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**FINAL REPORT OF THE DECISION MAKER ON
SUSPECTED BREACH OF THE CODE OF CONDUCT
BY S 22 / 47F**

1. As selected in accordance with paragraph 2 of the Procedures for Determining Breaches of the Code of Conduct (the Code of Conduct Procedures), by Mark le Dieu, National Manager, People Services Branch, and as referred to me by S 22 / 47F Area Manager, Section 47F, I am required to:
- a. investigate an allegation that you may have breached the Australian Public Service Code of Conduct;
 - b. determine whether you did breach the Code of Conduct; and
 - c. in the event that I found that you did breach the Code of Conduct, make a recommendation on what, if any, sanction(s) should be imposed.

SUSPECTED BREACH OF THE CODE OF CONDUCT

2. It is suspected that you failed to declare or declared minimal amounts of income of your income from employment with Centrelink from Section 47F whilst in receipt of Section 47F. I have received a report from the Internal Assurance Section (IAS) outlining the suspected misconduct.
3. My task is to establish whether your suspected conduct occurred and if so, whether it was a breach of the Code of Conduct.
4. I suspect that your conduct may be in breach of the following elements of the Code of Conduct:

(11) An APS employee must at all times behave in a way that upholds the APS Values and the integrity and good reputation of the APS.

LEGISLATION/POLICY

5. In conducting this investigation I have had regard to the following legislation and policy:
- a. APS Values, section 10(1) of the *Public Service Act 1999* (the Act). The APS Values have applied since 5 December 1999 and underpin the behaviours expected of APS employees and their relationships with the government and parliament, the public, and each other.
 - b. the APS Code of Conduct, section 13 of the *Public Service Act 1999* (the Act). The Code of Conduct has applied since 5 December 1999 and sets out the standards of conduct required of APS employees.

EVIDENCE AND OTHER MATERIAL

6. In the course of my investigation I have considered the following evidence and material:
- a. The Internal Assurance Section Report dated 21/4/09

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- b. A Table of income received from your employment with Centrelink and the amount you declared while in receipt of Section 47F
- c. A summary of your discussion and response to the allegations.

CENTRELINK'S 'EMPLOYEE OBLIGATIONS AND RESPONSIBILITIES' RULES

7. I am satisfied that Centrelink has provided staff with guidance about employee obligations and responsibilities. In particular, Centrelink has instructed staff that failure to comply with these rules could lead to action under the procedures for determining breaches of the APS Code of Conduct, whereby if it is determined that an employee has breached the APS Code of Conduct, a sanction may be imposed, which can include termination of employment, reduction in classification, reassignment of duties, reduction in salary, a fine or a reprimand.
8. Centrelink's 'Employee Obligations and Responsibilities' guidelines provide a statement of how Centrelink employees should interact with customers, clients and each other. All employees and delegates are required to apply, and adhere to, these policies/guidelines.
9. The 'Employee Obligations and Responsibilities' guidelines aim to assist all employees to meet the required standard of conduct and performance by informing them of:
- the Australian Public Service Code of Conduct and Values;
 - their rights and responsibilities; and
 - the standard of behaviour that is acceptable to both customers and each other.
10. Within the 'Employee Obligations and Responsibilities' guidelines, employee responsibilities are detailed and include, but are not limited to:
- complying with the APS Code of Conduct and upholding the APS Values;
 - complying with the Chief Executive Instructions and other Centrelink instructions, policies and guidelines;
 - acting in the best interests of customers, purchasing departments and the Government, and being responsive to their needs;
 - complying with privacy and confidentiality requirements;
 - being professional in their dealings with one another;
 - being accountable for their actions and decisions; and
 - taking personal responsibility for remaining informed on matters relating to their duties and conditions of employment.
11. Chief Executive Instruction (CEI) 21, entitled 'Centrelink Employees Interacting with Centrelink as Customers', has applied since 14 March 2006. The instruction outlines Centrelink employee's responsibilities when transacting business with Centrelink. Between the period 14 March 2006 to 2 July 2007, Chief Executive Instruction 21 relevantly stated:

21.01 - All employees interacting with Centrelink as customers must behave with honesty and integrity. Employees providing a service to other Centrelink employees interacting as customers must treat them with courtesy and respect.

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Where an employee who is transacting business as a customer behaves in a manner that is contrary to the APS Code of Conduct they may face sanctions under the APS Code of Conduct as contained in the *Public Service Act 1999*.

12. Chief Executive's Instruction 21, was amended on 3 July 2007 and now relevantly states:

21.01 - An employee who is transacting business as a customer, or on behalf of a customer, must act honestly and in accordance with the Australian Public Service Code of Conduct

21.02 Employees providing a service to other Centrelink employees interacting as customers must act honestly and in accordance with the Australian Public Service Code of Conduct.

