

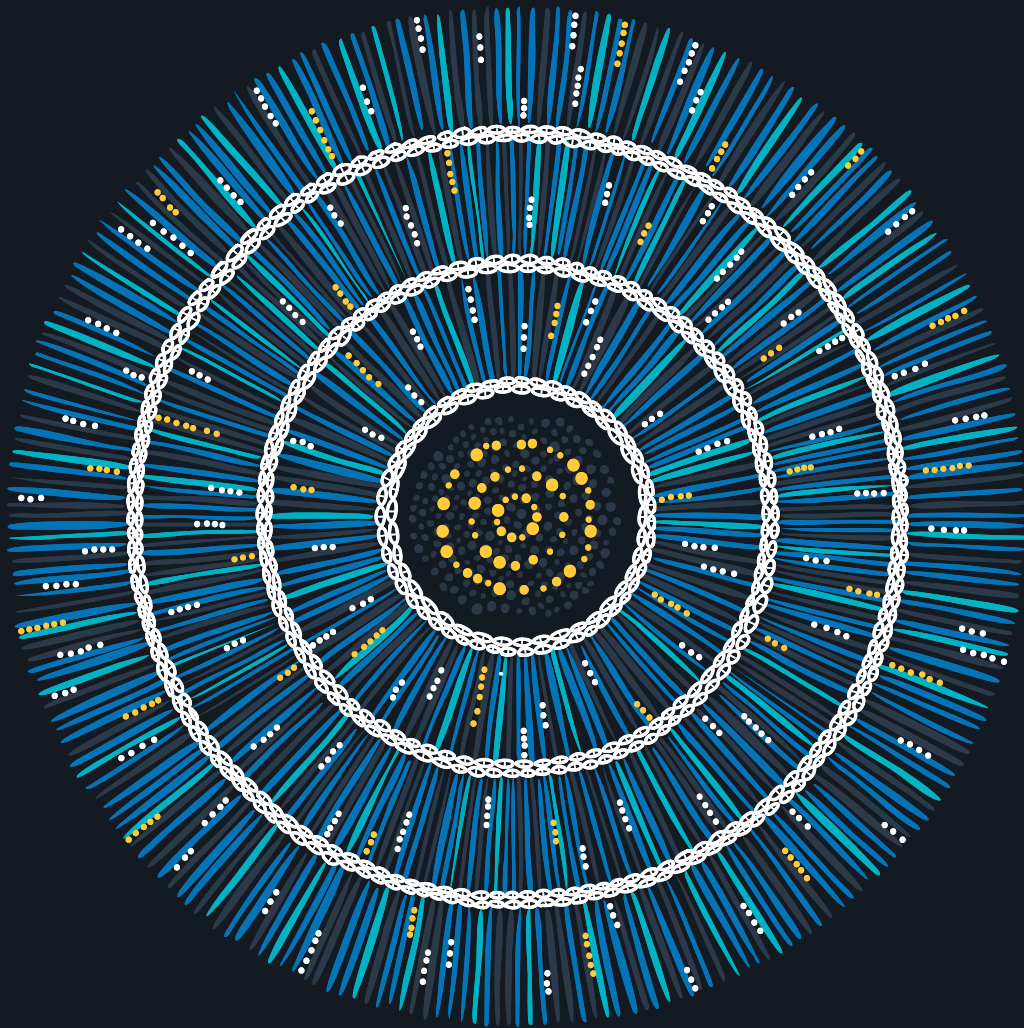


National Anti-Corruption Commission

Ethical decision-making

A guide for decision-makers in the
Commonwealth public sector

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In the spirit of reconciliation, the National Anti-Corruption Commission acknowledges the Traditional Custodians of Country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples today.

This artwork tells the story of the National Anti-Corruption Commission's mission to enhance integrity within the Commonwealth public sector.

It is made up of many multicoloured strokes, depicting our team's many weaving histories. At the core of the artwork are three white patterned rings, representing detecting, deterring, and preventing corruption. Our approach is fearless but fair and we work towards our goals with integrity, determination, and courage. We are on a journey to build a culture of unity, inclusion, and trust as we grow.

