

# PARLIAMENTARY COUNSEL

## Policy No. 6.8 Achieving Capability and Excellence (ACE) program

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### Contents

<b>Introduction</b> .....	2
<b>Purpose and objectives of the ACE program</b> .....	2
High performance culture .....	2
Feedback culture .....	3
Organisational fit .....	3
<b>What is good performance?</b> .....	3
<b>Feedback conversations</b> .....	3
Supporting feedback conversations .....	4
<b>Addressing performance concerns</b> .....	4
<b>Career conversations</b> .....	5
<b>Participation in the ACE program</b> .....	6
<b>The ACE cycle</b> .....	6
<b>Performance Agreements</b> .....	6
Deliver Plan .....	7
Grow Plans .....	7
Support Plans .....	8
<b>Recognition and ratings</b> .....	8
Meets or exceeds expectations .....	8
Improvement needed .....	8
<b>Changes to role or supervisor</b> .....	9
Relationship of ratings to Enterprise Agreements and salary increments .....	9
<b>Record keeping and privacy</b> .....	10
<b>Resolving concerns</b> .....	10
<b>Evaluation of the ACE program</b> .....	10
<b>Help and further resources</b> .....	11
<b>Review</b> .....	11

## Introduction

1 The Achieving Capability and Excellence (*ACE*) program is the performance management program for the Office of Parliamentary Counsel (*OPC*). It provides detail to support the implementation of OPC's Enterprise Agreement 2016-2019 (the *non-SES EA*) and the SES Enterprise Agreement 2016-2019 (the *SES EA*). It also implements the requirements of the [Public Service Act 1999](#) and the [Australian Public Service Commissioner's Directions 2022](#) (the *Directions*).

2 Under the Directions, the Agency Head, supervisors and employees all have responsibilities in relation to performance.

## Purpose and objectives of the ACE program

3 To achieve our mission of "Providing clear, effective and accessible Commonwealth laws for all Australians", OPC will maintain a strong performance feedback culture. Sharing performance feedback in an environment that promotes professional growth, collaboration and achievement is the key to successful individual performance, which forms the basis for attaining team and organisational objectives.

4 The purpose of the ACE program is to empower OPC's people to develop their skills to do their best work.

5 This purpose will be achieved by meeting the following objectives:

- (a) Promote sustainable fully effective performance and build a high performance culture.
- (b) Promote a feedback culture based on trust and fairness, by giving staff the skills necessary for timely, growth-focussed and balanced feedback conversations.
- (c) Establish clear, concise, simple, achievable and agreed performance expectations based on OPC's objectives.
- (d) Address performance issues promptly, sensitively and actively.
- (e) Develop capability in staff to deliver consistent, quality outcomes, to grow in their current role and to prepare for future roles.
- (f) Support the careers of staff in line with their potential, aspirations, organisational fit and future opportunities.

6 These objectives align with sections 49, 50 and 51 of the Directions (which are about the respective responsibilities of agency heads, supervisors and employees for effective performance).

## High performance culture

7 The Australian Public Service Commission defines a high-performance culture as a system that promotes and incentivises effective performance and fosters talent. It has clear performance expectations, a focus on performance improvement and prevention of

underperformance, and active management of performance issues. It requires mutual accountability for achieving effective performance<sup>1</sup>.

### **Feedback culture**

8 OPC understands a feedback culture to be where there is a widespread everyday habit of seeking and sharing feedback. This means that feedback is not just from a supervisor to a team member, but with each other, including feedback from the team member to supervisor. It also means feedback is shared with peers and colleagues.

### **Organisational fit**

9 OPC understands organisational fit to mean a match between the goals and values of an individual and OPC's mission and values, as well as the values of the Australian Public Service. Organisational fit does not mean uniformity. OPC seeks to harness the benefits of diversity by including and valuing the different ways of thinking and different strengths that come with diversity.

## **What is good performance?**

10 Good performance is manifested in both the achievement of outcomes and how work is done, facilitated by organisational culture and by clear expectations. Employees have an active, not passive, role, and good performance comes from engaged, motivated, proactive employees.

“Effective employee performance requires ownership and commitment from each employee. At a minimum, employees are accountable for striving to perform their duties to the expected standard, having a Performance Agreement in place, and participating actively and constructively in career conversations.