21.03 Where a conflict of interest or perceived conflict of interest may exist, employees must obtain authorisation to transact the Centrelink business, and must record that authorisation, as set out in Chapter 3 of Centrelink Privacy and Confidentiality Manual.

13. I am also satisfied that, to the extent that they provide direction to employees, the Chief Executive's Instructions I have referred to above constitute lawful and reasonable directions given by someone in Centrelink (or its predecessor, the Department of Social Security) who had authority to give the direction.
14. The conduct of Centrelink employees is observed by customers and the community alike. Where the community perceives unethical conduct, that confidence is jeopardised. Employee behaviour and conduct must be of the highest standard, upholding the APS Values and complying with the APS Code of Conduct. Under section 13(11) of the Public Service Act 1999, the APS Code of Conduct requires that APS employees 'at all times, behave in a way that upholds the APS Values and the integrity and good reputation of the APS'. Behaviour which involves improper use of inside information and/or which lacks honesty and integrity may constitute a failure to uphold APS Value 10(1)(d) of the Public Service Act 1999 which relates to personal behaviour in the APS. Section 10(1)(d) of the Public Service Act 1999 states that 'the APS has the highest ethical standards'.
15. I have reproduced the above quotes to establish the basis for my finding that Centrelink has provided guidance on employee obligations and responsibilities. In making my findings, I have relied on the above quoted directions, along with the relevant policy and guidelines referred to in this document.
16. I note that following your discussion, you sent an email to S 22/47F from the Internal Assurance Section on S 47F, advising her that you Section 47F.
17. I note that in your interview with me, on S 47F you advised health and financial issues, and that you needed the S 47F as your reasons for not declaring your income from Centrelink whilst in receipt of Section 47F. You also acknowledged that you knowingly did not advise your earnings. You also acknowledged that you had full awareness of the APS (Australian Public Service) values and Code of Conduct.
18. I am satisfied that:

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- a. Centrelink had specifically outlined employee obligations and responsibilities, including an expectation that employees uphold the APS values and comply with the APS Code of Conduct;
- b. Centrelink had specifically advised all Centrelink employees of their obligation to behave with honesty and in accordance with the Australian Public Service Code of Conduct when transacting business with Centrelink as customers, or on behalf of customers; and
- c. Centrelink had expressly indicated that a failure to follow these rules might result in disciplinary action, which could include termination of employment.

YOUR KNOWLEDGE OF CENTRELINK'S CODE OF CONDUCT

19. I have considered what knowledge you had, or should have had, of Centrelink's Code Of Conduct and rules concerning your obligations in relation to the declaration of your Centrelink income with respect to your payments of S 47F
20. Personnel records indicate on 22/3/2001, you were engaged as an ongoing employee of Centrelink. You are now a APS 4 at the 05, working in Section 47F
21. In summary, at the time of the misconduct you had worked at Centrelink for a period of 6 years.
22. Your personnel records indicate that you signed the Employee Declaration on 22.3.2001
23. On the basis of this information, I am satisfied that you knew, or ought to have known, that:
 - a. You were required to fully disclose all your earnings from your employment at Centrelink in relation to your Section 47F ; and
 - b. such conduct might result in disciplinary action.

YOUR SUSPECTED CONDUCT

24. Attached to this final report is an Internal Assurance Report dated 26/2/2009. The Internal Assurance Report sets out details of the investigation conducted by the Internal Assurance Section.
25. The Internal Assurance Report describes and analyses evidence, which tends to suggest that you have failed to behave with honesty and in accordance with the Australian Public Service Code of Conduct when transacting business with Centrelink as a customer and that you may have made improper use of inside information in order to gain, or seek to gain, a benefit or advantage for yourself. Specifically, this was as a result of you allegedly failing to declare or declaring minimal amounts of income of your income from employment with Centrelink from Section 47F whilst in receipt of Section 47F

