

Information for a respondent

What is in this factsheet ?

- Information for respondents who are current or former parliamentarians
- Information for respondents who are current or former Members of Parliament (Staff) Act 1984 employees
- Information for respondents who are volunteers or interns working for a parliamentarian predominantly from a parliamentary premises
- Information for other respondents

I am a current or former parliamentarian and a complaint has been made against me

Initial decision on whether the IPSC will investigate

After receiving a complaint, 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 only decide to investigate a conduct issue 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:

- 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 the complaint against you.

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

Draft report on investigation

Once the investigating Commissioner is satisfied they have sufficient evidence, 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 panel will prepare a draft report which will set out:

- preliminary findings on whether you have 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 you, any proposed sanctions.

If the draft report contains a finding that is critical of you, or proposes a sanction or a referral, the panel will provide you with a reasonable opportunity to respond to the findings. In addition, you may receive a copy of the draft report if the panel considers it is appropriate.

Final report on investigation

After considering responses provided on the draft report, the panel must decide, on the balance of probabilities, whether you have 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 complainant, and
- the referrer (if the conduct issue was referred to the IPSC).

If a sanction is recommended, the recommendation will be made to the parliamentarian for whom you work. 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 the parliamentarian for whom you work (if the report recommends they take an action in relation to you).

I am a member of a press gallery, a service worker, or other non-core participant and a complaint has been made against me

Initial decision on whether the IPSC will investigate

After receiving a complaint, 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 only decide to investigate a conduct issue 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:

- the conduct issue would be more appropriately dealt with by your employer,
- 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.

The IPSC cannot investigate if the complainant is another non-core participant.

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 the complaint against you.

The investigating Commissioner may also notify your employer that an investigation has been commenced, if the complainant consents, or if the Commissioner is satisfied notification is relevant to your employer's duty under work health and safety law, or if there is no complainant.

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 complainant 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.

The investigating Commissioner may recommend that your employer suspend you from your duties, on work health and safety grounds. An initial suspension period may not exceed 30 days, but may be extended by the employer, including on recommendation by the IPSC.

Draft report on investigation

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

The draft report will set out:

- preliminary findings on whether you have 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 you, any proposed sanctions.

If the draft report contains a finding that is critical of you, or proposes a sanction or a referral, the investigating Commissioner will provide you with a reasonable opportunity to respond to the findings. In addition, you may receive a copy of the draft report if the investigating Commissioner considers it is appropriate.

Final report on investigation

After considering responses provided on the draft report, the investigating Commissioner must decide, on the balance of probabilities, whether you have 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 complainant, and
- the referrer (if the conduct issue was referred to the IPSC).

If a sanction is recommended, the recommendation will be made to your employer to impose. See the [Sanctions](#) factsheet for more information.

Once you have received the final report from an investigation, you may seek internal review of a finding that you engaged in relevant conduct, 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 report recommends that Presiding Officer take an action in relation to you), and
- your employer (if the report recommends your employer take an action in relation to you).