An employee's commitment to performance may be demonstrated by the employee initiating conversations with their supervisor to seek informal feedback; identifying and communicating their performance goals; seeking out development opportunities; identifying when they require assistance; and providing their supervisor with feedback.”<sup>2</sup>

11 Descriptions of what constitutes good performance such as OPC's Core Capability Framework and performance standards for particular roles will be issued by FPC after consultation with relevant staff, and may be found on the intranet.[link coming] .

## **Feedback conversations**

12 Conversations where quality feedback is shared are core to the achievement of the ACE program objectives. Quality feedback is socially exchanged information that leads to the maintenance of positive outcomes or positive behaviour change. Social exchange primarily happens in conversations between people. Outcomes and behaviour change include both technical and interpersonal skills.

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<sup>1</sup> (2019) Managing Performance in the APS (3.3.1) viewed at <https://www.apsc.gov.au/working-aps/commissioners-directions/performance-management-australian-public-service>

<sup>2</sup> (2019) Managing Performance in the APS (3.2) viewed at <https://www.apsc.gov.au/working-aps/commissioners-directions/performance-management-australian-public-service>

13 Each individual is responsible for seeking feedback to maintain, strengthen and stretch their performance. In addition, supervisors have an additional responsibility set out in the Directions to provide feedback to team members. However, sharing feedback is not limited to exchanges between supervisor and employee. It includes feedback from subordinates, from clients, from colleagues, from peers, and from managers once-removed, particularly where a supervisor does not have direct visibility of the work.

14 Shared feedback should be real-time, adapting to the natural flow of work. It should be continuous, fluid, ongoing and adapted to each working relationship. It will flourish where there is transparency, respect and trust.

15 Feedback conversations should acknowledge and praise effort, see mistakes as opportunities for learning, and focus on growth. They provide an opportunity to review, discuss and revise expectations and responsibilities, identify and respond to barriers or impediments preventing effective performance, and to recognise and celebrate performance and achievements. Feedback conversations assist with early identification and tracking of learning needs.

### ***Supporting feedback conversations***

16 Recognising that sharing feedback can make people feel uncomfortable, OPC will build the capability of supervisors and staff to have feedback conversations so they are ready, capable and confident. On-the-job learning will be supported by formal training in how to have quality feedback conversations, as well as opportunities to learn from each other. Learning opportunities will be delivered in a way that is suitable for both office-based employees and those working remotely. Tools and resources will be provided, as well as help for both employees and supervisors from People Services team.

### **Addressing performance concerns**

17 Where a supervisor is concerned that an employee's performance may not be meeting expectations, these concerns **must** be raised by the supervisor with the employee as early as possible, and can be raised at any point throughout the ACE cycle. A shared understanding of the cause of the performance concerns should be sought<sup>3</sup>.

18 Managing performance concerns, including conduct, can be complex, in particular when there is a need to distinguish between performance, conduct and health related issues. Supervisors are encouraged to seek assistance from the [People Services](#) team when addressing performance concerns.

19 Performance concerns **must** be addressed, following a decision made by the supervisor about the most appropriate response in the circumstances. The supervisor and employee must work together to identify and implement actions to address the causes and to achieve sustained improved performance. The supervisor should document the issues, actions and feedback provided, and give the employee the opportunity to add their comments to those documents<sup>4</sup>.

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<sup>3</sup> APS Commissioner's Directions 2022 50 (g)

<sup>4</sup> APS Commissioner's Directions 2022 50 (g)

20 The employee **must** engage constructively with their supervisor and People Services in resolving the performance issues and acting on performance feedback<sup>5</sup>. The employee may, if they wish, be accompanied by a support person or employee representative to assist in resolving the performance issues and acting on performance feedback.

