

14

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 National Manager, S 47F Business Integrity, 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 was suspected that you deliberately under declared your income to obtain a higher rate of Section 47F that you were entitled to.
3. You have been in receipt of 47F since S 47F when you claimed through the S 47F Customer Service Centre. At the date of claim, you were still working full time, but you commenced part time employment on S 47F.
4. Section 47F
5. Examination of the Earnings screens (EANS) shows you have not declared your income correctly since your 47F payments commenced.
6. Infolink shows you have had 5 changes to your employment status since S 47F. Your payslips show that you have also worked overtime on several occasions.
7. You reported your earnings through the Call Centre network on each of the 7 occasions you updated it. No income was maintained after S 47F when you reported your income as 47. As a result of this update you received the maximum rate of 47F. Your salary increased to over 47F from S 47F.
8. Your action has resulted in Centrelink debts in regard to S 47F totalling S 47F and a S 47F debt of S 47F.
9. Section 47F
10. My task was to establish whether your suspected conduct occurred and if so, whether it was a breach of the Code of Conduct.
11. I suspected that your conduct may be in breach of the following elements of the Code of Conduct:
  - (1) An APS employee must behave honestly and with integrity in the course of APS employment.
  - (4) An APS employee, when acting in the course of APS employment, must comply with all applicable Australian laws.

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

(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**

12. 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.
  - c. Chief Executive Instruction 21 which states in part that an employee who is transacting business as a customer, must act honestly and in accordance with the Australian Public Service Code of Conduct. This CEI has been in place since 2007 and refers to the "Ethics Resource Kit" that you would have received in May 2007.
  - d. Section 68 of the Social Security (Admin) Act. In regard to a person receiving a social security payment of holding a concession card, this section states in part that such a person must inform the Department if a specified event or change of circumstances occurs or notify about a matter that might affect the payment to the person of their social security payment.

**EVIDENCE AND OTHER MATERIAL**

13. In the course of my investigation I considered the following evidence and material:
- a. Copy of INFOLINK records (attachment 1)
  - b. Payslips you presented to me
  - c. Copies of Ethics and/or Privacy training documents dated S 47F (attachment 2)
  - d. Copies of signed Declarations of Confidentiality dated 2 April 2001 and 11 May 2007 and electronic versions dated 2 April 2008 and 2 April 2009. (attachment 3)
  - e. Copies of documents from Personnel file in regard to your S 47F. (attachment 4)
  - f. Copies of your EANS and DOC's screen relating to the reporting of your income. (attachment 5)
  - g. Investigation Report S 47F completed by S 22/47F of the Internal Assurance section. (attachment 6). Note the table with the actual amount of salary earned and does not include overtime etc, it is the amount for the basic hours only as per your planned working schedule.
  - h. Notes from our discussion on S 22 / 47F. (attachment 7)
  - i. Your response and supporting documentation provided to me on S 47F (attachment 8), including statements from team leaders and a colleague.

FINAL REPORT OF THE DECISION MAKER ON  
SUSPECTED BREACH OF THE CODE OF CONDUCT  
BY Section 47F

**CENTRELINK'S "Employees Interacting with Centrelink as Customers" POLICIES**

14. I am satisfied that Centrelink has provided staff with clear guidance on acting honestly and in accordance with the Australian Public Service Code of Conduct when transacting Centrelink business as a customer, or on behalf of a customer,
15. Centrelink's Chief Executive Instruction 21 relevantly states:
- "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.
16. I also note that as a Centrelink customer, you have been provided the following formal directions with which all customers are required to comply. Correspondence from Centrelink in relation to your payments have the following statement on the reverse page: -" ***EARNINGS INFORMATION - You need to tell us your earnings before tax and other deductions such as salary sacrifice. The amount must be for work performed in the Centrelink fortnight prior to notification and only the amount earned in the Centrelink fortnight. This may be different from your salary pay fortnight.***"
17. **Section 68 of the Social Security (Admin) Act 1999 relevantly states**
- The secretary may give a person to whom this subsection applies a notice that requires the person to do any or all of the following:(a) inform the Department if:(i) a specified event or change of circumstances occurs ; or (ii) the person becomes aware that a specified event or change of circumstances is like to occur.
18. I have reproduced the above quotes to establish the basis for my view that Centrelink has provided guidance on these matters. In forming my views, I have relied on the whole of the above quoted CEI 21 and Section 68 of the Social Security (Admin) Act referred to in this document.
19. I am satisfied that:
- a. You knew or should have known that you must act honestly and with integrity when conducting Centrelink business as a Centrelink customer; and
  - b. Centrelink had expressly indicated that a failure to follow these rules might result in disciplinary action.

