

From: s 22
To: [All Commission](#)
Subject: Reminder to Staff: APS Code of Conduct [SEC=OFFICIAL]
Date: Thursday, 25 January 2024 6:10:03 PM
Attachments: [image001.png](#)
[image002.png](#)
Importance: High

Dear Colleagues,

I wrote to all of you in December about our obligations as public servants and how this impacts on how we use social media. These obligations apply to all staff and it is important that they are followed.

I am writing to you again about the Code of Conduct because, in recent weeks, I have been made aware of several examples of conduct that may breach these obligations.

Working for the Australian Human Rights Commission is different from working in the private sector, or working for a non-government organisation. There are particular standards of conduct that are a requirement of your employment, and this has an impact on the way in which you express yourself in public forums. Public servants have the right to freedom of expression. At the same time, the free speech of public servants needs to accommodate their obligations in the APS Code of Conduct and other laws. The effect of those laws is that some restrictions on speech, including political speech, are both permissible and necessary.

The [APS Values](#) require us all to be respectful of others, to act with integrity, and to act in a way that is impartial and apolitical.

The following principles of the [APS Code of Conduct](#) are particularly relevant to our public communications. APS employees must:

- treat everyone with respect and courtesy, and without harassment
- behave in a way that upholds the APS Values
- behave in a way that upholds the integrity and good reputation of the Commission, and the APS more broadly.

Commission staff are entitled to participate in public life, including on social media. When that participation involves political issues, staff must be aware that their conduct can have an impact on the way in which the public views them as public servants and views the Commission as their employer. For example, under the Code extreme criticism of the Government, a Minister or an agency (including our own) may suggest that a person is not able to act impartially and apolitically.

I encourage you to review again the guidance described and linked in my previous email, including the [social media guidance](#) for APS employees and the following

passage from the APSC guide on [APS Values and Code of Conduct in Practice](#):

When employees make public comment in an unofficial capacity, it is not appropriate for them to make comment that is, or could be reasonably perceived to be:

- being made on behalf of their agency or the Government, rather than an expression of a personal view
- compromising the employee's capacity to fulfil their duties in an impartial manner—this applies particularly where comment is made about policies and programs of the employee's agency
- so harsh or extreme in its criticism of the Government, a Member of Parliament from any political party, or their respective policies, that the employee is no longer able to work professionally, efficiently or impartially
- prejudicial to the integrity or good reputation of the employee's agency or the APS
- so strong in its criticism of an agency's administration that it could seriously disrupt the workplace—APS employees are encouraged instead to resolve concerns by informal discussion with a manager or by using internal dispute resolution mechanisms
- a gratuitous personal attack that is connected with their employment
- compromising public confidence in their agency or the APS.

We need to be mindful of our online behaviour, even if it is in an unofficial context where we might think that we are not representing the Commission. As noted in my earlier email, the Code of Conduct can apply to:

- posting publicly but anonymously or under a pseudonym – you should assume that at some point your identity or association with the Commission may be revealed
- posting in closed groups, such as private social media accounts – again, you should assume that these communications may become public at some stage
- 'liking' comments by others on social media or reposting material – this may be construed as an endorsement of the material, even if this was not your intention.

Finally, it is important that staff adhere to our other statutory obligations when it comes to discussing your work or the Commission's work. We have obligations to clients and stakeholders not to disclose personal information that we learn about in the course of our work. Similarly, the Public Service Regulations prohibit the

disclosure of information obtained in connection with our work if it is reasonably foreseeable that it could be prejudicial to the effective working of the Commission. Public disclosure of information of this kind can damage the trust between the Commission and the community.

The Commission leadership welcome your expertise, passion and feedback and respond to it in as comprehensive and timely a way as we can – we ask that you share it constructively and professionally.

If any staff have concerns about Commission policies or programs, there are a range of ways to raise them – with your manager, with People and Culture, with your Union, through All Staff meetings or Town Hall meetings and through the anonymous complaint form attached to our revised interim policy that I shared with you in December: [Reporting, Complaints and Resolution Policy and Procedure](#). Anonymous complaints received under this policy will be actioned in line with the policy - ensuring fair treatment, due process and respect for the privacy of all individuals involved. Please be reminded - as the Policy and the form note - to protect privacy of the complainants', anonymous complaints cannot receive progress updates or notification of the outcome of any investigation.

