information.²⁶⁷

3.37 The two 'audits' conducted by the APSC indicate that the APSC did not have an accurate understanding of the population of agencies required to comply with the requirement.²⁶⁸ Not all

264 Australian Public Service Commission, 2023–27 *Corporate Plan*, August 2023, 'Performance measure 1', p. 17.

265 Subsection 15(3) of the PS Act provides that an Agency Head must establish written procedures for determining whether an APS employee, or a former APS employee, in the agency has breached the Code of Conduct and the sanction (if any) that is to be imposed on an APS employee in the agency who is found to have breached the code. Subsection 15(7) of the PS Act provides that an Agency Head must ensure that the procedures established under subsection 15(3) are made publicly available.

266 An audit is an assurance engagement undertaken in accordance with applicable auditing standards. Although referred to by the APSC as an audit, there is no evidence that this activity is carried out within such a framework.

267 APSC documentation in relation to the 'audit' conducted on 8 March 2024 identified 'Actions taken'. These included that the APSC received advice from agencies that procedures had been on the website and provided the location, had since been published, would be published by a specified date or 'awaiting response'.

268 The ANAO identified duplicated agencies (two instances in the October 2023 'audit' and one instance in the March 2024 'audit'). The APSC advised the ANAO in April 2025 that:

The Commission's engagement with agencies on this matter has identified a number of agencies thought initially to be within scope of the s.15(7) requirement as the starting stocktake list was taken from the Department of Finance's PGPA agency flipchart and cross-referenced with agencies that had previously participated in the Employee Census. We also acknowledge that there had been inadvertent duplication in the case of two agencies.

agencies included in its October 2023 ‘audit’ employ staff under the PS Act, so are not required to comply with section 15 of the PS Act. The APSC advised the ANAO in April 2024 that:

We continue to work with agencies which employ APS employees to ensure s15(3) procedures are in place and ‘made publicly available’ as required under s15(7) – the evaluation activities are iterative and ongoing. Current evaluation activities are now focussed only on agencies which currently can employ or do employ APS employees – i.e. including ‘dual staffing’ agencies.

At 22 April 2024, there are 105 APS agencies we consider must comply with the requirement in s.15(7) of the PS Act — i.e. to make publicly available their procedures, established under s.15(3) of the PS Act, for determining breaches of the Code of Conduct. Also at 22 April 2024, 92 of these agencies have procedures in place which are publicly available and the remainder are working with us to do so by June 30. The compliance rate is currently 88%.

3.38 The APSC’s ‘audit’ activity provides the Commissioner with information on one aspect of compliance by agencies, and potentially provides insight into an agency’s culture regarding compliance and intent. It does not provide broader insight or assurance on the extent to which APS agencies incorporate and uphold the APS Values.²⁶⁹

3.39 There is scope for the APSC to review and expand its evaluation methodology for this performance measure, to improve the level of assurance provided to the Commissioner and the Parliament on agencies’ performance in incorporating and upholding the APS Values.

Recommendation no. 4

3.40 The Australian Public Service Commission develop an evaluation strategy and review its current evaluation methodology to improve the level of assurance provided to the Commissioner and Parliament on whether agencies incorporate and uphold the APS Values, and the adequacy of agencies’ systems and procedures for ensuring compliance with the APS Code of Conduct.

Australian Public Service Commission response: Agreed.

3.41 The APSC will develop and implement, as part of its overarching integrity strategy developed in response to Recommendation 1, an evaluation plan and methodology to strengthen the level of assurance provided to the Commissioner on how the Commission is ensuring its legislated functions are being met. Parliament will be assured through the preparation of our Annual Report.

APSC capability review

3.42 As discussed in paragraph 1.24, a capability review of the APSC was conducted in 2023. The review included an assessment of the APSC’s capability across five core domains: leadership and

²⁶⁹ Paragraph 41(2)(f) of the PS Act provides that the Commissioner’s functions include: ‘to evaluate the extent to which Agencies incorporate and uphold the APS Values and APS Employment Principles’.

culture; collaboration; delivery; people; and resources and risk.²⁷⁰ The assessment is based on a maturity rating scale.²⁷¹ The capability review assessed the APSC as having a maturity rating of 'developing' in respect to 'Review and evaluation – Evaluation activities are resourced and used to improve performance'. This capability falls under the leadership and culture core domain.²⁷²

3.43 The APSC advised the ANAO in November 2023 that:

The evaluation of the Commissioner's integrity functions is continuing to evolve. Presently, qualitative evidence is obtained through the APS Agency Survey, the Ethics Contact Officer Network pulse survey pilot, and APS Academy learning and development course attendance and evaluation data. Historically and presently, this data has been critical to the development and refreshing of the Commission's flagship resources.

3.44 The APSC further advised the ANAO in November 2023 that:

In addition to the annual APS Employee Census and APS Agency Survey, the Commission holds data relating to EAS enquiries; consultation on SES Code of Conduct matters and proposed sanctions; agency head and statutory office holder complaints and investigations; and agency gifts and benefits registers. The Commission has begun work to systematise its use of this data to observe patterns or areas of concern for agencies, engage with agencies to offer support, and identify where additional guidance material may be required.

There is great potential to use this data in a more systematic way to identify trends and issues and to inform guidance, training, and integrity policy over the longer term. However, significant resourcing constraints have precluded more than broad summary or ad hoc analysis in recent years.

270 The APSC's Capability Review Program webpage states that:

'The Capability Review program is part of the Government's enduring plan for APS Reform. Currently in a pilot phase, the program aims to:

- embed a culture of continuous improvement across the APS
- ensure agencies can deliver government priorities and outcomes for Australians.

Capability reviews are independent, forward-looking and assess an agency's ability to meet future objectives and challenges. They aim to facilitate discussions around an organisation's desired future state, highlight strengths and organisational capability gaps and identify opportunities to act on them.'

APSC, *Capability Review*, APSC, Canberra, 2023, p. 23, available from <https://www.apsc.gov.au/sites/default/files/2023-07/230630%20-%20APSC%20Capability%20Review%20Report%20-%20FINAL.pdf> [accessed 23 January 2024].

