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**reportable conduct scheme procedureS**

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REPORTABLE CONDUCT SCHEME PROCEDURES

This procedure must be read in conjunction with Reportable Conduct Scheme Policy.

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1. Overview
   1. These procedures will enable all Directorate employees to understand and meet their responsibilities as required under the [ACT Reportable Conduct Scheme](https://www.ombudsman.act.gov.au/improving-the-act/reportable-conduct) (Scheme).
2. Rationale
   1. These procedures, in conjunction with the *EDU Reportable Conduct Scheme Policy*, support the intent of the Scheme as defined in Section 17E of the [*Ombudsman Act 1989*](https://legislation.act.gov.au/a/alt_a1989-45co/).
   2. The Scheme will, through the provisions of oversight, build on the capacity of organisations in the ACT to respond appropriately and effectively to allegations of abuse, mistreatment or neglect of children in their care, and will be a key feature of child-safe organisations.
   3. The Scheme’s primary purpose is to provide oversight investigations into employee conduct when a child’s safety or wellbeing is at risk, providing an additional level of monitoring and enhancing public confidence in the outcomes of investigations.
   4. The Scheme is an employment-based child protections measure designed to ensure allegations and convictions against employees, related to abuse and misconduct against children, are identified and acted on appropriately.
   5. The Scheme is allegation-based and, as a designated entity, the Directorate has the following responsibilities:
      1. notify the Ombudsman about any reportable conduct allegations or convictions involving an employee as soon as possible and no later than 30 days,
      2. investigate any allegations of reportable conduct and provide a final report to the Ombudsman,
      3. report to other entities as required, and
      4. develop and update Directorate policies and procedures reflecting these responsibilities in order to inform and support all staff.
   6. Section 17E of the *Ombudsman Act 1989* defines reportable conduct as conduct engaged in by a Directorate employee that results in:
      1. ill treatment or neglect of the child,
      2. exposing or subjecting the child to:
         1. behaviour, or a circumstance, that psychologically harms the child;
         2. or misconduct of a sexual nature that does not form part of an offence mentioned in 2.6.3;
      3. an offence against provisions part 2 to part 5 of the *Crimes Act 1900* for which the child is either present or a victim at the time of the conduct; and
      4. an offence against either section 166 or section 167 of the *Education and Care Service National Law (ACT)*.
   7. The [ACT Ombudsman Practice Guide No.2 Identifying Reportable Conduct](https://www.ombudsman.act.gov.au/__data/assets/pdf_file/0009/81000/No.-2-Identifying-Reportable-Conduct.pdf) identified behaviours that must be reported to the ACT Ombudsman which includes:
      1. sexual offences and convictions where a child is a victim or is present,
      2. offences against the person, including physical offences and convictions, where a child is a victim or is present,
      3. conviction, or finding of guilt, under a territory law or a state or Commonwealth law, involving reportable conduct,
      4. offences against the [*Education and Care Services National Law (ACT) Act 2011*](https://www.legislation.act.gov.au/a/2011-42)(inappropriate discipline or offences relating to protecting children from harm),
      5. ill-treatment of a child (including emotional abuse, hostile use of force/physical contact, neglect and inappropriate, restrictive intervention),
      6. psychological harm, or
      7. misconduct of a sexual nature.
   8. The requirements related to responding to allegations of reportable conduct do not negate any other reporting responsibility required for the protection of children, such as mandatory reporting to the Children and Young People Services (CYPS) or ACT Policing and may occur alongside these requirements.
   9. All employees are encouraged to refer to the [ACT Ombudsman Practice Guide No.2 Identifying Reportable Conduct](https://www.ombudsman.act.gov.au/__data/assets/pdf_file/0009/81000/No.-2-Identifying-Reportable-Conduct.pdf) for more information.
3. Roles and Responsibilities
   1. Employees will:
      1. ensure they are aware of child safety issues and their obligations for ensuring that any allegations or convictions related to reportable conduct are immediately notified to their Principal or Manager, People and Performance Branch or the Directorate’s Complaints and Liaison Unit.
      2. ensure that they complete the Directorate’s mandatory Reportable Conduct online training.
      3. ensure they comply with the ACT Public Service Obligations and Directorate-specific Codes of Conduct.
   2. Principals and Managers will:
      1. notify the People and Performance Branch immediately after becoming aware of a reportable conduct allegation or conviction.
      2. undertake a risk assessment, with advice from People and Performance, in relation to the safety and wellbeing of the child, the employee subject to the allegation or conviction and other staff or children who may be involved.
      3. consult with the employee subject to the allegation or conviction and other staff, as relevant.
      4. undertake an inquiry into the reportable conduct allegation or conviction.
      5. maintain appropriate records in relation to the alleged reportable conduct or conviction as required by Directorate policies and procedures.
      6. ensure all employees complete the Directorate’s mandatory Reportable Conduct online training.
      7. provide information about reportable conduct during school/section induction of new staff to the Directorate, pre-service teachers, trainees, volunteers and those contracted to provide a service to children.
   3. People and Performance Branch will:
      1. maintain responsibility for day-to-day application of the Reportable Conduct Scheme Policy and Procedures.
      2. notify the ACT Ombudsman as soon as possible and within 30 days of an allegation being made or being advised of a conviction in relation to reportable conduct.
      3. work with the Principals and Managers to ensure appropriate inquiry into reportable conduct allegations or convictions are undertaken, which meet the requirements of the Scheme.
      4. ensure ongoing monitoring of inquiries and provide progress updates to the Ombudsman’s Office.
      5. determine a final finding in relation to the reportable conduct allegation or conviction and submit a final report to the ACT Ombudsman.
      6. ensure inclusion of reportable conduct information during induction processes and delivery of reportable conduct training to staff as appropriate.
      7. share information with other relevant entities, as required.
4. Procedures
   1. Under the Scheme, the Directorate, as a designated entity, must notify the ACT Ombudsman within 30 days of being made aware of a reportable conduct allegation or conviction. It is noted that a reportable conduct allegation or conviction may occur within the workplace and extends outside of the workplace.
   2. The urgency and timeliness of reporting an allegation or conviction of reportable conduct is critical in ensuring that the Directorate is compliant with its legislative responsibilities and ensuring child safety under the Scheme.
   3. Reportable conduct allegations or convictions may not be immediately identifiable but may be received through the following sources:
      1. Parent complaint about the behaviour of an employee towards a child,
      2. Complaint or assertion made by a child in relation to behaviour of an employee towards them or another child,
      3. Report received from a community member or another employee about behaviour by an employee towards a child that may or may not have been directly witnessed,
      4. Anonymous complaint or report of employee behaviour towards a child, or
      5. Information contained on a RISKMAN report or student ACCIDENT/INCIDENT report.