The Commission takes seriously the obligations in the APS Values and APS Code of Conduct. Breach of these obligations may result in disciplinary action. If the Commission becomes aware of conduct that may be in breach of the Code, we will engage the staff involved and apply the interim policy.

If you have any questions or concerns about these obligations, please raise them with your manager. The People and Culture team is also available to provide advice and assistance.

It's important that staff be confident about their ability to engage in public life. It is also important that when we do so, we are respectful of each other and our institution and that our behaviour is ethical, accountable and impartial – consistent with APS Values.

Best Wishes,

Leanne

From: Leanne Smith

Sent: Thursday, December 7, 2023 11:25 AM

To: All Commission <allcommission@humanrights.gov.au>

Subject: R@W and our role as public servants [SEC=OFFICIAL]

Dear Colleagues,

As we are fast approaching the end of the year and the commencement of the Commission's new Respect@Work regulatory functions (with the additional scrutiny of the Commission that may bring), the Commission leadership thought it was timely to remind all our staff of our obligations as employees of the Australian Public Service (APS) – particularly in our use of social media. The public discourse landscape has become much more complicated. The information below is intended to guide and support any staff who may be unsure about their obligations and to protect you and the organisation from risk. Keep in mind, if you are ever unsure – we can guide you.

Guidance on public comments including social media

As you know, employment in the APS comes with certain responsibilities. We need to be mindful of these responsibilities particularly when making public comments, including on social media. The general principle is that 'when making public comments, APS employees must ensure that their behaviour is consistent with the APS Values, Employment Principles and the Code.' The guidance goes on to state:

6.2.6 APS employees may generally make public comment in an unofficial capacity, so long as the comment is lawful and the employee makes it clear they are expressing their own views.

6.2.7 When employees make public comment in an unofficial capacity, it is not appropriate for them to make comment that is, or could be reasonably perceived to be:

- **being made on behalf of their agency** or the Government, **rather than an expression of a personal view**
- **compromising the employee's capacity to fulfil their duties in an impartial manner**—this applies particularly where comment is made about policies and programs of the employee's agency
- so harsh or extreme in its criticism of the Government, a Member of Parliament from any political party, or their respective policies, that the employee is no longer able to work professionally, efficiently or impartially
- **prejudicial to the integrity or good reputation of the employee's agency** or the APS

- so strong in its criticism of an agency's administration that it could seriously disrupt the workplace—APS employees are encouraged instead to resolve concerns by informal discussion with a manager or by using internal dispute resolution mechanisms
 - a gratuitous personal attack that is connected with their employment
 - **compromising public confidence in their agency** or the APS.
- [Emphasis added]

Risk mitigation

The risk of damage to public confidence in our institution will always depend on the circumstances of the case. There are three key factors that can increase or mitigate the risk: **the employee's seniority**, the **relationship between the topic of the comment and the employee's work**, and **how extreme the expression of their view is**.

It is also worth bearing in mind a few key points set out in the guidance material:

- while the risk is greater if you identify yourself as an employee of the APS or the Commission, **it is not eliminated if you don't**. Employees can be identified online in a range of ways, even if you post anonymously or using an alias—and once you are identified as an APS employee, your behaviour can affect public confidence regardless of your intention to keep your posts and your employment separate. If you are posting anonymously, you should assume that at some point your identity and the nature of your employment may be revealed.
- **'Liking' someone else's post carries similar risks to posting the material yourself**. This is because you can reasonably be perceived to endorse the content—even if this is not your intention.

Further information

I have linked the [APS Guidance material](#) that deals with APS employees making public comments in an unofficial capacity. I have also linked the [Social media guidance](#) for APS employees.

I encourage you all to review the information above and if you have any questions or concerns at all please raise them with your manager. I know that all senior staff are committed to ensuring their teams are supported in meeting their obligations as APS employees – including being provided with information

and guidance to assist in making informed decisions about participating in the public discourse.

Kind Regards,

Leanne

Leanne Smith

Chief Executive

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The Commission supports flexible working arrangements, and I am sending this message at a time that is convenient to me and my work schedule. It is not my expectation that you read, respond, or follow up on this email outside your hours of work.