271 Maturity ratings from lowest to highest are: Emerging, Developing, Embedded and Leading.

272 The high-level maturity rating description in the capability review for 'developing' is as follows:

'Agency mostly demonstrates:

- Weakness or gaps in current capability
- Concerns in its ability to deliver future capability
- Some current and future capability gaps not clearly identified and forecasting of future capability challenges needs to be improved
- Identified weaknesses not systematically addressed
- Greater focus on learning and continuous improvement is needed'

APSC, *Capability Review*, APSC, Canberra, 2023, p. 14.

Has the APSC established fit-for-purpose arrangements to evaluate the adequacy of systems and procedures in agencies for ensuring compliance with the Code of Conduct?

The APSC did not have fit-for-purpose arrangements to evaluate the adequacy of systems and procedures in agencies for ensuring compliance with the Code of Conduct, or a documented strategy linked to outcomes which could be measured.

There was no mechanism to provide assurance or insight to the Commissioner or Parliament on the adequacy of systems and procedures in agencies for ensuring compliance with the Code of Conduct.

3.45 The PS Act requires all APS employees to comply with the Code of Conduct set out in section 13 of the Act, and subsection 14(1) provides that agency heads are bound by the Code of Conduct in the same way as APS employees. Subsection 15(3) of the PS Act also provides that an agency head must establish written procedures for determining whether an APS employee, or a former APS employee, in the agency has breached the Code of Conduct and the sanction (if any) that is to be imposed on an APS employee in the agency who is found to have breached the Code of Conduct. Subsection 15(7) of the PS Act provides that an agency head must ensure that the procedures established under subsection 15(3) are made publicly available. These requirements have been in place in their current form since 2013.²⁷³

3.46 The expectation that the Commissioner evaluates the adequacy of systems and procedures in agencies for ensuring compliance with the Code of Conduct has been in place since 1999.

Evaluation strategy

3.47 The APSC does not have a strategy, linked to outcomes which could be measured, to evaluate the adequacy of systems and procedures in agencies to ensure compliance with the Code of Conduct. Such a strategy could for example set out what data collection and analysis could assist the APSC to provide assurance to the Commissioner and the Parliament in relation to this legislative function.

Evaluation

3.48 The APSC did not evaluate the adequacy of systems and procedures in agencies to ensure compliance with the Code of Conduct, notwithstanding that this requirement has been in place since 1999.

²⁷³ *Public Service Amendment Act 2013* Schedule 1 Part 7.

4. Stewardship

Areas examined

This chapter examines whether the Australian Public Service Commission (APSC) has effectively partnered with secretaries and APS agency heads in the stewardship of the Australian Public Service (APS). The audit review period was July 2022 to December 2023.

Conclusion

The APSC did not have a documented strategy or plan to support the Commissioner's functions relating to stewardship and partnering with secretaries or agency heads. The APSC did not clearly articulate the stewardship concept appearing since 2013 in the *Public Service Act 1999* (PS Act) and did not measure its effectiveness in administering the stewardship function. The APSC's approach to the stewardship function was largely activity-driven, and it contributed to or led a range of APS improvement initiatives, including with the Secretaries Board.

Area for improvement

The ANAO identified one opportunity for improvement related to developing a strategy for how the Commissioner fulfils the stewardship function.

4.1 In the Commonwealth public sector, framework policy owners establish the rules of operation in key areas and then largely rely on the accountable authorities of entities prescribed under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and the agency heads of APS agencies to be responsible for culture and compliance within public sector organisations (see paragraph 1.31). In that respect the frameworks are devolved and largely self-regulating. Under the principles-based approach, mandatory rules are largely set to control actions where risks are deemed highest. Key policy owners include the Department of Finance for the PGPA Act framework and the APSC for the PS Act integrity framework. The PS Act also identifies:

- a 'stewardship' function for the Secretaries Board established under the Act²⁷⁴;
- a 'stewardship' role for secretaries²⁷⁵; and
- that a function of the Commissioner is 'to partner with Secretaries in the stewardship of the APS', pursuant to paragraph 41(2)(g) of the PS Act.²⁷⁶

4.2 The PS Act does not include an explicit expectation that the Commissioner partner on stewardship with APS agency heads who are not secretaries.²⁷⁷ The ANAO considered whether there was evidence of such partnering, as the Commissioner has APS-wide functions and one of the

274 The Secretaries Board is established by subsection 64(1) of the PS Act (see paragraph 1.71 of this report). Under paragraph 64(3)(a) of the PS Act, the functions of the Secretaries Board include the following: 'to take responsibility for the stewardship of the APS and for developing and implementing strategies to improve the APS'.

275 Under paragraph 57(1)(c) of the PS Act, the role of a secretary includes the following: 'leader, providing stewardship within the Department and, in partnership with the Secretaries Board, across the APS'.

276 Under paragraph 41(2)(g) of the PS Act, the functions of the Commissioner include: 'to partner with Secretaries in the stewardship of the APS.'

277 The PS Act defines an agency head as the secretary of a department, the head of an executive agency; or the head of a statutory agency. While all secretaries are APS agency heads, not all APS agency heads are secretaries.

Commissioner's three high level functions is 'to uphold high standards of integrity and conduct in the APS'.²⁷⁸

Has the APSC effectively partnered with secretaries and agency heads in the stewardship of the APS?

The APSC did not have a documented strategy or plan to support the Commissioner's functions relating to stewardship and partnering with secretaries or agency heads — including where the Commissioner is independently performing functions under the PS Act — or to measure its effectiveness in administering the Commissioner's stewardship function.

The APSC's approach to the stewardship function was largely activity-driven, and included: participation in sector-wide boards and committees with integrity-related roles or functions, such as the Secretaries Board; briefing and induction activity for new secretaries and other agency heads; engaging with APS agency heads on Senior Executive Service (SES) Code of Conduct matters; providing advice and guidance on integrity issues; and involvement in SES recruitment and talent management activities.

The APSC has undertaken planning relating to the addition of 'stewardship' as a sixth APS Value in the PS Act. The Public Service Amendment Bill 2023 received royal assent on 11 June 2024 and is now known as the *Public Service Amendment Act 2024*.