**Reporting**

* 1. Employees, as identified in the *EDU Reportable Conduct Scheme Policy*, must report any reportable conduct allegation or conviction to their Principal/Manager as soon as possible from when they have been made aware of the allegation or conviction.
  2. Where it is not reasonable to report an allegation to the Principal or Manager, an employee may contact:
     1. the relevant Director School Improvement (DSI) by phone on (02) 620 53313
     2. People and Performance, Reportable Conduct Team (02) 620 59149 or Email: [reportableconductedu@act.gov.au](mailto:reportableconductedu@act.gov.au)
     3. Families and Students, Complaints and Feedback Section (02) 620 55429 or via the EDU Contact Form: <https://www.accesscanberra.act.gov.au/app/forms/etd_liaison_feedback>
     4. ACT Ombudsman’s office (02) 6276 3770 or email: [act@ombudsman.gov.au](mailto:act@ombudsman.gov.au).
  3. Principals and Managers must report any reportable conduct allegation or conviction to the People and Performance Branch (P&P) as soon as possible after becoming aware of the allegation or conviction.
  4. It is important that Principals and Managers gather and provide relevant information regarding the reportable conduct allegation or conviction to support the Directorate’s process of initial notification to the Ombudsman’s Office.

**Initial Notification to the Ombudsman’s Office**

* 1. Where a reportable conduct allegation or conviction is received, the P&P Reportable Conduct Team will prepare and submit the [S17G Notification](http://www.ombudsman.act.gov.au/__data/assets/pdf_file/0025/48166/s-17G-Notification.pdf) to the Ombudsman’s Office as soon as possible and within 30 days of becoming aware of the allegation or conviction.
  2. In this process, the Principal or Manager will undertake an initial risk assessment, in consultation with the P&P Reportable Conduct Team, to consider the risks to a child or group of children, the employee, other children, peers, organisational reputation and risks to other investigations, based on the allegation or conviction.
  3. The initial risk assessment will be informed by the [ACT Ombudsman Practice Guide No. 3 Risk Management following an allegation of Reportable Conduct against an employee](http://www.ombudsman.act.gov.au/__data/assets/pdf_file/0010/81001/No.-3-Risk-management-following-an-allegation-of-reportable-conduct-against-an-employee.pdf) and the document will be provided to the Ombudsman’s Office as part of the notification process.