Our people working together are represented by white dots between each of the lines. At the heart of the artwork is the central element, encapsulating our commitment to contributing to reconciliation as we work to create a culturally safe environment where First Nations staff and partners feel respected and included.

Integrity at Our Heart

The artwork concept and narrative were developed by Navada Currie. Navada is a Mununjali and Kabi Kabi artist at Gilimbaa.

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This guide supports decision-makers in the Commonwealth public sector to make decisions that serve the public interest and maintain public trust. It provides practical advice to assist decision-makers when faced with ethical dilemmas, to reduce the risk of decision-making being corrupted.

Ethics and ethical decision-making

Ethics are systems of moral principles, values and standards that guide behaviour.

Ethics are about what is the proper thing to do in a situation.¹ They are part of everyday life; decisions about how to respond to circumstances, or how to engage with others, responsibilities and relationships are all built around ethical principles.

In the Commonwealth public sector, being ethical includes demonstrating leadership, being trustworthy and acting with integrity at all times.² This includes following through on commitments, having the courage to address difficult issues, and acting in a way that is not just technically and legally correct, but also right and proper.³ Acting ethically also means not misusing your official position or benefiting from dishonest or unethical practices.

Integrity means doing the right thing – being transparent and accountable, upholding high standards of professionalism and ethical behaviour, and ensuring that actions and decisions are fair, lawful, honest and impartial.⁴

In other words, *ethics* is about what is the proper thing to do in each situation, and *integrity* is about doing it.

Ethical decision-making is a key part of acting with integrity. Fundamentally, it involves making decisions and giving advice honestly, impartially and according to the law and merits.

Seven ethical decision-making practices

1. Maintain impartiality
2. Consider and consult
3. Decide based on evidence and merits
4. Comply with applicable laws
5. Don't make assumptions about desired outcomes
6. Anticipate scrutiny
7. Record your reasons

¹ The Ethics Centre, [Ethics Explainer: Ethics, morality & law](#), 2016, accessed 31 March 2026.

² [Public Service Act 1999](#) (Cth), s 10(2).

³ [Australian Public Service Commissioner's Directions 2022](#). This does not mean that there is necessarily only one 'right' decision, but that the focus should be on what is proper, rather than on what is convenient or expedient.

⁴ [Commonwealth Integrity Strategy](#), 2025, p 13, accessed 31 March 2026.

1. Maintain impartiality

As a public servant, you work within the policy direction of the government of the day. While you are not independent of that direction, you must remain impartial in your advice and decision-making. Under the APS Values, public servants must act apolitically and exercise their powers fairly and without bias.

Impartiality means providing advice that is frank, honest and based on the best available evidence, even when that advice may be undesired, unpopular or challenged.

Corrupt conduct includes behaviour that adversely affects, or could adversely affect, the honest or impartial exercise of a public official's powers or functions as a public official, including an official's own dishonest or partial conduct.⁵

Disclose any relevant personal interests and relationships and declare and manage conflicts of interest.⁶

Be mindful of personal biases. Bias can impact your assessment and lead to inaccurate assumptions that can undermine ethical decision-making.

The Royal Commission into the Robodebt Scheme found APS decision-makers at various levels had been 'excessively responsive' to government, undermining the concept of impartiality and frank and fearless advice.⁷

2. Consider and consult

When faced with a decision, especially one with significant consequences, take time to consider and consult, while ensuring decisions are made in a timely and proportionate way.

Taking time helps ensure that all relevant factors and the implications of the decision are considered maturely and not in haste.

Consultation allows for alternative perspectives and additional information, helps avoid missing important information, improves accountability and transparency and contributes to better outcomes for everyone.

Make sure those you consult are impartial and declare any conflicts of interest.

The Australian Public Service Commission's [REFLECT decision-making model](#) can help decision-makers recognise and work through ethical issues.

- **RE**cognise a potential issue or problem
- **F**ind relevant information
- **L**inger at the 'Fork in the Road'
- **E**valuate the options
- **C**ome to a decision
- **T**ake time to reflect after the decision has been made.