**YOUR KNOWLEDGE OF CENTRELINK'S 'Employees Interacting with Centrelink as Customers' RULES**

20. I have considered what knowledge you had, or should have had, of Centrelink's rules in regard to acting honestly, with integrity and in accordance with the Australian Public

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

Service Code of Conduct when transacting Centrelink business as a customer, or on behalf of a customer.

21. Personnel records indicate on 2 April 2001, you were engaged as a ongoing employee of Centrelink. You are now an Customer Service Advisor at the APS4.5 level, working in Business Integrity at S 47F
22. In summary, you have worked at Centrelink for a period of 9 years 5 months.
23. There is evidence that demonstrates that you knew, or ought to have known the relevant rules regarding employees conducting transactions as Centrelink customers, and the expectations that you must act honestly and in accordance with the Australian Public Service Code of Conduct . The fact that you have personally signed Declarations of Confidentiality dated 2 April 2001 and 11 May 2007 and electronically signed Declarations dated 2 April 2008 and 2 April 2010 demonstrates that you received instructions in regard to ethics and conflict of interest.
24. The training in May 2007 would have been a part of the National "Ethical Resource Kit" release and this involved intensive training on privacy, conduct and ethics of Centrelink employees.
25. On 12 December 2003 you have also signed a statement that you have attended a training session on "Conduct and Ethical Behaviour for all Employees and you have indicated that you have understood the code of conduct and the expectations of behaviour of Centrelink Employees.
26. On the basis of this information, I am satisfied that you knew, or ought to have known, that:
  - a. Deliberately under declaring your income to obtain a higher rate of S 47F was a breach of the APS Code of Conduct and also a breach of your obligations relating to your Centrelink payments; and
  - b. such conduct might result in disciplinary action.

#### YOUR SUSPECTED CONDUCT

27. On 12 July 2010, I was provided with a copy of the Internal Assurance case investigation report no S 47F
28. In the course of my investigations I have studied the case investigation report and met with you on S 47F to discuss the report with you.
29. At the time you claimed 47F on S 47F you were still employed full time at 47F per annum. However your INFOLINK records show that you commenced part time from S 47F.
30. You reported your earnings through the Call Centre network on each of the 7 occasions you updated it. The differences between reported and actual income varied each time you called, and I can find no correlation between what you reported and what was on your payslip. On S 47F you reported income of 47F and hours worked 47F hours

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

per f/n and on S 47F you reported income of 47F and hours worked of 47F hours per f/n. Your actual hours were 47F and 47F respectively.

31. On 47F r you reported your income as 47F with effect from 47F . This was never updated. As a result of this update you received the maximum rate of 47F even though your salary increased to over 47F f/n from 47F .
32. During the discussions with both S22/47F from the Internal Assurance team and myself, you stated that your Section 47F and S 47F and Centrelink salary were being credited to different accounts so you unaware of how much you getting paid. Examination of your Infolink record shows that in fact all payments have been credited to the same account since your 47F commenced. Both salary and 47F payments were credited to a S 47F account numbered S 47F until you updated both payments to a new account number S 47F effective from S 47F for your salary and S 47F for your 47F payments.
33. During our discussion, I asked the question that if both your S 47F and salary were credited to the same account, what the other account was used for? (the one that you thought your S 47F payment went into). You said that your S 47F was paid into this but that this was only a minimal amount.
34. I noted that you were very careful with your budgeting, as it appeared that you had many accounts paid through your salary, eg Section 47F . You also told me during our discussion that you budget approximately Section 47F . I found it difficult to understand how you did not know how much was in your bank accounts when you appear to be so particular in managing other aspects of your finances.
35. You also told both S 22/47F and myself that you thought the issue of salary sacrificing may have added to the complexity of the income reporting. You stated to S 22/47F that you did not know you could not deduct your salary sacrifice payments from your income before declaring for 47F purposes. You told me that you only commenced salary sacrificing in late 47F when you purchased 47F . However from your file and the payslips that your presented to me, you were already under a salary sacrificing contract for a Section 47F .
36. Your signed a new lease contract for another salary sacrificed S 47F and the payments and deductions commenced from your pay on S 47F .
37. Your file states that you purchased a Section 47F Section 47F . The documents were signed and witnessed by the INFOLINK pay team on Section 47F prior to your pay being adjusted for payday S 47F .
38. On S 47F you contacted Centrelink via the Call Centre and notified your earnings as 47F which resulted in your receipt of the maximum rate of 47F .
39. Based on the evidence as outlined and discussed above, it is my view, that on the balance of probabilities, you have under declared your income and as a result have obtained a higher rate of Section 47F than you were entitled to; and