21 There are four options to address performance concerns:

- (a) **Time to address personal issues:** If the performance concerns arise from personal issues, the supervisor provides an agreed time period for the employee to address the personal issues that are impacting on their performance. Risk mitigation strategies are put in place to address the impact of the poor performance on team members and clients, and/or on work quantity, quality or timeliness.
- (b) **Modified duties:** If the performance concerns arise from personal issues, the supervisor modifies the duties of the employee for an agreed time period while the personal issues that are impacting on their performance are resolved, to enable the employee to continue to contribute effectively. Examples include adjusting workload or re-assigning duties.
- (c) **Initial Support Process:** The supervisor commences a less formal process to support improved performance as described below.
- (d) **Formal Underperformance Process:** The supervisor, with FPC approval, commences OPC's formal Underperformance Process as described below. It would be expected that usually, the Formal Underperformance Process would be immediately preceded by the **Initial Support Process**. However, in some circumstances, that may not be appropriate. For example:
  - (i) where an employee has undertaken several Initial Support Processes and improved their performance, and subsequently their performance no longer meets expectations.
  - (ii) where an employee has successfully completed an Formal Underperformance Process but has been unable to sustain good performance for a period of up to 12 months.

## Career conversations

22 A career conversation is an annual conversation that takes a long term view of a person's development to assist them to thrive and achieve their career aspirations. It should be separate from a performance review.

23 Career aspirations are about achieving a desired impact at work and do not have to include a desire for promotion.

24 Career conversations involve the following process:

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<sup>5</sup> APS Commissioner's Directions 2022 51 (f)

- (a) the employee may choose (but is not required to) have a conversation with one or more people to discuss their career aspirations; the people do not have to include the person's supervisor; and
- (b) whether or not the employee has a conversation mentioned in paragraph (a), the employee and their supervisor must have a conversation about how implementation of the employee's career aspirations will be included in the Performance Agreement, for example in the Grow plan or Deliver plan.

25 While staff are responsible for their own careers, supervisors should encourage their staff to progress their career aspirations, which may or may not be within OPC.

## Participation in the ACE program

26 All ongoing and non-ongoing APS, Executive Level and SES staff must participate in the ACE Program.

27 First Parliamentary Counsel and Second Parliamentary Counsels participate in the ACE Program as supervisors, and they may choose to have similar agreements with their own supervisors to support their own professional growth. Evidence suggests that strong feedback cultures are led from the top and the Portfolio Guidelines *[could a link to these be included?]* issued by the Attorney-General state that agency heads should articulate and role model expected behaviours (p17).

## The ACE cycle

28 The ACE cycle operates over the course of a financial year (1 July to 30 June). The period for the establishment of Performance Agreements and completion of Recognition Summaries extends from 1 June to 31 July of each year to allow for competing work priorities, leave or other work considerations.

29 Sharing feedback at the beginning of the cycle will emphasise setting clear agreed expectations in a written Performance Agreement. Sharing feedback throughout the cycle will emphasise recognition of effort and outcomes, development needs and skill acquisition. Sharing feedback at the end of the cycle will emphasise recognising achievements, including through the assigning of a rating for performance against the Deliver Plan.

## Performance Agreements

30 A fundamental driver in the successful achievement of outcomes is the provision of role clarity and a shared understanding of responsibilities and expectations. Both the supervisor and employee are responsible for discussing and documenting these agreed expectations in a Performance Agreement. The Performance Agreement for each ACE cycle is usually initiated by the employee and is to be established between 1 June to 31 July each year and updated as needed.

31 New staff, staff returning from leave of greater than three months, and staff commencing a new role should establish a new Performance Agreement as soon as practicable, and ideally within one month of commencement. Where the commencement date is after 1 April, the Performance Agreement will extend for the remainder of the cycle and the following cycle.

- 32 Performance Agreements include:
- (a) a Deliver Plan, tailored to work group needs and describing how the employee’s individual contribution connects with OPC’s mission and values;
  - (b) a Grow Plan, which focuses on enhancing current skills and developing new skills; and
  - (c) a Support Plan, which outlines how the supervisor will support the employee, including plan to share feedback and discuss their career.

33 Templates for each work group and guidance are available on the intranet [link yet to be confirmed].

### ***Deliver Plan***

34 The Deliver Plan documents the agreed objectives expected to be undertaken or completed by the employee. They are to be consistent with the employee’s role description and the APS Work Level Standards<sup>6</sup>. Individual outcomes/goals are to be developed in alignment with organisational outcomes. Where many staff undertake essentially the same role, there will be consistency in aspects of the Deliver Plan, particularly for ongoing work.

