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Australian Sports Commission

Code of Conduct

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People and Culture Branch

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Definitions

Term	Definition
Allegation	A statement regarding the actions of an Australian Sport Commission (ASC) worker which, if proven, are contrary to the standards established by this Code. An allegation may be submitted in writing by another worker or may be management initiated. The allegation must be signed and dated by the person making the allegation.
ASC Grade	The classification of a position as per the <i>ASC Enterprise Agreement 2016-19</i> .
Australian Sports Commission (ASC)	References in this policy refer to SportAus and the Australian Institute of Sport.
Authorised Officer	An employee appointed by the CEO whom a public interest disclosure can be made to.
Breach of the Code	If the alleged misconduct is substantiated, then a determination will be made that a breach of the Code has occurred, and the Sanction Delegate may apply an appropriate sanction.
Chief Executive Officer (CEO)	Under the Staffing Delegations Policy, the CEO (ASC) may delegate their powers to an appropriate employee.
Expedited Process	When sufficient evidence is available to the Process Delegate to determine if a breach of the Code has occurred, no investigation is required.
Investigation	A process whereby an Investigator will make enquiries and test the evidence to establish whether or not a breach of the Code has occurred. The Investigator will provide a report to the Process Delegate with their findings and recommendations.
Investigator	An impartial and appropriately qualified person appointed by the Process Delegate to conduct an investigation process. The Investigator can be a worker or an external person.
Misconduct	Misconduct occurs when a worker engages in behaviour or actions which are contrary to the standards established by this Code and is therefore a potential breach of the Code.
Misconduct Letter	A letter to the worker alleged of breaching the Code that offers them an opportunity to provide an explanation for their behaviour, or otherwise show cause as to why a breach of the Code should not be found and why a sanction should not be applied.
Procedural Fairness	The principles of procedural fairness protect all workers from unfair treatment during any investigation and Code of Conduct process. The Process Delegate must test the evidence as far as possible to ensure that the information supports the decision that will be made.



Process Delegate	<p>A person authorised by the CEO to make determinations and decisions in relation to the Code. Delegates are contained within the Staffing Delegations. Delegated authority includes but is not limited to; determining the process for managing the alleged misconduct; making a determination as to whether or not a breach of the Code has occurred; appointing an Investigator; and recommending a sanction to the Sanction Delegate.</p> <p>The Process Delegate and Sanction Delegate may be the same person.</p>
Sanction	<p>A Sanction may be applied to a worker who has been found to have breached the Code. The Sanction Delegate may impose one or more of the following sanctions:</p> <ol style="list-style-type: none"> I. termination of employment II. reduction in ASC Grade (change in duties and reduction of salary) III. re-assignment of duties (change in duties) IV. reduction in salary within the same ASC Grade V. reprimand and formal warning recorded on case file
Sanction Delegate	<p>A person authorised by the CEO to apply a sanction where there has been a finding that a breach of the Code has occurred.</p> <p>Sanction Delegates are outlined in the Staffing Delegations.</p>
Sanction Determination Letter	<p>A letter to the worker from the Sanction Delegate outlining the sanction to be applied. This is issued after the worker has had an opportunity to respond to the Misconduct Letter.</p>
Standard of Proof	<p>The civil standard of proof is the 'balance of probabilities'. Therefore, a breach of the Code is substantiated if it is more probable than not on the evidence available that the alleged misconduct occurred.</p>
Support Person	<p>A person brought to meetings by the worker to provide emotional support and reassurance. The Support Person does not act as an advocate for the worker, but may answer questions on their behalf if they are unable to do so. They are substantially there to observe and take notes on behalf of the worker. The Support Person will be reminded of their requirement to confidentiality on commencement of all meetings.</p>
Worker	<p>Includes all ongoing, fixed term and casual employees engaged under the <i>Australian Sports Commission Act 1989</i>, as well as all contractors and consultants working for the ASC in any capacity. The term also refers to any employee working in the ASC on secondment from another organisation, and ASC workers on secondment to other organisations.</p>



1. Introduction

1.1 Purpose

- 1.1.1 This Code of Conduct Policy (the Code) is a public statement regarding the organisational expectations for the conduct of workers. It is important in protecting the reputation of the Australian Sport Commission (ASC) and building a strong workplace culture. The Code establishes behavioural standards which are designed to ensure a positive, healthy, harmonious, and supportive working environment. The ASC is committed to applying procedural fairness at all times.