Stewardship in the *Public Service Act 1999*

4.3 In its 2010 review, *Ahead of the Game: Blueprint for the Reform of Australian Government Administration*, the Advisory Group on Reform of Australian Government Administration (the advisory group) which prepared the report stated that:

The Advisory Group has put particular weight on the importance of leadership. Reform is driven from the top, and accordingly we propose that Secretaries, the Australian Public Service Commissioner and an executive leadership forum be made explicitly responsible for the short, medium and long-term stewardship of the whole public service, with a brief to strengthen its objectives, identity and practice.²⁷⁹

4.4 The advisory group proposed amendments to the PS Act to introduce a Secretaries Board comprising secretaries and the Commissioner, to be chaired by the Secretary of the Department of the Prime Minister and Cabinet (PM&C). Among other things, the proposed board would:

Take responsibility for the stewardship of the APS and for developing and implementing strategies to improve the APS.²⁸⁰

278 PS Act, paragraph 41(1)(b).

279 Advisory Group on Reform of Australian Government Administration, *Ahead of the Game: Blueprint for the Reform of Australian Government Administration*, March 2010, p. v, available from <https://www.apsreview.gov.au/sites/default/files/files/Ahead%20of%20the%20Game%20-%20Blueprint%20for%20the%20Reform%20of%20Australian%20Government.pdf> [accessed 10 March 2024]. The advisory group was chaired by the Secretary of the Department of the Prime Minister and Cabinet and members included the Commissioner, among others.

280 *ibid.*, p. 49.

4.5 The advisory group also proposed that the stewardship and other roles of secretaries be more clearly articulated.²⁸¹ The advisory group defined the stewardship role of secretaries as follows.

Secretaries hold an important *stewardship function* to ensure that the APS has the capacity to serve successive governments. A stewardship capability must exist regardless of the style of any one Minister or government. Stewardship relates not only to financial sustainability and the effective and efficient management of resources, but also to less tangible factors such as maintaining the trust placed in the APS and building a culture of innovation and integrity in policy advice. [emphasis in original]²⁸²

2013 amendments to the *Public Service Act*

4.6 These proposals were implemented through amendments to the PS Act, which took effect in 2013²⁸³ and remained in effect in March 2024.

4.7 The PS Act establishes: a stewardship function for the Secretaries Board established under the Act; a stewardship role for secretaries; and that a function of the Commissioner is to partner with secretaries in the stewardship of the APS. Table 4.1 sets out the relevant provisions in the PS Act.

Table 4.1: Stewardship roles and functions in the *Public Service Act 1999*

Position	Stewardship role or function	Section of the <i>Public Service Act 1999</i>
Australian Public Service Commissioner	Function: 'to partner with Secretaries in the stewardship of the APS.'	Paragraph 41(2)(g)
Secretary	Role: 'leader, providing stewardship within the Department and, in partnership with the Secretaries Board, across the APS.'	Paragraph 57(1)(c)
Secretaries Board	Function: 'to take responsibility for the stewardship of the APS and for developing and implementing strategies to improve the APS.'	Paragraph 64(3)(a)

Source: *Public Service Act 1999*.

4.8 The 2013 amendments to the PS Act introduced these stewardship responsibilities but did not define stewardship.

2023 amendments to the *Public Service Act*

4.9 In June 2023 the government introduced the Public Service Amendment Bill 2023 to Parliament, to amend the PS Act. The explanatory memorandum for the 2023 Bill stated that: 'The Bill is a key element of the Government's APS Reform agenda, which builds on the findings of the

281 The advisory group stated that secretaries held four competing roles that needed to be more clearly articulated. These were: principal official policy advisor to the minister; manager, ensuring delivery of government programs and collaboration and coordination for whole of government outcomes within their portfolio; leader with a stewardship role for the department; and discharging a whole of service stewardship function in partnership with other secretaries and the Commissioner (Advisory Group on Reform of Australian Government Administration, *Ahead of the Game: Blueprint for the Reform of Australian Government Administration*, p. 22).

282 *ibid.*, p. 5.

283 The Public Service Amendment Bill 2012 was introduced in 2012, and was assented to on 14 February 2013, resulting in the amendments to the *Public Service Act 1999*.

Thodey Review and gives effect to a number of its recommendations.²⁸⁴ Changes as a result of the Public Service Amendment Bill 2023 include the addition of ‘stewardship’ as a sixth APS Value. The Bill stated the following.

Stewardship

The APS builds its capability and institutional knowledge, and supports the public interest now and into the future, by understanding the long-term impacts of what it does.²⁸⁵

4.10 The explanatory memorandum for the 2023 Bill also stated that the proposed ‘stewardship’ APS Value ‘complements’ the stewardship duties of secretaries, the Secretaries Board, and the Commissioner, ‘by supporting APS employees to understand their role and individual contributions in stewarding the public service.’

4.11 The Public Service Amendment Bill 2023 received royal assent on 11 June 2024 and is now known as the *Public Service Amendment Act 2024*.

Explaining stewardship after the 2013 amendments — APSC activities

4.12 In the absence of a definition of stewardship in the PS Act (which might help guide implementation activity) the ANAO reviewed what actions were taken by the APSC to communicate expectations regarding the ‘stewardship’ responsibilities introduced by the 2013 amendments.

4.13 Following passage of the 2013 amendments, the APSC did not have a plan to communicate expectations (across the APS) regarding all the changes made to the PS Act. The APSC promulgated elements of the 2013 amendments, including the amended APS Values, but did not do so regarding the new ‘stewardship’ responsibilities of the Commissioner, secretaries and newly established Secretaries Board.

4.14 The APSC released Commissioner’s advices and circulars regarding the 2013 amendments, a number of which factually outlined the amendments regarding ‘stewardship’ but did not provide further information on implementation, including any actions the Commissioner, secretaries or Secretaries Board would or should undertake to implement their new statutory responsibilities.

Defining stewardship — APSC actions

4.15 As discussed in paragraph 4.8, the PS Act establishes responsibilities for ‘stewardship’ but does not include a definition of ‘stewardship’.

4.16 The APSC advised the ANAO in November 2023 that its definition of stewardship was included in the *State of the Service Report 2020–21*. The report was released in November 2021,

284 The Thodey Review is discussed in paragraphs 1.33 to 1.34 of this audit report. Public Service Amendment Bill 2023 Explanatory Memorandum available from https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fems%2Fr7044_ems_e5292a1c-434e-4a6c-9e7f-f1f74af6ca99%22 [accessed 30 April 2024].