35 In creating a Deliver Plan, there are four key elements used to set expectations:

Element	Descriptor
WHY	The WHY sets the organisational context to assist employees to understand how their work supports OPC to achieve our mission.
WHAT	The WHAT describes key deliverables for the year, drawn from role descriptions and the corporate plan. This may include deliverables associated with Grow Plan goals.
WHEN	The WHEN clarifies key milestones and when deliverables are due for work that is not ongoing.
HOW	The HOW describes the key behaviours for which the employee will receive feedback, drawn primarily from OPC’s values and core capability framework. This may include behaviours associated with Grow Plan goals.

### ***Grow Plans***

36 OPC is committed to developing capability in staff to grow in their current role, to prepare for future roles, and to fulfil their potential. Staff are encouraged to take ownership of their professional development and to work together with their supervisor to identify learning needs and implement appropriate solutions.

37 OPC recognises that learning comes from a range of activities. The Grow Plan provides for employees to consider how their learning needs may be met in each of the three modes of on-the-job experience and real life problems and practice, workplace and professional relationships, and formal training (as outlined in the 70/20/10 model [*linked*]).

<sup>6</sup> The APS [Work Level Standards](#) provide information on the responsibilities and duties at each classification level and are consistent across the APS.

38 The Grow Plan can and should be updated throughout the year as needs and goals change, including after career conversations. Templates and examples are available on the intranet [link still coming].

### **Support Plans**

39 A Support Plan has three components: Feedback plan, Supervisor support, and Career conversation. Templates and examples are available on the intranet [link still coming].

- (a) **Feedback plan:** documents the agreement reached between employee and supervisor to ensure regular feedback conversations occur. It should also document the range of sources from which feedback will be sought.
- (b) **Supervisor support:** documents the support that the employee would like from their supervisor in order to do their job well and that the supervisor agrees to provide.
- (c) **Career conversation:** documents when the career conversation will take place, and that it should include discussion (but not assessment) of performance, potential, aspirations, organisational fit and future opportunities, career goals, and development to support career goals as required by the Directions at paragraph 50(b).

### **Recognition and ratings**

40 Staff are formally recognised at the end of the ACE cycle with a written Recognition Summary. This should include recognition by the supervisor of the achievement of deliverables and meeting milestones, recognition of behaviour in the context of OPC's values and core capabilities, and recognition of skill development and growth. It should also include a reflection by the supervisor and employee on the effectiveness of the feedback plan, of supervisor support, and of career conversations. Templates and examples are available on the intranet [link coming].

41 The Recognition Summary will also record the performance rating given by the supervisor against the Deliver Plan, based on two levels of achievement.

#### **Meets or exceeds expectations**

42 The rating of "Meets or exceeds expectations" indicates that the employee's performance meets or exceeds the expectations at their classification level. The employee has achieved solid or exceptional outcomes in a manner consistent with or exemplifying OPC's values and core capabilities. Although a single rating is used, supervisors are encouraged to recognise excellent performance as part of regular feedback conversations.

#### **Improvement needed**

43 The rating of "Improvement needed" indicates performance concerns have been identified as the employee has not been able to meet some or all of the key expectations at their classification level, or in a manner consistent with OPC's values and core capabilities.

44 Prior to discussing this rating with an employee, a supervisor must discuss the assigning of this rating with the supervisor's own supervisor. Supervisors are encouraged to access advice from People Services to assist them to support improved performance.

## **Changes to role or supervisor**

45 During the ACE cycle an employee may change role or the employee's supervisor may change. Where this occurs, both the employee and new supervisor share the responsibility to review and adjust the employee's Performance Agreement as soon as practicable, and ideally within one month of the change.

46 The employee and the supervisor should discuss how feedback conversations will occur to ensure they are able to progress discussions on key deliverables, capability development and sharing feedback.

47 Where an employee is expected to be on leave or away from the workplace for the period of 1 June to 31 July, the Recognition Summary should be completed prior to the employee's departure. This includes staff taking extended maternity leave or leave without pay, or taking a secondment or temporary transfer.

48 In the event an employee has worked in more than one classification level during the ACE cycle, a rating may be assigned for each period at each classification level. However for the purpose of pay point progression, a rating must be given for the employee's substantive classification.

49 In the event an employee has more than one supervisor during the ACE cycle for periods of three months or more (either at level or higher duties), supervisors should collaborate with each other to determine an appropriate rating for the whole year where it is practical to do so.