2. Scope

2.1 In scope

- 2.1.1 The Code applies to all workers, including those on secondment from another organisation to the ASC, and ASC workers on secondment to other organisations.
- 2.1.2 Section 10 of the [Australian Sports Commission Enterprise Agreement 2016-19](#) (EA) states 'ASC employees are subject to the ASC Code of Conduct when performing their duties within Australia or overseas, and this includes representational duties'. It also outlines provisions for suspension from duty where an employee is alleged to have breached the Code.

3. Policy description

3.1 Principles of the code

- 3.1.1 In the performance of your duties, you must ensure that you:
- a. behave professionally and in ways that uphold the **ASC Values** (Respect, Integrity, Teamwork, and Excellence);
 - b. behave in a way that enhances and supports the positive reputation of the ASC;
 - c. act with due care and diligence and perform work duties in a manner that safeguards the health and safety of yourself and others;
 - d. do not engage in any forms of bullying, harassment, discrimination, or physical, verbal, or emotional abuse;
 - e. do not engage in any form of sexual misconduct which includes:
 - i. Criminal offences (including sexual assault/rape and acts of indecency)
 - ii. Repeated demeaning behaviours of a sexual nature
 - iii. Exclusion based on gender, sexual orientation or gender identification
 - iv. Persistent unwanted/unwarranted attention of a sexual nature
 - v. Recording, photographing or transmitting incidents and images of sexual misconduct;
 - f. take action to protect children, young people and other vulnerable persons from all forms of abuse, bullying and exploitation which includes:
 - i. Physical abuse
 - ii. Emotional abuse
 - iii. Neglect
 - iv. Sexual abuse
 - v. Exposure to family violence;



- g. report any child abuse or neglect you become aware of, to management and/or external authorities responsible for child protection or the Australian Federal Police;
 - h. implement all official decisions and comply with any lawful and reasonable direction given to you, by anyone who has authority to give the direction;
 - i. ensure information and documentation that you receive, use, or generate in the course of your duties, is kept confidential and at all times remains the property of the ASC;
 - j. do not give or disclose, whether directly or indirectly, any information to others about ASC business, unless required to do so in the course of your duties or you have been expressly authorised to do so;
 - k. do not improperly use inside information, or your status, power, or authority, to gain, or seek to gain, a benefit or advantage for yourself or any other person, nor to cause, or seek to cause, detriment to the ASC, the Commonwealth, or any other person;
 - l. disclose and take appropriate steps to avoid conflict of interest (actual, perceived, or potential) with your engagement or relationship by the ASC, and disclose details of any quantifiable personal interests that may give rise to such a conflict;
 - m. use ASC resources and facilities in a correct and responsible manner and for a proper purpose;
 - n. adhere to all applicable ASC policies;
 - o. do not display or transmit, or cause to be displayed or transmitted, offensive and/or inappropriate material or messages in connection with the workplace. This relates to any environment linked to the business and operations of the ASC, and includes (but is not limited to) the internet, the ASC website, official emails, internal bulletin boards, personal workstations, or office areas; and
 - p. comply with applicable laws of Australia and other relevant jurisdictions.
- 3.1.2 All workers have an obligation to uphold the Code, as well as report and respond to any observed behaviours which are not in line with the Code.
- 3.1.3 Where a worker has allegedly engaged in conduct that may have potentially breached the Code, the CEO (or their delegate as outlined in the [Staffing Delegations](#)) may, at any time prior to, or during the process:
- a. suspend the worker with or without pay;
 - b. temporarily re-assign or modify duties; or
 - c. assign a new work location.
- 3.1.4 In exercising these powers, the CEO (or their delegate) must have due regard to procedural fairness, unless on reasonable grounds (such as an immediate risk to health and safety) it would not be appropriate to do so.
- 3.1.5 Public interest considerations will apply where the alleged conduct poses a risk to:
- a. the safety of members of the public (including ASC customers or clients);
 - b. the integrity of data related to members of the public held by ASC;
 - c. a public venue;
 - d. the confidence of the public in the ASC.
- 3.1.6 The CEO (or their delegate) may choose suspension from duty where:
- a. there is a risk that an investigation of the allegation may be compromised by the worker's presence in the workplace;
 - b. there is a credible risk that the suspected misconduct may be repeated;
 - c. the allegations may have reasonably impaired the public's confidence in the ASC's capacity to perform its functions;
 - d. there is a risk to the safety of other workers; or
 - e. it would be inappropriate for the worker to continue to perform their usual duties until the allegations are resolved, and reassignment of duties is not appropriate or cannot be accommodated.
- 3.1.7 A period of suspension with pay longer than 30 days is permitted only where there are exceptional circumstances including:



- a. a serious misconduct is apparent based on the submitted allegation
 - b. a finding has been made of a serious breach of the Code and a sanction is yet to be imposed. Any delay between determination and imposing a sanction should be minimised;
 - c. where a worker has been charged with a criminal offence and is waiting to have the charge heard and determined; or
 - d. where a worker has appealed against a conviction and is waiting to have the appeal heard.
- 3.1.8 A worker who is suspended without pay may be allowed to use annual leave and/or long service leave credits available to them and/or undertake alternative authorised work in accordance with the ASC Conflict of Interest Policy.
- 3.1.9 Where allegations against a suspended worker without pay are not subsequently proven, the worker will be paid the ordinary salary not paid to them during the period(s) of suspension. This excludes any period of paid leave taken and income received from any other entities during the suspension period. In line with clause 10.6 of the EA, a worker will be re-credited leave taken during the suspension period.
- 3.1.10 Should any issues arise during the investigation process, the investigation may be suspended until the other issues are resolved.

3.2 ASC Values

- 3.2.1 The ASC Values are: **Respect, Integrity, Teamwork, and Excellence**. The values underpin our culture and are evident in the way our workers carry out their duties. They are integral to the way workers conduct business relationships and interactions with stakeholders and each other.

3.3 Process of Managing Misconduct

- 3.3.1 An allegation must be submitted to People and Culture in writing to ensure that the alleged misconduct is correctly recorded and that the person making the allegation understands the seriousness of the process. Any supporting evidence will be attached to the written claims.
- 3.3.2 People and Culture will caution the worker making the allegation that they are to keep the matter confidential. If the person chooses to confide in a Support Person, they must similarly caution this person regarding the confidentiality of the process. The worker may be provided with EAP contact details in order to ensure appropriate support can be provided to them.
- 3.3.3 An initial assessment of the allegation will be made to determine whether the matter should be managed under the [Public Interest Disclosure \(PID\) process](#). Where this occurs, the worker making the allegation will be informed.
- 3.3.4 Should the matter relate to allegations of criminality (e.g. sexual assault or children), internal investigations will cease, and the matter will be referred to the relevant authorities.
- 3.3.5 The written allegation will then be forwarded to the Process Delegate to determine the process that will be followed.
- 3.3.6 The process followed is determined through:
- 3.3.6.1 a review of the complaint or initial evidence; and
 - 3.3.6.2 consultation with the manager and/or People and Culture; and
 - 3.3.6.3 a determination of the severity or risk to people or the organisation.
- 3.3.7 The Process Delegate may undertake further enquiries as reasonably necessary to assist in making a decision on the appropriate management of the complaint e.g. seeking IT records for an employee.
- 3.3.8 The Process Delegate will then determine:
- a. whether the matter is to be dismissed on the balance of probabilities and the available evidence or dealt with through remedial management action (such as counselling or training) or an Investigation Process;
 - b. whether suspension or temporary re-assignment is required; and



- c. whether the matter should be referred to the Australian Federal Police (or another appropriate authority) where the alleged breach of the Code could also be a criminal offence.

3.3.9 The Process Delegate may determine, based on the information supplied, that there is sufficient and clear evidence to show that a breach of the Code has occurred and that no investigation is required. Where this occurs, the following expedited process will apply:

- a. The Process Delegate will provide the worker alleged of breaching the Code with a Misconduct Letter, which will clearly set out the allegations, preliminary view that a breach of the Code has occurred, sanction/s that may be applied and next steps. The letter will also include a copy of the Code of Conduct Policy.
- b. During this process, the worker may meet with their manager and a representative from People and Culture to discuss the allegations and the process. The worker will be advised of their ability to have a support person present for these meetings.
- c. The worker will then have three business days to respond in writing to the allegations and show cause as to why a breach of the Code has not occurred and any comments on the range of sanction/s. Should the worker require an extension to respond, they may write to the Process Delegate outlining the extenuating circumstances for their request. Approval is at the Process Delegate's discretion.
- d. Where the worker does not provide a response within three business days nor the approved extended response timeframe, the determination as to whether a breach of the Code has occurred will be made based on the information at hand.
- e. Where the worker provides a response, the Process Delegate will consider the response and make a final determination on whether a breach of the Code has occurred.
- f. The Process Delegate will then forward all information to the Sanction Delegate along with their decision on a breach of the Code and recommended sanction/s. The Sanction Delegate will consider the information and make a decision on the sanction to be applied.
- g. The worker will then be notified in writing in a Sanction Determination Letter that a breach of the Code has been found and the sanction to be applied and the reason why. The Sanction Delegate may impose other management actions where considered necessary e.g. coaching or development opportunities.
- h. Where termination of employment is being considered by the Sanction Delegate, the worker will be offered the opportunity to respond, prior to a final determination being made.

3.3.10 If there is insufficient information after an initial review, and the Process Delegate is unable to determine if a breach of the Code has occurred, an Investigation Process will be followed.

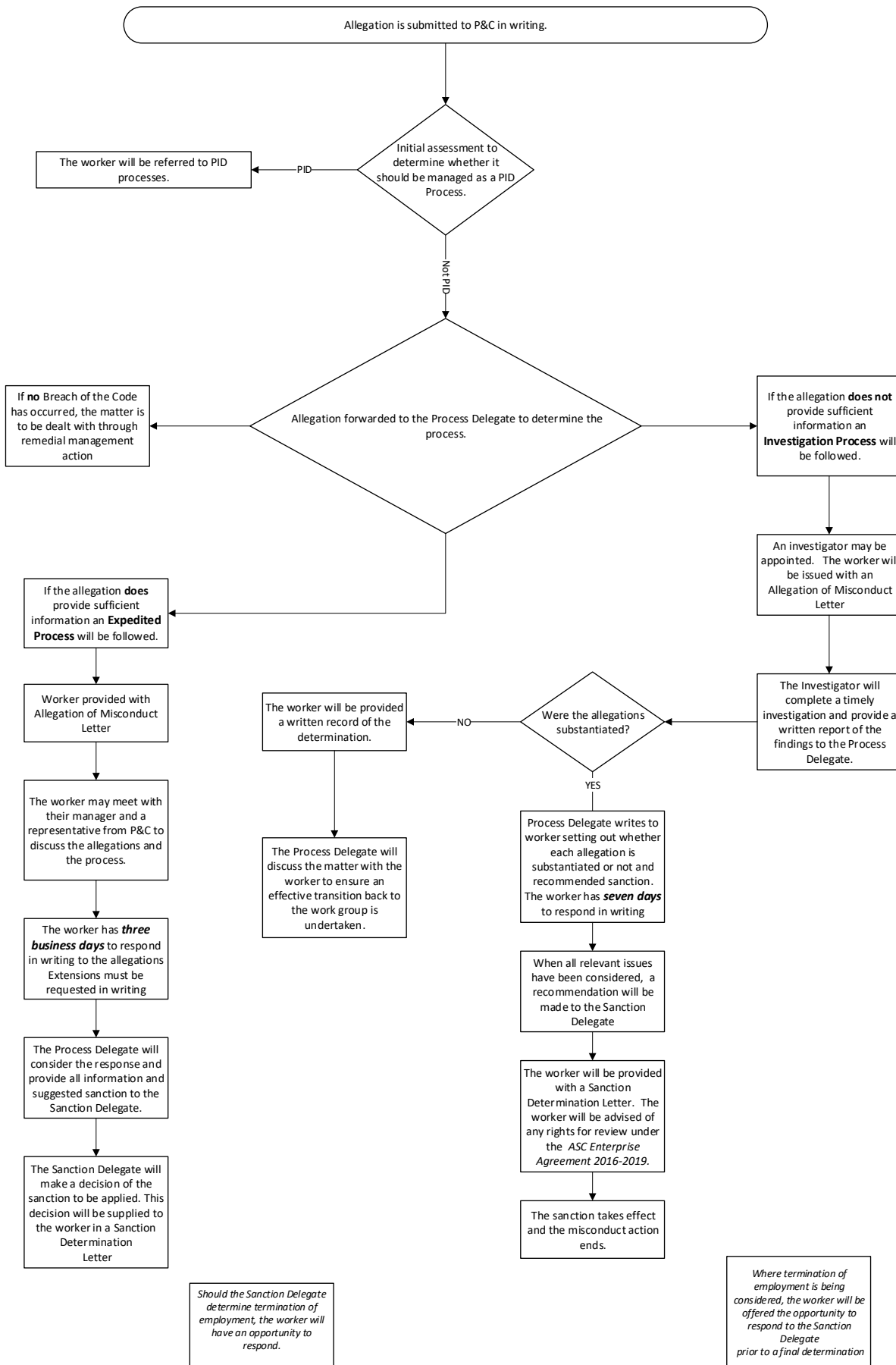
3.3.11 The Investigation Process is comprised of:

- a. The Process Delegate will appoint an Investigator, setting out the terms of reference for the investigation.
- b. The Investigator may undertake further enquiries as reasonably required to ensure they have a detailed understanding of the matter and to obtain relevant evidence. This may include obtaining employee records including, but not limited to probation/performance reports, absence records, IT records or security card access records.
- c. The Investigator will write to the worker to notify them of the allegations that have been made. The notification will include the specific allegations, the role of the Investigator, and the possible sanctions that may be imposed should a breach of the Code be established. The letter will also include a copy of the Code of Conduct Policy.
- d. The Investigator will complete a timely investigation of the matter with a view to gather all of the relevant evidence. The Investigator will ensure they have a comprehensive understanding of the complaint and other relevant material and has identified witnesses who may require interviewing.



- e. Records created by the Investigator may be disclosed in legal proceedings or where deemed necessary. The Investigator may undertake interviews with relevant parties. This is the opportunity for the worker to respond to any allegations against them. Details of the allegation and interviews will be recorded by the Investigator including the date, location, attendees and a summary of the interview. Interviewees will be asked to confirm the final version of the interview record to ensure statements have been captured accurately. Any additional responses or documentation may be provided by the worker to the investigator at this time.
- f. At the conclusion of the investigation, the Investigator will provide a written report of their findings and recommendations to the Process Delegate. The 'Balance of Probabilities' test will be applied; therefore, a fact will not be established unless it is considered more probable than not that it occurred.
- g. Where the allegations are not substantiated, the Process Delegate will write to the worker providing a written record of the decision. A copy of this letter will be placed on the worker's case file and the misconduct action will end. The Process Delegate will also discuss the matter with the worker to ensure an effective transition to regular duties and any support (such as counselling) which may be appropriate.
- h. Where the allegations are substantiated and a breach of the Code is established, the Process Delegate will write to the worker setting out:
 - i. the information being relied upon against allegation
 - ii. whether each allegation is substantiated or not
 - iii. the recommended sanction/s
 - iv. notify the employee that they have up to seven days to respond in writing to the Process Delegate regarding the evidence being relied upon and the recommended sanction/s.
- i. When the employee has responded in writing, the Process Delegate will consider the employee's response and make any further enquiries if necessary.
- j. When the Process Delegate is satisfied that all relevant issues have been considered, they will refer all the material to the Sanction Delegate.
- k. The Sanction Delegate may impose one or more of the following sanctions:
 - i. termination of employment
 - ii. reduction in ASC Grade (change in duties and reduction of salary)
 - iii. re-assignment of duties (change in duties)
 - iv. reduction in salary
 - v. reprimand and formal warning
- l. The Sanction Delegate may impose other management actions such as counselling or development training in addition to or in place of a sanction.
- m. The Sanction Delegate will consider all of the information and decide on the final sanction/s or other management action to be applied. They will write to the worker to inform them of the sanction decision.
- n. Where termination of employment is being considered by the Sanction Delegate, the worker will be offered the opportunity to respond, prior to a final determination being made.
- o. The worker will be advised of any rights for review as per clause 11 of the EA. Where the sanction applied is termination of employment, the sole and exhaustive rights and remedies of a worker are those under the Fair Work Act 2009, other relevant Commonwealth laws and common law.





4. Related documents

[ASC Enterprise Agreement](#)

[ASC Behaviours](#)

[SportAus Way Behaviours Guide \(Sport Australia only\)](#)

[ASC Fraud Control Policy](#)

[ASC Use of Resources](#)

[Child Safe](#)

[Conflict of Interest](#)

[Fair Work Act 2009](#)

[Public Interest Disclosure Act 2013](#)

[Workplace Bullying](#)



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