285 Public Service Amendment Bill 2023 Schedule 1 Amendments Number 2, available from https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fbills%2Fr7044_first-reps%2F0000%22;rec=0 [accessed 30 April 2024].

over eight years after the 2013 amendments took effect. The report glossary includes ‘stewardship’ as a defined term, as follows.

Stewardship

Stewardship in the public sector context refers to the effective planning, management and protection of resources; as well as to the role of building a culture of innovation and integrity in policy advice. Under section 57 of the *Public Service Act 1999* (Cth), as part of their roles, Secretaries are expected to provide stewardship to their departments.²⁸⁶

4.17 The APSC’s definition of stewardship relates to resource management and focuses on innovation and integrity in respect to policy advice. It does not address integrity in the context of wider APS functions and activities such as service delivery and regulatory activity.²⁸⁷

4.18 In the *State of the Service Report 2021–22*, released in November 2022, the APSC included a section on ‘stewardship’ which stated that:

Stewardship goes well beyond effective planning and resource management to ensure high performance and sustainability into the future. It takes on the mantle of ensuring the long-term interests of the Australian community, through fit for purpose and innovative policy advice, regulation and services to meet changing priorities and circumstances.

Trust is central to the role of stewardship. The integrity of advice and the ability of the APS to deliver policies and programs that respond to community needs not only builds government trust in the APS, most importantly it builds the Australian community’s trust in government itself.

To be effective stewards, public servants must reach beyond institutional barriers to work collectively to harness experience, diversity and resources and to deliver common objectives.

The Government has made clear that it will enshrine the responsibility of stewardship in the *Public Service Act 1999*.²⁸⁸

Commissioner’s stewardship function — strategy, measurement and internal reporting

4.19 The APSC advised the ANAO in November 2023 that in the context of the 2013 amendments — which gave the Commissioner a function to partner with secretaries in the stewardship of the APS:

the Commissioner’s stewardship of APS integrity has meant being a trusted advisor to secretaries and agency heads, and ensuring that the APS has the knowledge, resources, and guidance it needs to make sound decisions within the APS integrity framework.

4.20 As noted in paragraph 4.2, the PS Act does not include an explicit expectation that the Commissioner partner on stewardship with APS agency heads who are not secretaries. On this matter, the APSC advised the ANAO in November 2023 that it ‘engages with Secretaries and Agency Heads collectively where it is appropriate to do so.’

286 APSC, *State of the Service Report 2020–21: Reform in the shadow of COVID*, 29 November 2021, p. 138.

287 The APSC classifies agencies as: larger operational, smaller operational, specialist and policy. The APSC classified 18 of 104 agencies as policy agencies. APSC, *State of the Service Report 2022–23*, 10 November 2023, pp. 197–200.

288 APSC, *State of the Service Report 2021–22: Building the future*, 3 November 2022, p. 59.

Strategy

4.21 The APSC does not have a documented strategy or plan to support the Commissioner's functions relating to stewardship and partnering with secretaries or agency heads, including where the Commissioner is independently performing functions under the PS Act. The Commissioner's functions relating to stewardship are long-standing and there would be benefit in adopting a strategic approach.

4.22 The APSC does not measure its effectiveness in administering the Commissioner's stewardship function, or have an annual performance measure directly linked to the stewardship function.

4.23 As discussed in paragraphs 2.82 and 2.83 the APSC Executive Board and Executive Committee are the two most senior internal governance committees of the APSC. As such, they would be expected to monitor and receive reports on the implementation of statutory functions. During the period audited by the ANAO (July 2022 to December 2023) the Executive Board recorded a discussion on stewardship at two of its 30 meetings (seven per cent) and the Executive Committee recorded a discussion on stewardship at nine of its 77 meetings (12 per cent).²⁸⁹

Opportunity for improvement

4.24 The Australian Public Service Commission consider developing a strategy, or incorporate into an existing strategy, how the Commissioner fulfils the stewardship function, including appropriate performance measures.

Commissioner's stewardship function — APSC activities

4.25 The APSC's approach to the stewardship function is largely activity-driven. The APSC advised the ANAO in November 2023 that it conducts a range of activities in its stewardship of the APS, including the following.

- Providing an in-person briefing and an induction pack to new secretaries and agency heads.
 - The APSC's template induction pack reviewed by the ANAO provides information on a range of integrity topics in the APS, including reporting and disclosure obligations.
 - The APSC provided induction packs and briefings to three newly appointed secretaries between July 2022 and December 2023.²⁹⁰ As discussed in paragraph 1.77, 11 of the 16 secretary positions had a change of personnel in this time. In April 2024 the APSC advised the ANAO that 'The APSC did not have a formalised process for Secretary or Agency Head induction prior to Commissioner de Brouwer's commencement in his role.'
 - The APSC advised the ANAO in April 2024 that it provided induction packs and briefings to 12 agency heads between July 2022 and December 2023.

289 As outlined in Table 2.6 of this audit report, the APSC was not able to provide a list of all dates that meetings were held for the Executive Committee, therefore the Executive Committee terms of reference (which state that meetings are to be held weekly) were used to estimate the number of meetings that should have been held in the period examined.

290 The APSC advised the ANAO in April 2024 that it provided an induction pack and briefing to the Secretary of the Department of Home Affairs in January 2024. Ms Stephanie Foster PSM was appointed Secretary of the Department of Home Affairs on 28 November 2023.

