



## Information for a complainant

Behaviour Codes and Standards – post-Code conduct

### *Who can make a complaint?*

A complaint can be made by a person who is a current or former:

- parliamentarian,
- Members of Parliament (Staff) Act 1984 employee,
- Parliamentary Service employee,
- a person who carries out work for a parliamentarian predominantly at a Commonwealth parliamentary workplace (called ‘designated workers’ in the Act e.g. a volunteer or intern),
- other person who works predominantly at a Commonwealth parliamentary workplace (called ‘non-core participants’ in the Act e.g. a member of the press gallery or a contracted employee),
- Australian Federal Police appointee or Australian Public Service employee (e.g. a Departmental Liaison Officer) predominantly working from Parliament House, or
- COMCAR driver.

### *What can a complaint be made about?*

A complaint can be made about allegations of a breach of the Behaviour Code for Australian Parliamentarians, Behaviour Code for Parliamentarian Staff and the Behaviour Standards for Commonwealth Parliamentary Workplaces (called ‘post-Code conduct’ in the Act).

The complaint needs to involve conduct that occurred on or after the Code commencement day, by a person who is a current or former:

- parliamentarian,
- Members of Parliament (Staff) Act 1984 employee, or
- a person who carries out work for a parliamentarian predominantly at a Commonwealth parliamentary workplace (called ‘designated workers’ in the Act e.g. a volunteer or intern),

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- other person who works predominantly at a Commonwealth parliamentary workplace (called 'non-core participants' in the Act e.g. a member of the press gallery or a contracted employee).

## Pre-Code conduct

### *Who can make a complaint?*

A complaint can be made by a person who is a current or former:

- parliamentarian,
- Members of Parliament (Staff) Act 1984 employee, or
- Parliamentary Service employee.

### *What can a complaint be made about?*

A complaint can be made about the following conduct, where the conduct occurred before the codes commenced (called 'pre-Code conduct' in the Act):

- sexual assault,
- assault,
- sexual harassment,
- harassment,
- bullying, and
- unreasonable behaviour towards another person that creates a risk to work health and safety.

Complaints can be made about a person who is a current or former:

- parliamentarian,
- Members of Parliament (Staff) Act 1984 employee, or
- other person who works predominantly at a Commonwealth parliamentary workplace (called 'non-core participants' in the Act e.g. a member of the press gallery or a contracted employee).

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## What complaints cannot be made about

The IPSC cannot investigate conduct that forms part of proceedings in Parliament. This conduct will continue to be dealt with by the Houses of the Parliament in accordance with their procedures.

The IPSC cannot investigate a complaint about conduct of:

- a person employed or appointed under the *Parliamentary Service Act 1999*,
- a person employed or appointed under the *Public Service Act 1999*,
- an AFP appointee.

Allegations of misconduct against these employees is dealt with by the relevant employing agency in accordance with the statutory frameworks governing these employees.

## Initial decision on whether the IPSC will investigate

After making a complaint to the IPSC, the Chair Commissioner will assign a single Commissioner (known as the *investigating Commissioner*) who will determine whether to investigate the conduct issue.

An investigating Commissioner may decide to investigate a conduct issue only if they:

- are reasonably satisfied there is sufficient evidence or information to justify an investigation, and
- have the complainant's consent to investigate a conduct issue.

Generally, it is expected an investigating Commissioner would only investigate with a complainant's consent. However, they may determine an investigation is needed if satisfied that a serious risk to work health and safety arises, or could arise, from the conduct concerned.

In any case, if the alleged conduct could constitute assault or sexual assault, the investigating Commissioner could not investigate without the complainant's consent.

A number of considerations can be taken into account to decide whether an investigation is justified. These include whether:

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- a conduct issue would be more appropriately dealt with under the PWSS complaint resolution function,
- a complaint is frivolous, vexatious, misconceived, or lacking in substance or was not made in good faith, or
- a complaint may be more appropriately dealt with under another Commonwealth, State or Territory law.