⁵ *National Anti-Corruption Commission Act 2022* (Cth), subsections 8(1)(a) and 8(3).

⁶ For guidance on conflicts of interest, see: [Conflicts of interest and corrupt conduct: a guide for public officials](#).

⁷ Catherine Holmes AC SC, 'Report of the Royal Commission into the Robodebt Scheme', 2023, Chapter 23, p 643, accessed 31 March 2026.

3. Decide based on evidence and merits

Base decisions and advice on the best available evidence and the merits of the issue.

You cannot make well-informed decisions without a reliable understanding of the issues and the environment you are operating in. Seek expert advice for a clear understanding of laws and best practice.

Gather as much relevant information as you can. If you do not have all the information you need, seek more. Sometimes, lack of relevant information may mean that you can't make a lawful decision.

Consider all relevant factors, including fairness and inclusivity, and discard factors that are irrelevant.

Give priority to the merits rather than the optics of a decision. Integrity sometimes requires making decisions that are unpopular or providing unwelcome advice.

4. Comply with applicable laws

Legality is not optional.⁸ It is important to have a firm understanding of the legal implications of your decision to ensure you have the authority to make the decision, and to be satisfied the decision is not inconsistent with the law.

As the decision-maker, you are responsible for the decision even when informed by legal advice. If there are reasonable arguments both ways, you should choose the most ethical course.

Is the proposed action lawful?

When in doubt, seek and obtain advice as to whether a proposed decision or course of action is lawful, or on how to pursue a particular course of action lawfully, rather than whether it involves 'legal risk' (see below). This enables government lawyers to advise in a way that ensures legality is upheld and decision-makers are informed. You may need to consider changes to your policy and program, or changes to legislation, to ensure your policy is lawful.

Legal risk

Legal advice should clearly state whether a policy or proposal is lawful or unlawful.⁹ Where the legal position is unclear, it is appropriate for lawyers to express a degree of confidence or uncertainty. However, advice that is expressed solely in terms of a degree of risk may not clearly communicate the conclusions as to the lawfulness of the proposed action.¹⁰

8 See Commonwealth Ombudsman, [Following the law is not optional – An investigation into the actions of Services Australia and the Department of Social Services to address an ongoing issue of non-compliance with the law](#), 2026, accessed 31 March 2026.

9 Professor Anne Twomey, "Constitutional Risk", *Disrespect for the Rule of Law and Democratic Decay*, Canadian Journal of Comparative and Contemporary Law, 2021, Volume 7, p 295; The Hon Justice David Mossop, 'The need for ethical guidance for government lawyers advising in a non-litigation context', ACT Law Society, 8 November 2023, p 11; The Hon Paul Brereton AM RFD SC, National Anti-Corruption Commissioner, Keynote Address: The Launch of the National Anti-Corruption Commission, UN Global Compact Network Australia 2023 Australian Dialogue on Bribery and Corruption, 4 August 2023, [Future frontiers in Australian integrity frameworks: Enhancing corporate integrity](#).

10 However, in some circumstances it is appropriate to use the language of 'legal risk'. This includes, for example, where the law is unsettled, in considering novel questions or in providing constitutional risk ratings in accordance with the [Government's Budget Process Operational Rules](#) for proposed spending activities.

Draft legal advice

It is generally undesirable for legal advice to be obtained in draft form. Obtaining advice in draft opens the possibility of a client exerting influence to shape the final advice and undermine lawyers' independence. Rather than providing draft advice, lawyers should correct errors, oversights or misapprehensions through supplementary advice.¹¹

Where draft advice is provided, records of the consultation between the agency and lawyers on the draft advice should be kept. The lawyers should finalise the advice within 3 months. If you as a client instruct the lawyer not to finalise the draft advice, then you must clearly record the reasons for that instruction.¹²

Legal advice cannot be disregarded merely because it is in draft form.

5. Don't make assumptions about desired outcomes

Do not assume managers, senior officials or ministers want a particular outcome regardless of legality and good governance. Their expectations should be understood and addressed within those boundaries.