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26. Centrelink's Income Support Information System (ISIS) confirms that you were in receipt of **Section 47F** from **S 47F** until **S 47F** Examination of the earnings screen (EARS) shows you did not declare an income during this period.
27. Information obtained from Infolink indicates that you signed an Employment Declaration on commencement with Centrelink on 22 March 2001.
28. Information obtained from Infolink indicates that you signed a Declaration of Confidentiality on 7 January 2008.
29. The Internal Assurance Report indicates that you made contact with Centrelink regularly via the web or the Callcentre **Section 47F** and **S 47F** I find however that you incorrectly advised your earnings or you incorrectly advised nil earnings during this period. I am therefore satisfied that whilst you had the opportunity to correctly declare your income to Centrelink, you failed to do so on each occasion.
30. Centrelink's Income Support Information System (ISIS) confirms that on **S 47F** you contacted Callcentre and incorrectly advised that you were not working, and were on unpaid leave. I am satisfied that, given your knowledge of Centrelink payments and systems, that you knew that this would result in you being taken off stimulus reporting.
31. Centrelink's Income Support Information System (ISIS) confirms that you attended **S 47F** on **S 47F** to obtain a **Section 47F**. I am satisfied that you knew, or ought to have known that you were not entitled to receive this letter.
32. Centrelink's Income Support Information System (ISIS) confirms that on **S 47F** you contacted Callcentre and confirmed your rate of **Section 47F** I am satisfied that you knew, or ought to have known that **Section 47F** rate of **Section 47F**
33. The Internal Assurance Report indicates that you were contacted by **S 22/47F** from the Internal Assurance Section. **22/47F** record of conversation indicates that you only became aware of the fact you were receiving payment incorrectly a few days earlier. She also confirms that when you were asked about the record of contact as a customer on **S 47F** where your rate of **Section 47F** was confirmed that you were unable to provide explanation.
34. The Internal Assurance Report indicates that you were again contacted by **22/47F** from the Internal Assurance Section on **S 47F** to ask if you had anything to add in relation to why you had failed to declare your income correctly. **22/47F** record of conversation indicates that you did not want to add anything further at this time.
35. The Internal Assurance Report indicates that you contacted **22/47F** from the Internal Assurance Section on **S 47F**. **22/47F** record of conversation indicates that you cited severe financial hardship and poor health due to the **S 47F** and that you had **S 47F** as the reasons for not declaring your income from Centrelink whilst in receipt of **S 47F** **22/47F** also notes that you stated that

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it was your intention to cancel your Section 47F on S 47F after you received your Section 47F.

36. I note that in your interview with me, on S 47F you accepted an offer to provide a response to the suspected breach of the APS Code of Conduct.
37. On S 47F you supplied me with your response. I have attached a copy of that response with this final report.
38. On S 47F you supplied me with a letter from your Area Business Manager S 22/47F. I have attached a copy of that letter with this final report.
39. On S 47F you supplied me with a letter from S 22/47F outlining that in 2006 you presented with Section 47F. Whilst I accept that you may have been suffering from Section 47F I am not satisfied that S 47F would prevent you from declaring your circumstances correctly as a customer. I do not accept that the course of action you have chosen, was appropriate or the only course of action available given your circumstances. Certainly there are internal mechanisms and supports available to you.
40. I am satisfied that you are in breach of the Australian Public Service Code of Conduct. Given your 6 years of experience with Centrelink, at the time of the conduct I am satisfied that you knew, or ought to have known, of your reporting obligations. In this regard, I am satisfied that you did receive a benefit or advantage for which you knew, or ought to have known, you were not entitled.
41. Point 21.01 (ii) of Centrelink's Chief Executive Instruction 21 states that 'An employee who is transacting business as a customer, or on behalf of a customer, must act honestly and in accordance with the Australian Public Service Code of Conduct'. In light of this Chief Executive Instruction, I am satisfied that you have displayed a fundamental lack of honesty in failing to correctly declare your earnings from your Centrelink employment, whilst claiming a Centrelink payment. Further, I believe your actions in doing so constituted a breach of the Code of Conduct.
42. On 22 March 2010, I was provided with The Internal Assurance Section Report dated 21/4/09, a table of income received from your employment with Centrelink and the amount you declared while in receipt of Section 47F and a summary of your discussion and response to the allegations.
43. In the course of my investigations I have considered the The Internal Assurance Report, given you an opportunity at interview to explain your conduct and given you an opportunity to provide an explanation for your conduct in writing. I have also considered Section 47F provided by yourself and a letter from your Area business manager S 22/47F.
44. It is my view that you knowingly and deliberately did not declare your income from Centrelink to gain financial advantage. I accept that there have been mitigating circumstances occurring in your personal life over an extended period of time, that may have resulted in a lack of judgement. Notwithstanding these circumstances, you have

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conceded at interview that you were aware that your actions were inappropriate. You also conceded your awareness of the APS values and the APS Code of Conduct. On the balance of probabilities I believe your actions to have considered and deliberate.

45. I accept that you have had financial issues, as outlined in your letter dated S 47F. However I do not accept that the course of action you have chosen, was appropriate or the only course of action available to you at the time.
46. Although you have outlined some personal issues that have contributed to your lack of judgement in your decision making, you have failed to demonstrate that you have sought appropriate alternative assistance or support for the issues you have outlined. Again I do not accept that the course of action you have chosen, was appropriate or the only course of action available to you.
47. I accept that in your note dated S 47F your contrition and acceptance of responsibility for your actions. You have not looked to blame others or abdicate your responsibility. I also acknowledge your awareness of how your conduct could reflect negatively on the APS and Centrelink.
48. Based on the evidence as outlined and discussed above, it is my conclusion that you failed to declare or declared minimal amounts of income of your income from employment with Centrelink from S 47F to S 47F B whilst in receipt of S 47F and you knew, or ought to have known, that in the circumstances:
- Your obligations with respect to your payments of Section 47F
 - your conduct was entirely inappropriate and unacceptable, and in breach of Centrelink policy; and
 - your conduct constituted a breach of the Code of Conduct.