**Reportable Conduct Inquiry**

* 1. For the purposes of these procedures, the process by which the Directorate responds to or investigates a reportable conduct allegation or conviction will be referred to as a Reportable Conduct Inquiry (Inquiry).
  2. The purpose of the Inquiry is to gather or obtain relevant information in relation to the reportable conduct allegation or conviction supporting the Directorate’s responsibility to assess and provide a final finding on the allegation or conviction to the ACT Ombudsman.
  3. Principals and Managers can gather information through a review of reports or conducting formal and informal interviews to support their assessment and recommendations in relation to the reportable conduct allegation or conviction.
  4. Where a reportable conduct allegation or conviction identifies behaviour that is not consistent with the values and general principles set out in the Public Sector Management Act 1994 and the ACT Public Service Code of Conduct and Signature Behaviours, the matter may also be managed in accordance with Section H – Workplace Values and Behaviours of ACTPS Enterprise Agreements i.e. preliminary assessment and/or investigation.
  5. Where an employee who is subject to a reportable conduct allegation or conviction separates from the Directorate (either resigns, is terminated or ends the provision of their services in the workplace), the Directorate will continue to undertake the Inquiry.

**Planning and Coordination**

* 1. Following initial report of a reportable conduct allegation or conviction, the Principal or Manager, in consultation with the Reportable Conduct Team, will plan and coordinate the next actions to be taken to support the Inquiry process.
  2. Principals and Managers must consider any actual or perceived conflict of interest, particularly in relation to the employee or any child/ren involved. Where a conflict of interest or a perceived conflict of interest is identified, steps must be taken to manage these conflicts to ensure the integrity of the Inquiry is maintained.
  3. Planning and coordination should be informed by the [ACT Ombudsman Practice Guide No. 4 Planning and Conducting an Investigation](http://www.ombudsman.act.gov.au/__data/assets/pdf_file/0011/81002/No.-4-Planning-and-conducting-an-investigation.pdf) and will be recorded on the Reportable Conduct Inquiry – Risk Assessment and Planning Document provided at Annex A.

**Ongoing Risk Management**

* 1. The Principal or Manager, in consultation with the Reportable Conduct Team, will identify, record and manage any news risks that emerge as information is gathered throughout the Inquiry. Ongoing risk management will ensure that appropriate supports are provided for the child/children and employee who are the subject of the allegation or conviction and any other relevant parties.
  2. In undertaking risk assessments, the Principal or Manager will also consult with the employee who are subject of the allegation of conviction or others, as appropriate.
  3. Ongoing risk assessment should be informed by the [ACT Ombudsman Practice Guide No. 3 Risk Management following an allegation of Reportable Conduct against an employee](http://www.ombudsman.act.gov.au/__data/assets/pdf_file/0010/81001/No.-3-Risk-management-following-an-allegation-of-reportable-conduct-against-an-employee.pdf) and will be recorded on the Reportable Conduct Inquiry – Risk Assessment and Planning Document provided at Annex A.

**Procedural Fairness**

* 1. The Inquiry will be undertaken giving due consideration to the requirements of procedural fairness.
  2. Procedural fairness is a legal principle that ensures fair decision-making. It has developed over time as a result of decisions by the courts in administrative law cases.
  3. Generally, procedural fairness requires decisions to be consistent with the:
     1. bias rule – free from bias or apprehended bias by the decision maker,
     2. evidence rule – rational or based on evidence that is logically capable of supporting the facts,
     3. hearing rule – provide people likely to be adversely affected by decisions an opportunity to a) present their case and b) have their response taken into consideration before a decision is made.
  4. In making a decision in any disciplinary action, all relevant information must be taken into account.
  5. Principals and Managers must ensure that they remain objective and unbiased in their actions and decision-making to ensure child safety. It also their responsibility to ensure a safe workplace environment for the employee who is subject to an allegation and to handle the matter with sensitivity and maintain confidentiality.
  6. Procedural Fairness within the Inquiry should be informed by the [ACT Ombudsman Practice Guide No. 4 Planning and Conducting an Investigation](http://www.ombudsman.act.gov.au/__data/assets/pdf_file/0011/81002/No.-4-Planning-and-conducting-an-investigation.pdf).