An investigating Commissioner may conduct preliminary inquiries to determine how to deal with a conduct issue and may contact you for that purpose. They can issue notices requiring the production of information and they may also issue confidentiality notices at this time.

## Notice of decision to investigate

You will be given a written notice outlining the investigating Commissioner's decision on whether to investigate your complaint.

If the decision is to commence an investigation, you will have an obligation to cooperate with the investigation if you are a current parliamentarian or MOPS employee.

If you consent, your employer and the respondent's employer may be notified of the decision to investigate your complaint and details of your complaint.

## How is an investigation undertaken?

The investigating Commissioner will gather information and evidence to inform a decision on whether there has been a breach of the Behaviour Codes.

The investigating Commissioner may conduct their investigation in such a manner as they think fit. They must observe procedural fairness requirements.

An investigation is required to be completed as expeditiously as possible.

The investigating Commissioner may issue a confidentiality notice to you requiring you not to disclose information to protect the confidentiality of the investigation while it is underway. The notice will tell you what limits apply to the information you disclose. Confidentiality notices can also be issued to the respondent and to other people who



participate in an investigation. See [Confidentiality and the IPSC](#) factsheet for more information.

You may be asked to attend an interview or provide information to assist the investigation.

### Draft report on investigation

Once the investigating Commissioner is satisfied they have sufficient evidence, a draft investigation report will be prepared.

If the respondent is a current or former parliamentarian, the Chair Commissioner will constitute a panel of three Commissioners which will include the investigating Commissioner. This is called a *parliamentarian decision panel*. The investigating Commissioner will provide the panel with the evidence they have gathered. The parliamentarian decision panel will prepare a draft report.

If the respondent is not a parliamentarian, the investigating Commissioner will prepare a draft report.

The draft report will set out:

- preliminary findings on whether the respondent has engaged in relevant conduct,
- a summary of the evidence and other material on which the preliminary findings are based, and
- if there is a finding against the respondent, any proposed sanctions.

If the draft report contains a finding that is critical of you, the decision-maker will provide you with a reasonable opportunity to respond to those findings. In addition, you may receive a copy of the draft report if the decision-maker considers it is appropriate to do so.

### Final report on investigation

After considering responses provided on the draft report, the decision-maker must decide, on the balance of probabilities, whether the respondent has engaged in relevant conduct and prepare a final report.

The final report will also set out:

- any proposed sanctions, if relevant, and



- a summary of the evidence and other material on which decisions and findings are based.

The final report will be given to you as soon as practicable. A copy of the final report will also be provided to:

- the respondent,
- the referrer (if the conduct issue was referred to the IPSC), and
- the respondent’s employer (if the respondent is a MOPS employee).

See the [Sanctions](#) factsheet for more information.

Once you have received the final report from an investigation, you may seek internal review of certain decisions within 28 days, unless extended. See the [Review](#) factsheet for more information.

If review is sought, following that review a copy of the final report or the review decision will be provided to:

- a Presiding Officer (if the Presiding Officer is to take an action in relation to the respondent),
- the Prime Minister (if the respondent is a Minister and has been found to have engaged in relevant conduct),
- the Leader of a Parliamentary party (if the respondent is a Presiding Officer, a member of that Parliamentary party, and the report refers a serious breach finding to a Privileges Committee), and
- the respondent’s employer (if the employer is required to take an action in relation to the respondent).

Do I have to provide consent for an IPSC investigation to occur?

Generally, an investigating Commissioner would only investigate with your consent.

However, they may determine an investigation is needed if satisfied that a serious risk to work health and safety arises, or could arise, from the conduct concerned.

In any case, if the alleged conduct could constitute assault or sexual assault, the investigating Commissioner could not investigate without the complainant’s consent.

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Can I withdraw my complaint?

This will generally depend on the stage of your complaint.

The investigating Commissioner may decide not to investigate your complaint, or not to investigate it further, if you withdraw your complaint. However, they may decide that it would not be fair to discontinue an investigation that has started, taking into account the progress of the investigation.