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

40. On the basis of this information, I am satisfied that you knew, or ought to have known, that you must act honestly when conducting Centrelink business as a Centrelink customer; and
41. Failure to do so might result in disciplinary action and you knew, or ought to have known, that in the circumstances:
  - a. Under declaring your income and receiving a Section 47F which you were not entitled to was a breach of the APS Code of Conduct and also a breach of your obligations relating to your Centrelink payments; and
  - b. your conduct was entirely inappropriate and unacceptable, and in breach of Centrelink policy;
  - c. your conduct constituted a breach of the Code of Conduct.

**CONDUCT CONSTITUTED A BREACH OF THE CODE OF CONDUCT**

42. Having regard to all of the evidence, it is my opinion 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.

**(1) An APS employee must behave honestly and with integrity in the course of APS employment.**

43. You have breached this element by under declaring your Centrelink income for the purposes of Section 47F payments.

**(4) An APS employee, when acting in the course of APS employment, must comply with all applicable Australian laws.**

44. You have failed to correctly notify Centrelink of changes in your circumstances in regard to your Centrelink income as prescribed by Section 68 of the Social Security Act. By not behaving honestly and with integrity you have also breached the Public Service Act.

**(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.**

45. The debts raised as the result of your actions total an amount in excess of Section 47F. If the matter of a Centrelink employee receiving a Centrelink payment they were not entitled to was made public, it would seriously impact on the good reputation of Centrelink and the APS.

**SANCTION**

46. 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).

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

47. I note you are 47 years of age and have worked in Centrelink since 2 April 2001. I note that you presently work as a Customer Service Advisor in Section 47F.
48. I have read your response together with all supporting documents in detail and appreciate the private nature of the contents.
49. You advised that you were going through some major issues in your personal life at this time.  
Section 47F
50. section 47F
51. Section 47F
52. Your previous team leader advised that she was concerned regarding the impact these issues would have on you personally, and has commented on your resilience throughout this time.
53. I consider the impact of these issues on your life to be a mitigating factor.
54. You state that you have been under stress for the past 24 months and have not paid attention to your financial details. You state that you rang the Call Centre of an evening to report your income, but you cannot explain why you have used the figures that you did. In your response, you stated that you in hindsight you did not realise how complicated the payslip was and that you may have used incorrect figures.
55. I have taken into consideration your confusion about how salary sacrificing affects your pay, changing your hours from full time to part time, but I consider to incorrectly reporting over such a lengthy period Section 47F to be an aggravating factor, when in your statement, you say that from Section 47F S 47F, you were starting to get your life back on track.
56. In regard to the incorrect income figures of S 47F you just state that you would not have done that and that the call centre must have misunderstood the amounts. I find it hard to believe that this could have occurred on two occasions.
57. A further aggravating factor is the fact that you received payment statements verifying the amounts of income that were assessed by the call centre and you failed to take note of these advices.
58. In your response you explained how you think the amount of 47 for earnings from employment was recorded from S 47F. Your reasoning was because you were returning to full time employment, that you may have advised that your entitlement would be 47 and it was inadvertently recorded as employment earnings of 47. You also

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

explain in your statement that

Section 47F

59. After this event, you received statements advising that you were receiving the maximum amount of payment when you were not entitled to any payment. I consider that you did not act on these to be an aggravating factor.
60. I have noted your comments in regard to the date of commencement of salary sacrifice for S 47F and have accepted the explanation you provided.
61. You state that you did not intentionally set out to defraud Centrelink by deliberately under declaring your income, but that you were overwhelmed by personal circumstances which led to your not paying due care and attention to your correspondence and personal finances. You accept full responsibility for your carelessness in managing your Centrelink affairs and I regard this as a mitigating factor.
62. Section 47F
63. I have taken all the circumstances involved into consideration, including the level of intent and remorse that you have shown into my final recommendation.
64. 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 propose to recommend that the sanction of reduction in salary from APS4.5 to APS4.3 for an indefinite period be applied.
65. I am of the opinion that this sanction is appropriate in the circumstances, because of the amount of the debt involved and the impact that your actions may have on the reputation of the APS.
66. I have considered the impact of this sanction on your current family circumstances and on you personally. I have also taken into account the fact the you may also be required to go through a prosecution process.
67. I do not consider that a lesser sanction would be an adequate response to the gravity of your conduct.

S 22/47F  
Professional Standards Officer

S 47F  
13 September 2010