

2018

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**ACT GOVERNMENT RESPONSE TO
ACT AUDIT OFFICE REPORT NO. 9 OF 2018
ACT HEALTH'S MANAGEMENT OF ALLEGATIONS OF MISCONDUCT AND COMPLAINTS
ABOUT INAPPROPRIATE WORKPLACE BEHAVIOUR**

**Presented by
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Minister for Health and Wellbeing
29 November 2018**

ACT Government response

Background

On 23 March 2018, the Auditor-General announced that the ACT Audit Office would be commencing a performance audit in relation to the management of specific allegations of breaches of the *Public Sector Management Act 1994* relating to ACT Health's former Performance Information Branch.

The Auditor-General tabled the Audit Report, *Report No. 9 of 2018 – ACT Health's management of allegations of misconduct and complaints about inappropriate workplace behaviour* in the ACT Legislative Assembly on 2 August 2018.

The overall conclusion of the audit was:

- a. ACT Health did not effectively manage allegations of misconduct initiated by the former Director General and former Deputy Director General, Corporate against two former Performance Information Branch officers who were involved in preparing performance information and reporting, the accuracy of which was of concern to the Executives.
- b. Complaints from one of the former Performance Information Branch Officers of inappropriate workplace behaviours (including bullying) against the former Director-General and former Deputy Director-General, Corporate were ineffectively managed.
- c. In order to provide transparency and demonstrate accountability it was important that all appropriate processes be undertaken and documented in the management of the allegations against the former officers, notwithstanding the significant concerns that were held about the accuracy of performance information and reporting.
- d. In going forward, ACT Health needs to confirm and articulate the desired culture and values to be fostered across the organisation. As part of disseminating information, there should be an emphasis on how allegations of misconduct are to be managed and the process to be used for making and responding to complaints of inappropriate workplace behaviour.
- e. The Public Sector Standards Commissioner and the Professional Standards Unit should also raise awareness of their roles and the merits of early contact with them, especially for allegations of serious misconduct.

Government Response to Recommendations in the Auditor-General's Report

RECOMMENDATION 1:

ACT Health should implement training for executives and managers for the handling of allegations of potential breaches of the ACT Public Sector Code of Conduct. This training should include:

- i. Managing and documenting the conduct of preliminary assessments;
- ii. The need to fully consider options available prior to proceeding with a misconduct investigation (e.g. Underperformance management); and
- iii. Processes for managing and documenting allegations of breaches of the ACT Public Sector Code of Conduct.

Government Response

Agreed.

The *'Addressing Workplace Issues – Preliminary Assessment for Managers'* training, has increased our managers' understanding of their legal obligations under the Enterprise Agreements to conduct preliminary assessments to address bullying complaints. The skills based component of the workshop provides managers with the skills for conducting a preliminary assessment, and appropriately documenting and reporting such matters.

ACT Health is currently reviewing the Preliminary Assessment training to reflect the new early intervention and Alternative Dispute Resolution mechanisms referred to below.

With a view to further embed these changes to supporting a positive workplace culture, ACT Health are working on a number of short and medium term strategies and actions to shift the focus back to early intervention and alternative dispute resolution, and with the intention to recast existing frameworks in a way that results in a more joined up approach to employee behaviour and positive workplace culture, including:

- a. Modifying existing Preliminary Assessment process for bullying and interpersonal disputes to prioritise early intervention and alternative dispute mechanisms;
- b. The introduction of an Employee Advocate position;
- c. Introduction of a Preliminary Assessment Advisor position to assist managers in undertaking expedient assessment processes;
- d. Ensuring that the REDCO network is aware of these changes and the emphasis on ADR processes to assist with the introduction of the aforementioned approach;
- e. Providing an external and independent avenue for employees of ACT Health on bullying matters; and
- f. Revisiting the People and Culture organisational structure to place resources at the workplace level to assist with early intervention.

RECOMMENDATION 2:

The Public Sector Standards Commissioner should review guidance material for ACT Government agencies with respect to the documentation of allegations of potential breaches of the ACT Public Sector Code of Conduct. The guidance material should address:

- i. The need to document the relevant and clear connection between an employee's behaviours and any alleged breach of the ACT Public Sector Code of Conduct;
- ii. The role of Directors-General to consider and investigate the actions and conduct of staff in the first instance and refer allegations that are particularly serious or complex to the Public Sector Standards Commissioner in a timely manner; and
- iii. The need to communicate with the Professional Standards Unit as early as possible when allegations of potential breaches of the ACT Public Sector Code of Conduct may be referred to the Public Sector Standards Commissioner for auctioning.

Government Response

Agreed.

The Professional Standards Unit (PSU) has a multifaceted approach to addressing this recommendation. The recommendation is consistent with the PSU's intended work program.

Guidance Material

The review of guidance documentation is underway and will be published on intranet for directorates/agencies to use. The documentation covers the following topics:

- Guidelines to the misconduct process;
- Information for employees;
- Factsheets;
 - Respondent;
 - Complainant;
 - Witness;
- Information for managers/supervisors;
- Preliminary Assessments.

Incident Management

The PSU are holding regular meetings with Directorate HR teams to discuss the management of current and finalised investigations; and matters arising (aimed at providing advice at the earliest possible point to inform decisions and potential scope of matters).

These meetings are also an opportunity to request further clarity from Directorates when allegations are referred to the PSU that do not demonstrate a relevant and clear connection between the employee's behaviour and an alleged breach of the ACT Public Sector Code of Conduct.

Training and Resources

The PSU are developing training packages on the following topics:

- Delegate / decision making;
- Preliminary Assessment;
- Role of PSU and PSSC.

The PSU will be delivering this training to directorates and agencies in due course.

The Public Sector Standards Commissioner has invited Director-Generals to include PSU in local training/induction programs.

RECOMMENDATION 3:

ACT Health should implement awareness training for Executives and Managers to reinforce requirements for receiving, documenting and managing reports of inappropriate workplace behaviours.

Government Response

Agreed.

In relation to both Recommendations 1 and 3, ACT Health have trained 206 managers in undertaking Preliminary Assessments, throughout the course of the 2017-18 financial year.

ACT Health now reports higher Preliminary Assessment completions than any other Directorate, according to preliminary figures for the State of the Service Report.