## ***Relationship of ratings to Enterprise Agreements and salary increments***

50 A rating of "Meets or exceeds expectations" will lead to an increment advancement if the employee is not at the top of the increment range in accordance with the relevant Enterprise Agreement.

51 A rating of "Improvement needed" will not lead to an increment advancement. However, nor will this rating automatically lead to the commencement of the formal underperformance process<sup>7</sup>.

52 For the purposes of increment advancement under the non-SES Enterprise Agreement, and experience loading under the SES Enterprise Agreement, a rating of "Meets or exceeds expectations" is taken to mean a rating of 3 (fully effective). A rating of "Improvement needed" is taken to mean 1 (unsatisfactory). The ACE program does not have a rating that corresponds to 2 (adequate).

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<sup>7</sup> [\(S06PQ470.V12.DOCX Office Procedural Circular No. 6.5 Managing unsatisfactory performance\)](#)

## Record keeping and privacy

53 Consistent with the *Privacy Act 1988*, any personal information collected as part of the ACE program will be used for the purpose of managing performance.

54 Performance Agreements, as updated from time to time, and completed Recognition Summaries will be placed by Executive Services on an electronic file marked “Sensitive: Personal”.

55 This information may be accessed by the employee, their supervisors and FPC. In addition, the information may be accessed by the relevant General Manager, or for drafters, the 2PCs.

56 This information will be managed in accordance with the requirements set out by the National Archives of Australia in the Administrative Functions Disposal Authority, which authorises destruction of records about the development and review of individual employee performance agreements and assessments 3 years after action is completed<sup>8</sup>.

57 From time to time, personal information may also be accessed by People Services employees to support ACE Program implementation and evaluation, by payroll staff to process salary and other monetary entitlements, and IT staff for system administration.

58 Office Procedural Circular No. 2.13 *Privacy Management Framework* outlines how individuals can access the personal information that is held by OPC in relation to them.

## Resolving concerns

59 If an employee is concerned about any aspect of the ACE Program, (including in relation to their Deliver, Grow or Support Plan, performance feedback, support provided, career conversations, the content of a Recognition Summary or performance rating) the employee should raise the concerns as set out below and seek resolution. The employee may wish to be accompanied by a support person or employee representative when taking any steps to resolve concerns.

60 In the first instance, the employee should discuss the issue and possible resolutions with their supervisor, and where relevant, with senior management of the employee’s work group.

61 Where a concern cannot be resolved, the steps to resolve the matter will be in accordance with Office Procedural Circular No. 5.10 *Resolution of disputes and grievances*.

## Evaluation of the ACE program

62 The ACE program and associated processes and practices will be periodically reviewed and benchmarked against APS best practice.

63 The success of the ACE program will be monitored annually by the People Committee using a range of measures including:

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<sup>8</sup> [AFDA Express Version 2 class](#) 62635 viewed 15 November 2021

<b>Measure</b>	<b>Source of information</b>
The frequency and quality of feedback conversations	Self-reported perceptions of employees in regular pulse surveys
The frequency and quality of upward feedback	Self-reported perceptions of supervisors in regular pulse surveys
The capability to undertake effective feedback conversations (both supervisor and employee)	Self-reported perceptions of supervisors and employees in regular pulse surveys and monitored through Employee Census results
The capability of employees to undertake their job	Self-reported perceptions of employees monitored through Employee Census results
The capability of supervisors to address unsatisfactory performance	Self-reported perceptions of employees and supervisors monitored through Census results

## Help and further resources

64 Further information and assistance on any aspect of the ACE program, including on review mechanisms, is available from the [People Services](#) team. People Services team can help with establishing Performance Agreements, including setting goals and behavioural expectations, with understanding development needs, with having feedback conversations, with assigning ratings and with any aspect of managing staff, including probation, underperformance, misconduct and managing health issues.

65 There is [information](#) available on the intranet about probation, underperformance, misconduct and managing health issues.

## Review

66 This policy will be reviewed at least every 3 years.

Meredith Leigh  
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### Document History

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Note: This document replaces Office Procedural Circular No. 6.2 Performance Management Program for Senior Executive Service Employees; Office Procedural Circular No. 6.3 Performance Management Program for Assistant Drafters; and Office Procedural Circular No. 6.4 Performance Management Program for Corporate Services and Publications staff.