- Leading Australia's engagement with the Organisation for Economic Co-operation and Development's Public Governance Committee, and participating in Australia's Open Government Forum.
 - The APSC advised the ANAO in November 2023 that these engagements involved sharing ideas about how to strengthen public trust in government.
- Engaging with secretaries and agency heads on Code of Conduct referrals, or potential Code of Conduct issues raised in the public domain.
 - The APSC's activities in this respect, including for the SES and the centralised process for Code of Conduct investigations following the Royal Commission into the Robodebt Scheme, were discussed in paragraphs 2.117 to 2.146.
- Presenting at various forums and providing integrity related training.
 - The APSC's activities in this respect were discussed in paragraphs 2.40 to 2.58.
- Providing advice and guidance on contemporary integrity related issues.
 - The APSC's activities in this respect, such as through the Ethics Advisory Service (EAS), were discussed in paragraphs 2.102 to 2.105, and paragraphs 3.7 to 3.9.
 - In October 2023 the Commissioner also distributed advice to APS agency heads on the mandatory reporting of airline memberships as a gift or benefit, as discussed in paragraphs 2.44 and 2.116.
- Providing guidance and resources on integrity and stewardship.
 - The APSC's activities in this respect were discussed in Chapter 2.
- Providing guidance on expected behaviours.
 - In August 2022 the APSC published the Secretaries' Charter of Leadership Behaviours (charter), which 'sets out the behaviours that we, as Secretaries, expect of ourselves and our SES, and want to see in leaders at all levels of the APS.' One of the desired behaviours is 'have Integrity'.²⁹¹ The charter, along with the APS Values, was integrated into the SES Performance Leadership Framework in August 2023 to 'strengthen behaviour and outcomes based performance management'.²⁹²
- The recruitment and promotion of appropriate senior staff, and the Commissioner's involvement in SES recruitment.
 - The *Delivering for Tomorrow: APS Workforce Strategy 2025* lists talent management as contributing to action three: 'Strengthen integrity and purposeful leadership'. The APSC supports the Secretaries Talent Council and the Deputy Secretaries Talent Council, which focus on the development of senior SES employees, senior talent identification and support. The APSC advised the ANAO

291 The other behaviours are: 'be **Dynamic**', 'be **Respectful**', '**Value** others', and '**Empower** people' [emphasis in original].

292 The APSC advised the ANAO in December 2023 that consideration of behaviours and outcomes in performance has been in place since 2015, but that the above changes increased the emphasis on this.

in November 2023 that the talent council process assists in ensuring future leaders exhibit the integrity behaviours expected in the APS.²⁹³

- Section 26 of the *Australian Public Service Commissioner's Directions 2022* requires the participation of the Commissioner or the Commissioner's representative in SES selection processes, and a certification process relating to compliance with the PS Act and the directions. APSC Circular 2023/7: *Upholding Integrity in SES Recruitment* was issued in August 2023 and states that these requirements are to 'ensure confidence in the integrity of SES recruitment processes, and to support a whole of APS perspective on panels.' On 22 November 2023, the Commissioner released revised guidance for the Commissioner's representatives on recruitment panels.
 - The APSC provides relevant supporting information to the Commissioner's representatives including a covering letter that references the need to assess candidates' skills, performance, behaviours and leadership style to ensure they are recruiting leaders who, amongst other things, foster a pro-integrity culture. The APSC also provides a guidance document. The guidance document does not provide advice on how the Commissioner's representative should consider integrity.²⁹⁴
- Participation in sector wide boards and committees, including the Secretaries Board.
 - The APSC is a member of, or provides secretariat support for, 11 boards and committees with integrity-related roles or functions.²⁹⁵
 - Between July 2022 and December 2023, the Secretaries Board recorded that the Commissioner led discussions on integrity at four of the 16 meetings.²⁹⁶

4.26 The APSC's stewardship function was not guided by an overarching strategy or linked to performance measures in its corporate plan. In the absence of a strategy or performance measures, the ANAO grouped the activities advised by the APSC under five key activity descriptors, to aid in its analysis. The activity groups were:

- participation in sector wide boards and committees with integrity-related roles or functions;
- induction activities and training;
- partnering or consulting on guidance;
- providing advice; and
- recruitment and promotion.

293 In May 2023 the Secretaries Talent Council agreed that in the future, 'the assessment program would include a particular focus on integrity, including ethical leadership and supporting a culture where it was safe for staff to raise concerns.'

294 The guidance is available on the APSC's website and includes links to a range of relevant documents including the PS Act, Commissioner Directions, APS values and code of conduct, SES Performance Leadership Framework, and the Secretaries' Charter of Leadership Behaviours.

295 These boards and committees are: the Secretaries Board, Integrity Agencies Group, APS Faculty, Learning Board, Secretaries Talent Council, Deputy Secretaries Talent Council, Integrity Deputies Group, NACC Corruption Prevention Community of Practice, Ethics Contact Office Network, Cross-agency Code of Conduct Forum, and Australia's Open Government Forum.

296 The ANAO considered the Commissioner to have led a discussion if the Commissioner was responsible for speaking to an integrity related agenda item, or had a position recorded in minutes related to an integrity item.

4.27 Table 4.2 indicates that for the five key activity groups categorised by the ANAO as contributing to the APSC's delivery of the stewardship function, all activity types were conducted with both secretaries and agency heads at least once in the period examined in this audit (July 2022 to December 2023).

Table 4.2: APSC partnering with secretaries and agency heads on stewardship — July 2022 to December 2023

Activity type ^a	Evidence of partnering ^b with secretaries on stewardship	Evidence of partnering ^b with agency heads on stewardship
Participation in sector wide boards and committees with integrity-related roles or functions	✓	✓
Induction activities and training	✓	✓
Partnering or consulting on guidance	✓	✓
Providing advice	✓	✓
Recruitment and promotion	✓	✓

Key: ✓ Example of partnership ✕ No example of partnership.

Note a: The activities are listed in paragraph 4.25.

Note b: The ANAO considered an 'example of partnership' in this table to be at least one example of the Commissioner, or the APSC on their behalf, engaging with secretaries or agency heads in the specified type of activity between July 2022 to December 2023.

Source: ANAO analysis.

4.28 The APSC also partnered with departmental staff and staff from other APS agencies during the audit review period. This occurred across the five activity groups identified by the ANAO, such as providing advice on integrity matters and the provision of training, which was available to all APS employees.

Stewardship — APSC activity relating to Public Service Act amendments

4.29 As discussed in paragraphs 4.9 to 4.10, in June 2023 the government introduced the Public Service Amendment Bill 2023 to Parliament, to amend the PS Act. One change was to add 'stewardship' as a sixth APS Value. The Public Service Amendment Bill 2023 received royal assent on 11 June 2024 and is now known as the *Public Service Amendment Act 2024*.

4.30 On 2 November 2023, the Minister for the Public Service announced that the Australian Government's APS reform agenda (discussed in paragraphs 1.35 to 1.43) had entered 'stage two', which involved the following:

We're now entering stage two, which is implementing the reforms and embedding them across the APS.