CONDUCT CONSTITUTED A BREACH OF THE CODE OF CONDUCT

49. Having regard to all of the evidence, I have found that your conduct was in breach of the APS Code of Conduct. A discussion of this finding in relation to each of the elements of the Code follows.

(11) An APS employee must at all times behave in a way that upholds the APS Values and the integrity and good reputation of the APS.

50. I am satisfied that your conduct, particularly your ongoing pattern of disregarding Centrelink's 'Employee Obligations and Responsibilities' policies on at least 16 separate occasions, represents a failure to uphold the APS Values, which are set out in section 10 of the 1999 Act.
51. The APS Values require that APS employees behave in a way that upholds the APS Values and the integrity and good reputation of the APS at all times. Centrelink therefore has a responsibility to ensure that proper standards of conduct are maintained even outside of office hours, when employee behaviour is brought into the public arena and Centrelink's reputation may be at risk. In particular, I consider that in behaving as

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you did, you failed to uphold the APS Value that provides 'the APS has the highest ethical standards'. Ethical conduct, in this situation, demanded that you, as a Centrelink employee, behave with honesty and in accordance with the Australian Public Service Code of Conduct when transacting business with Centrelink as a customer. You did not behave in this way and thus demonstrated a failure to behave ethically in relation to your obligations as a Centrelink customer and employee.

SANCTION

52. In considering what sanction to recommend, I am mindful of the fact that the imposition of a sanction is for the purposes of protecting the APS and deterring similar conduct and not for the purpose of punishment (although the imposition of a sanction may be detrimental to an employee).
53. I note you are 47F years of age and have worked in Centrelink since 22/3/2001. I note that you presently work as a customer service adviser in [REDACTED] located in Area [REDACTED] S 47F. Given your role in the [REDACTED] Section 47F [REDACTED] I believe that you were in a position of trust, yet have failed to uphold that trust. I consider this to be an aggravating factor.
54. Whilst you have raised your medical issues as a mitigating factor, I do not believe your condition would prevent you from correctly declaring your income from employment with Centrelink, whilst in receipt of Centrelink payments. I believe that your actions were deliberate and that you knew, or ought to have known, your reporting requirements. The fact that you deliberately defrauded Centrelink is an aggravating factor.
55. I note that you have also raised the issue of your financial difficulties. Whilst I accept these issues this does not excuse your actions, therefore I cannot condone your actions in deliberately misrepresenting your circumstances in order to gain financial advantage that you were not entitled to.
56. Having considered the evidence, facts and mitigating and aggravating circumstances of this case, and in accordance with section 15 of the *Public Service Act 1999*, I recommend that the sanction of termination of employment be applied.
57. Whilst I have considered a lesser sanction, such as a reprimand, a fine or demotion, I believe these sanctions are too lenient as your breaches of the Code of Conduct were extremely serious and committed with considerable knowledge of not only Centrelink's policy on 'Employee Obligations and Responsibilities', but also [REDACTED] Section 47F [REDACTED] qualifications and reporting requirements. The Australian public needs to have a high level of trust in Centrelink's ability to manage its operations in a professional manner and any actions which impact on our ability to guarantee Centrelink's integrity must be viewed as grave offences. Your actions have potential impacts on the reputation and standing of Centrelink in the community and amongst our client partners. The prohibitions on Centrelink staff, as detailed above, exist both to ensure and to maintain the appearance of fair and ethical professional conduct. Your actions have the potential to erode both of these aspects of public confidence in Centrelink.
58. I am therefore of the opinion that the sanction of termination of employment is the most appropriate in the circumstances. I have no confidence that if any of the other sanctions

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available under subsection 15(1) of the Public Service Act 1999, such as demotion, transfer, a fine or a reprimand were applied, you wouldn't again fail to behave with honesty and in accordance with the Australian Public Service Code of Conduct when transacting business with Centrelink as a customer, if it suited you to do so. On each of the occasions that you incorrectly reported your income, as discussed above, you failed to recognise that your actions were unethical and in breach of Centrelink policy and direction. I consider that your conduct was at the most serious end of the spectrum and that only termination of employment will ensure the integrity of Centrelink's reputation is protected and provide you with an understanding that Centrelink takes these types of situations seriously.

S 22 / 47F

Centrelink Manager
14/7/2010