Make sure you point out any issues or problems so that they can make a fully informed decision, aware of any associated risks.

It is vital to provide frank advice and feedback to your leadership, even if you think they may not want to hear it. It is also important to escalate concerns you have as soon as practicable. Bad news rarely improves with time.

6. Anticipate scrutiny

Assume any decision you make will be tested and scrutinised, both within your agency and externally.

Multiple parties have an interest in your decisions. Scrutiny of your decisions is inevitable.

You must be prepared to be accountable.

¹¹ However, there are circumstances when it will be appropriate to seek and provide legal advice initially in draft form; for example, to confirm that complex facts or policies have been accurately understood, to identify issues on which further instructions are required, or to facilitate proper consultation under the *Legal Services Directions 2025*.

¹² Attorney-General's Department, [Guidance on the use of draft legal advice within government](#), 2023, p 1.

7. Record your reasons¹³

Be sure to record the reasons for your decisions contemporaneously. Record keeping is essential to transparency and accountability of government. This practice also makes it easier to justify your decision if it is ever questioned or scrutinised.

Reasonableness supports ethical decision-making. Recording your reasons assists decision-makers to make sound and logical decisions. If a decision or course of action can be shown to have been made or taken reasonably, then it should withstand scrutiny in the event of unexpected or unwanted outcomes. Reasons also help others understand your intent when implementing or reviewing the decision.

You should also make a record of decisions that are made verbally or where you receive a direction from a more senior person. Keeping your own records helps ensure there is a clear and accurate account of what was agreed and why, particularly where formal documentation may be limited.

Depending on the circumstances, your reasons may not need to be long or elaborate, but they should clearly support your conclusion. In some routine cases, dot points will suffice. In more complex situations, such as where you are departing from a recommended course of action, more detailed reasoning will be appropriate.

Conclusion

You may make numerous decisions each day in your public role. Some of these may have an active ethical component of varying complexity. Some can be as simple as whether to do something or do nothing, or whether to speak up or stay silent. When you are thinking about the proper decision to make, the proper advice to give, or the proper way to respond to a situation, you are engaging in ethical decision-making.

¹³ Effective record keeping and proper information management practices are governed by multiple legislative frameworks which impose obligations on individuals and agencies. These include the [Archives Act 1983](#), [Public Service Act 1999](#), [Freedom of Information Act 1982](#), [Privacy Act 1988](#) and specific portfolio legislation. There is considerable guidance available to support decision-makers in meeting their obligations around record keeping, including the Australian Public Service Commission's guidance on [stewardship](#) and [managing information](#), and the National Archives of Australia's guidance on [integrity and information management](#).

Additional resources

The **National Anti-Corruption Commission** has published a [range of guides](#) to support corruption prevention and education.

[Operation Myrtleford Investigation Report](#) – Operation Myrtleford was an investigation into the 6 persons referred by the Royal Commission into the Robodebt Scheme. This investigation found that 2 senior public servants engaged in serious corrupt conduct.

Australian Public Service Commission

[Ethics Advisory Service](#) – open to all APS employees, including agency heads and SES, who wish to discuss and seek advice on ethical issues in the workplace.

[Integrity Metrics Resource](#) – provides advice and guidance to agencies on a range of integrity-related initiatives, including measuring, monitoring and reporting on integrity performance.

[APS Values and Code of Conduct in practice](#) – offers guidance on the application of the Values and Code, as well as ethical issues that can arise in a range of circumstances.

The **Australian Government Legal Service's** [Statement of expectations of Commonwealth government lawyers](#) outlines obligations and expectations of government lawyers. The statement is intended to complement the [General Counsel Charter](#) and sets common expectations for Commonwealth officers responsible for the delivery of legal services.

The Office of the Australian Information Commissioner provides guidance to support agencies to apply the [Freedom of Information Act 1982](#) (Cth).

Contact us

Please use our webform to [make a report of corrupt conduct](#). If in doubt about whether to refer a matter to the Commission, [contact us](#).



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