This includes moving the APS Reform Office into the Australian Public Service Commission so that reform and continued improvement is baked into the public service itself, considered business as usual and is not just seen as a one off.²⁹⁷

4.31 The APS Reform Office was first established in PM&C and led the first stage of the government's APS reform agenda, including advice to government on the proposal for stewardship as an APS value.²⁹⁸ The APSC advised the ANAO in March 2024 that these activities were 'delivered in partnership with the APSC.'²⁹⁹

4.32 As part of 'stage two' of the reform agenda, the APS Reform Office moved to the APSC on 1 December 2023. The APSC has led activities relating to implementation of the stewardship value.

4.33 In November 2023 the APSC advised the ANAO that it had 'undertaken a significant program of work in implementing stewardship as a new APS Value'. In particular, the APSC developed, or started to develop, the following.

- A project plan which identified the project objective, stakeholders, key milestones, deliverables, risks and their proposed treatments.
- A timeline for the APSC's consultation on the proposed value.
- New guidance, and revised existing guidance, on stewardship as an APS Value, including draft Commissioner's directions incorporating the proposed stewardship value.
- A draft communication strategy and a draft engagement and communications strategy roadmap for the proposed stewardship APS Value; and a draft 'integrity roadmap' for the APSC. At March 2024 these documents had not been completed and were not reviewed as part of the audit. On 15 April 2024, the APSC's Executive Board endorsed the Integrity Roadmap and the Roadmap's transition from development to implementation phase (as discussed in paragraphs 2.27 and 2.28).³⁰⁰

4.34 The project plan for the new APS stewardship value did not discuss the existing stewardship function in place since 2013. In March 2024 the APSC advised the ANAO that:

The APSC's view is that the two stewardship functions are very different in scope and application. The existing stewardship functions apply only to Secretaries and the Commissioner in their statutory roles, and do not have practical application for individual APS employees. In contrast, the new Stewardship Value will apply to employees at all levels; however, their demonstration of that Value, and the expectations of them in this regard, will necessarily be modulated by their role and seniority. The existing stewardship functions that apply to Secretaries and the Commissioner would not necessarily be a useful model for employees across

297 Minister for the Public Service, 'Annual Statement on APS Reform', 2 November 2023, available from <https://ministers.pmc.gov.au/gallagher/2023/annual-statement-aps-reform> [accessed 16 June 2024].

298 The APS Reform Office conducted public consultation on stewardship as an APS Value, including its meaning and potential application. The APSC advised the ANAO on 28 March 2024 that 'The APSC and APS Reform Office collaborated on an APS wide information campaign and consultation on defining stewardship as a new value.'

299 The work conducted by the APS Reform Office is not included in the scope of this audit. The Secretary for Public Service Reform, who led the office in PM&C, was appointed as the Australian Public Service Commissioner in May 2023.

300 The draft 'integrity roadmap', provided to the ANAO, was principally a coordination framework for the implementation of various review recommendations relating to integrity.

the APS in demonstrating stewardship in accordance with the new Value. The obligations on Secretaries and the Commissioner will also not be repealed or displaced by the new APS Value, and will still apply in their current context.

A handwritten signature in black ink, appearing to read 'Rona Mellor', with a large, stylized initial 'R'.

Rona Mellor PSM
Acting Auditor-General

Canberra ACT
21 June 2024

Appendices

Appendix 1 Entity response



Australian Government
Australian Public Service Commission

Dr Gordon de Brouwer
Commissioner

EC24-000351

Ms Rona Mellor PSM
Acting Auditor-General
Australian National Audit Office
38 Sydney Ave
FORREST ACT 2603

Dear Ms Mellor

Australian National Audit Office Section 19 Proposed Report – Australian Public Service Commission’s Administration of Integrity Functions

Thank you for the correspondence of 8 May 2024 seeking comment on the audit of the Australian Public Service Commission’s Administration of Integrity Functions.

Please find attached a summary response to the Report for inclusion in the formal report ([Attachment A](#)), as well as a response to each of the four recommendations ([Attachment B](#)). Editorial matters have been provided separately, as requested by the ANAO.

The Commission agrees with all four recommendations. In addition, the Commission agrees in-principle to the suggested opportunities for improvement. We agree that establishing and maintaining contemporary and integrated approaches for corporate planning, strategy, evaluation, and performance management and measurement align with sound practices in public administration and demonstrate transparency for the work entrusted to us by the Government. The Commission is committed to transparently demonstrating: delivery against our statutory functions; our influence and impact in relation to our purpose and four key activities; and accountability and assurance to our key stakeholders.

The Commission welcomes the ANAO’s recognition of the APSC’s current initiatives, a number of which commenced following the APSC’s Capability Review of July 2023. The APSC has taken a considered and staged approach to enhancing our corporate and program structures in relation to governance, risk management, and performance measurement over the past 12 months.

Integration of strategy, evaluation and assurance for our integrity functions will continue to be a priority, utilising existing and new mechanisms from across the enterprise such as the:

- APSC Corporate Plan
- APSC Integrity Roadmap

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GPO Box 3176 CANBERRA ACT 2600

- public sector reform program office oversight mechanisms
- enhanced integrity reporting on APS Code of Conduct inquiries, and
- conduct of desktop compliance exercises to assess whether agencies have embedded Code of Conduct procedures in their practices, in addition to publishing these on their public websites.

In undertaking this work we will ensure our activities align not only internally across the enterprise, but also to broader integrity initiatives across the APS as lead by the Secretaries Board.

More specifically, the Commission acknowledges the ANAO's recommendation to further strengthen its approach to meeting its integrity functions under the *Public Service Act 1999*, including to promote the APS Values and Code of Conduct. The Commission will action this recommendation through consolidating its broad suite of existing integrity initiatives into an overarching integrity strategy. In developing this strategy, the Commission will leverage work in leading an integrated and coherent integrity reform program of work under the Government's public sector reform agenda, which has integrity as its first priority. Further, the Commission will ensure its integrity role is complementary with Commonwealth integrity agency peers, through contributing to an APS Integrity Strategy in partnership with the Attorney-General's Department.

Recommendations two and four align with observations made in the APSC Capability Review, which concluded that monitoring and evaluating the APSC's key programs and services will enable a better understanding of their impact across the public sector, and develop greater confidence among stakeholders. Consistent with the APSC Capability Review Action Plan, September 2023, the Commission will strengthen its approach to evaluation, including through the development of evaluation plans, to provide assurance to me in my role as Commissioner that the APSC's legislated functions are being met.