**Employee who is Subject to an Allegation**

* 1. The Inquiry process provides an employee, who is subject to a reportable conduct allegation or conviction, with the opportunity to fully respond to any allegation made against them.
  2. The employee should follow all directions from the Principal or Manager or other Directorate delegate in relation to the matter and should not attempt to resolve the matter or make contact with the complainant.
  3. The employee is entitled to bring a support person or employee representative to any meeting related to the matter and should be given the opportunity to do so.
  4. As part of ongoing risk management, adjustments to the employee’s work arrangements may be necessary while the Inquiry is being undertaken. Where it has been determined that an adjustment to work arrangements are required, Principals and Managers should consult with the employee prior to implementing required adjustments.
  5. Employees should discuss or raise any issues or challenges in undertaking their duties while the Inquiry is underway to ensure effective supports can be put in place, if required.
  6. Employees can also access the [Employee Assistance Program](https://index.ed.act.edu.au/our-people/employee-assistance-program.htm) (EAP), which is a free counselling service that they can avail for themselves or their family members.

**Final Report to the ACT Ombudsman**

* 1. Following the conclusion of the Inquiry and based on the ‘balance of probabilities’ and the assessment of the strength or the weight of the evidence, the Directorate will determine a final finding and submit an [S17J Final Report](http://www.ombudsman.act.gov.au/__data/assets/pdf_file/0014/81005/No.-7-17J-final-report.pdf) to the ACT Ombudsman in relation to the reportable conduct allegation or conviction.
  2. Where a matter is also subject to processes under Section H – Workplace Values and Behaviours of ACTPS Enterprise Agreements, the [S17J Final Report](http://www.ombudsman.act.gov.au/__data/assets/pdf_file/0014/81005/No.-7-17J-final-report.pdf) may not be provided to the ACT Ombudsman until the conclusion of the Section H matter. The P&P Reportable Conduct Team will provide progress updates to the Ombudsman’s Office throughout the conduct of Section H matters.
  3. The Final Report should be informed by the [ACT Ombudsman Practice Guide No. 6 Making a finding of Reportable Conduct](http://www.ombudsman.act.gov.au/__data/assets/pdf_file/0013/81004/No.-6-Making-a-finding-of-reportable-conduct.pdf).

**Information Sharing**

* 1. The Directorate, in accordance with the *Children and Young People Act 2008*, will share reportable conduct information to other child safety entities or designated entities, either upon request by the entity or on the Directorate’s own initiative for the safety, welfare or wellbeing of a child, young person or class of child or young person.

1. Contact
   1. The Executive Branch Manager, People and Performance Branch is responsible for this procedure.
   2. For support in applying these procedures please contact the People and Performance Branch, Reportable Conduct Team (02) 620 59149 or Email [reportableconductedu@act.gov.au](mailto:reportableconductedu@act.gov.au).
2. Complaints
   1. Any concerns about the application of this procedure or the procedure itself, should be raised with:

* the school principal in the first instance;
* the Directorate’s Families, Students Complaints and Feedback team on   
  (02) 6205 5429.
* online at [www.education.act.gov.au/about-us/contact\_us](http://www.education.act.gov.au/about-us/contact_us);
* see also the [Complaints Policy](https://www.education.act.gov.au/publications_and_policies/corporate-policies/school-administration-and-management/complaints/complaints-policy) on the Directorate’s website.

1. References
   1. Related Policies and Documents
      1. The following documents must be read in reference to the information provided in this procedure document:

* ACTPS Code of Conduct
* [ACT Community Services Keeping Children and Young People Safe](https://www.communityservices.act.gov.au/ocyfs/keeping-children-and-young-people-safe)
* [ACT Ombudsman Practice Guides](file:///\\act.gov.au\education\decs\Workplace%20Relations\WR%20Projects%20and%20Initiatives\Reportable%20Conduct\Action%201%20-%20Reportable%20Conduct%20Policy%20and%20Guidelines\•%09http:\www.ombudsman.act.gov.au\reportable-conduct-scheme)
* [Child Protection and Reporting Child Abuse and Neglect Policy](file://\\act.gov.au\education\decs\Workplace%20Relations\WR%20Projects%20and%20Initiatives\Reportable%20Conduct\Action%201%20-%20Reportable%20Conduct%20Policy%20and%20Guidelines\•https:\index.ed.act.edu.au\governance\policies\files-policies\pdf\ChildProtectionReportingAbuseNeglectGuidelines.pdf)
* Code of Conduct: Teachers and School Psychologists
* Code of Conduct: School Based Officers
* Critical/non-Critical Incident Management and Reporting Policy

* [Safe and Supportive Schools Policy](\\\\act.gov.au\\education\\decs\\Workplace Relations\\WR Projects and Initiatives\\Reportable Conduct\\Action 1 - Reportable Conduct Policy and Guidelines\\•https:\\www.education.act.gov.au\\support-for-our-students\\safe_supportive_schools)
* Working with Children and Young People-Volunteer and Visitors (Interim) Policy