Finally, the Commission recognises the importance of robust record keeping as a key integrity measure, and building on work already underway in reviewing and contemporising its governance framework, commits to enhancing its record keeping arrangements for internal governance committees.

I would like to acknowledge the engagement of the ANAO audit team with my staff.

Should your team wish to discuss any aspects of the Commission's response, please contact the Commission's Chief Audit Executive and Assistant Commissioner, Enabling Services, Ms. Sam Montenegro via sam.montenegro@apsc.gov.au or +61 2 6113 6212. Please feel free, of course, to contact me directly if that would be helpful.

Yours sincerely



Dr Gordon de Brouwer

4 June 2024

Appendix 2 Improvements observed by the ANAO

1. The existence of independent external audit, and the accompanying potential for scrutiny improves performance. Improvements in administrative and management practices usually occur: in anticipation of ANAO audit activity; during an audit engagement; as interim findings are made; and/or after the audit has been completed and formal findings are communicated.
2. The Joint Committee of Public Accounts and Audit (JCPAA) has encouraged the ANAO to consider ways in which the ANAO could capture and describe some of these impacts. The ANAO's Corporate Plan states that the ANAO's annual performance statements will provide a narrative that will consider, amongst other matters, analysis of key improvements made by entities during a performance audit process based on information included in tabled performance audit reports.
3. Performance audits involve close engagement between the ANAO and the audited entity as well as other stakeholders involved in the program or activity being audited. Throughout the audit engagement, the ANAO outlines to the entity the preliminary audit findings, conclusions and potential audit recommendations. This ensures that final recommendations are appropriately targeted and encourages entities to take early remedial action on any identified matters during the course of an audit. Remedial actions entities may take during the audit include:
 - strengthening governance arrangements;
 - introducing or revising policies, strategies, guidelines or administrative processes; and
 - initiating reviews or investigations.
4. In this context, the below actions were observed by the ANAO during the course of the audit. It is not clear whether these actions and/or the timing of these actions were planned in response to proposed or actual audit activity. The ANAO has not sought to obtain assurance over the source of these actions or whether they have been appropriately implemented.
 - Commenced development of an 'Integrity Roadmap' for the APSC, which consolidates tracking of integrity related initiatives from recent reviews and reforms.
 - Commenced development of a plan to communicate and implement stewardship as an APS Value as proposed in the Public Service Amendment Bill 2023.
 - Conducted a desktop compliance review to assess whether agencies had published their Code of Conduct procedures on their public websites.
 - Engaged with some entities that reported that they did not meet the requirement to deliver integrity training to their organisation.
 - Provided EConet members with information and resources related to recent EConet meetings since August 2023.
 - From October 2023, commenced producing a monthly integrity report on APS Code of Conduct inquiries and requests/referrals from agencies, which also sets out key APSC engagement with agencies on these issues.

Appendix 3 Key recommendations and areas of focus related to the audit scope

Report	Recommendation or area of focus ^a
<p><i>Independent review of the APS</i></p> <p>(2019 Thodey Review)</p>	<p>Recommendation 7</p> <p>Reinforce APS institutional integrity to sustain the highest standards of ethics.</p> <ul style="list-style-type: none"> • APS Commissioner to work with Secretaries Board and agencies with responsibility for integrity to build pro-integrity culture and practices in the APS. • Amend the Public Service Act 1999 to: <ul style="list-style-type: none"> – provide own-motion powers for the APS Commissioner to initiate investigations and reviews – require agencies to provide integrity information to the APSC, and – include requirements to ensure agency heads and SES avoid or manage potential conflicts of interest after leaving the APS. • APSC to embed integrity guidance in APS-wide induction, training and other core systems and processes. • APSC and Finance to ensure all agencies extend APS integrity requirements to service providers, long-term APS contractors and consultants. <p>APSC status: underway^b</p>
<p><i>Report into consultations regarding APS approaches to ensure institutional integrity</i></p> <p>(2020 Sedgwick Report)</p>	<p>Recommendation 1</p> <p>The Secretaries Board adopt a common language when discussing integrity matters with employees, namely the pursuit of ‘high standards of APS professionalism’ which in turn means ‘doing the right thing at the right time to deliver the best outcomes for Australia sought by the professionally advised government of the day’.</p> <p>APSC status: complete</p> <p>Recommendation 2</p> <p>The APSC, in collaboration with departments and agencies, examine current practices across the APS with a view to develop and promulgate (through enhanced guidance or Commissioner’s Directions, as necessary) clear and common expectations regarding the knowledge required by APS employees soon after entry and at key stages of their subsequent career to ensure they achieve a level of awareness of the APS’s integrity frameworks and policies, appropriate to their role and responsibilities. [emphasis in original]</p> <p>APSC status: complete</p> <p>Recommendation 3</p> <p>The APSC, in collaboration with departments and agencies, examine current practices across the APS with a view to develop and promulgate (through enhanced guidance or Commissioner’s Directions, as necessary) clear and common expectations regarding the capabilities required by APS employees soon after entry and at key stages of their subsequent career to ensure they can effectively implement the APS’s integrity frameworks and policies, as appropriate to their roles and responsibilities. [emphasis in original]</p> <p>APSC status: complete</p>

Report	Recommendation or area of focus ^a
	<p>Recommendation 4</p> <p>Informed by the Commissioner's guidance, the Talent Council(s) include consideration of the capability to model, champion and advance institutional integrity when assessing staff as part of SES talent and capability assessment processes, and identify development options for staff believed to be the future leaders of the APS that build their capacity to provide leadership for a pro-integrity culture.</p> <p>APSC status: complete</p>
	<p>Recommendation 5</p> <p>The APSC, in collaboration with departments and agencies, undertake a stocktake of the metrics that agencies monitor to assess how well individuals and their institution overall operate at high integrity / high professional standards.</p> <p>APSC status: complete</p>
	<p>Recommendation 6</p> <p>The APSC, in collaboration with departments and agencies, examine current practices across the APS with a view to develop and promulgate (through enhanced guidance or Commissioner's Directions, as necessary) clear and common expectations regarding how the 'how' is best addressed when assessing an employee's performance in respect of the 'what' is required of them, given their role and responsibilities.</p> <p>APSC status: complete</p>
	<p>Recommendation 7</p> <p>The APSC, in collaboration with departments and agencies, examine current practices across the APS with a view to develop and promulgate (through enhanced guidance or Commissioner's Directions, as necessary) clear and common expectations regarding the principles and practices that agencies apply to determine when to commence a formal investigation of an integrity-related complaint with the aim to ensure greater consistency in how such decisions are made between agencies and between classifications.</p> <p>APSC status: complete</p>
	<p>Recommendation 8</p> <p>That, in future, any Code of Conduct allegations against SES officers be progressed in consultation with the APSC, both in respect of whether and how to investigate an allegation and, if applicable, what sanction(s) to apply (achieved through enhanced guidance or Commissioner's Directions, as necessary).</p> <p>APSC status: complete</p>

Report	Recommendation or area of focus ^a
	<p>Recommendation 9</p> <p>The APS Commissioner and the Secretary of the Department of the Prime Minister and Cabinet ensure that explicit attention is paid in each Secretary's annual performance assessment of the framework they have in place and their success in achieving high professional standards of conduct and delivery (and stewardship) in the Department they lead.</p> <p>APSC status: complete</p> <hr/> <p>Recommendation 10</p> <p>As part of the future Capability Reviews the government has agreed should be undertaken by the APSC from 2021, an explicit assessment be made of how effectively each agency is securing an appropriate workplace culture having regard to the need to strengthen institutional integrity and consistently exhibit integrity / high professional standards of conduct and delivery in line with any Commissioner's guidance. This aspect of each review should be informed by the perspectives of at least one reviewer with extensive appropriate experience outside the APS who also understands the role of the APS in the Westminster tradition.</p> <p>APSC status: complete</p>
APSC capability review 2023	<p>Area for focus 1</p> <p>Providing clear, authoritative guidance to agencies, with a stronger position stance. This was identified by many agency heads. Advice cannot be vague and optional. The Commission needs to be firmer, and drive implementation of advice as well as evaluating where it has been actioned.</p> <p>APSC status: not tracked^c</p> <hr/> <p>Area for focus 2</p> <p>Aligning the Commission's priorities with legislative responsibilities, the government's agenda and the future-focused needs of the APS. The Commission needs to realign resources with priorities. The projected decline in funding means the Commission will not be able to deliver everything it currently does.</p> <p>APSC status: not tracked^c</p> <hr/> <p>Area for focus 3</p> <p>Improving its understanding of the needs of agencies and building whole-of-service capability where the APS needs it.</p> <p>APSC status: not tracked^c</p> <hr/> <p>Area for focus 4</p> <p>Undertaking more focused and deliberate engagement. This will help build the Commission's influence and two-way information sharing and discussion on policies, directions and capability development.</p> <p>APSC status: not tracked^c</p>

Report	Recommendation or area of focus ^a
	<p>Area for focus 7</p> <p>Leading on integrity for the APS. The Commission effectively implemented a suite of pro-integrity measures for the APS during 2021–22. However, there is more to do and the Commission needs to focus resources to assert itself as a leader on integrity, along with the Attorney-General's Department and the Department of the Prime Minister and Cabinet.</p> <p>APSC status: not tracked^c</p>
<i>2023 Royal Commission into the Robodebt Scheme</i>	<p>Recommendation 23.2</p> <p>The APSC should, as recommended by the Thodey Review, deliver whole-of-service induction on essential knowledge required for public servants.</p> <p>APSC status: not tracked^d</p>
	<p>Recommendation 23.7</p> <p>The Public Service Act should be amended to make it clear that the Australian Public Service Commissioner can inquire into the conduct of former Agency Heads. Also, the Public Service Act should be amended to allow for a disciplinary declaration to be made against former APS employees and former Agency Heads.</p> <p>APSC status: not tracked^d</p>
	<p>Recommendation 23.8</p> <p>The Australian Public Service Commission should develop standards for documenting important decisions and discussions, and the delivery of training on those standards.</p> <p>APSC status: not tracked^d</p>

Note a: The ANAO has not undertaken an independent assessment of the APSC's progress in addressing recommendations. The audit review period was July 2022 to December 2023.

Note b: 'Underway' means that some level of work has already been conducted or is ongoing, including in developmental phases, though more will need to be done before the goals of the guidance are in effect.

Note c: The APSC has not established a requirement to track the areas of focus. The requirement on agencies following a capability review is to create an action plan that responds to the review report as a whole, setting out the actions the agency considers will best improve its preparedness for future challenges. The APSC has an action plan that responds to the capability review.

Note d: At 22 April 2024, the APSC was not tracking the implementation of these recommendations. The recommendations are listed in the APSC's draft Integrity Roadmap. The draft Integrity Roadmap is discussed in paragraphs 2.27 to 2.28 and paragraph 4.33 of this audit report.

Source: ANAO analysis of APSC information.

Appendix 4 Outcome of investigations into suspected breaches of the APS Code of Conduct (2022–23) and sanctions imposed

Table A.1 Outcome of investigations into suspected breaches of the APS Code of Conduct (2022–23)

Outcome	Number of employees
Breach found and sanction applied	287
Breach found but no sanction applied: employee resigned prior to sanction decision	112
Breach found but no sanction applied: other reason	80
No breach found (for any element of the Code)	47
Investigation discontinued: employee resigned	18
Investigation discontinued: other reason	11

Source: APSC *State of the Service Report 2022–23* page 174 available from www.apsc.gov.au/sites/default/files/2023-11/APSC%20-%202022-23%20State%20of%20the%20Service%20Report.pdf. Information is derived from the APS Agency Survey.

Table A.2 Sanctions imposed for breaches of the APS Code of Conduct (2022–23)

Sanction	Number of employees
Reprimand	199
Reduction in salary	102
Deductions from salary by way of a fine	92
Termination of employment	52
Re-assignment of duties	10
Reduction in classification	10

Source: APSC *State of the Service Report 2022–23*, p. 174 available from www.apsc.gov.au/sites/default/files/2023-11/APSC%20-%202022-23%20State%20of%20the%20Service%20Report.pdf. Information is derived from the APS Agency Survey.