Government of Western Australia
Department of Health

Notifiable and Reportable Conduct Guide

Contents

1. Introduction

The *Notifiable and Reportable Conduct Guide* (Guide) supports the practical application of the *MP 0125/19 Notifiable and Reportable Conduct Policy* (Policy) and the assessment of matters to determine if they are Notifiable or Reportable Conduct.

The Guide is supporting documentation and represents suggested practice. It is not intended to be procedural instructions and is not a substitute for complying with legislation or the requirements of the Policy.

The Policy recognises that, for the WA health system, the protection of a Health Service Provider's patients is of primary importance.

The Policy also recognises that the safety and wellbeing of patients, staff and the reputation of the WA health system are enhanced by reporting and notifying matters that compromise standards of behaviour and practice. The reporting and notifying requirements set out in legislation, including the *Health Services Act 2016* (HS Act), the Parliamentary Commissioner Act 1971 (PC Act) and the *Corruption, Crime and Misconduct Act 2003* (CCM Act), are based on the principle of procedural fairness.

The HS Act and the CCM Act provide for the conduct that is considered notifiable or reportable, and the thresholds to be applied when meeting these legislative obligations.

Section 34 of the HS Act sets out the main functions of a Health Service Provider, including, but not limited to:

- complying with the policy frameworks and the Department Chief Executive Officer's (CEO's) directions that apply or relate to the Health Service Provider; and
- providing performance data, other data and any other information the Department CEO, as System Manager, may require to the Department CEO.

The overall management of the WA health system is the responsibility of the Department CEO. The functions of the Department CEO include, but are not limited to:

- providing strategic accountability and integrity leadership to Health Service Providers, in accordance with section 19(2) of the HS Act;
- overseeing and monitoring performance and promoting improvements in the safety and quality of health services provided by Health Service Providers;
- taking remedial action when performance does not meet expected standards, in accordance with section 20(l) and (m) of the HS Act;
- notifying Health Service Providers of reports received in accordance with Parts 10 and 11 of the HS Act;
- undertaking special discipline inquiries in accordance with Part 11 of the HS Act;
- undertaking investigations, inspections and audits in accordance with Part 13 of the HS Act; and/or
- undertaking inquiries in accordance with Part 14 of the HS Act.

This Guide should be read in conjunction with the:

- *Health Services Act 2016* and its supporting *Regulation*s

- *Corruption, Crime and Misconduct Act 2003*
- Parliamentary Commissioner Act 1971
- *Health Practitioner Regulation National Law (WA) Act 2010* (National Law).

The Policy does not reduce the Health Service Providers' obligation to comply with the CCM Act, the PC Act and National Law. HSPs are also required to meet the different reporting requirements of the HS Act and the National Law. There is an important distinction between the legislative requirements of the HS Act to report to the Australian Health Practitioner Regulation Agency (AHPRA) and the Department CEO, and the National Law Mandatory Notification provisions. These legislated reporting and notifying requirements of both Acts must be observed and are described in further detail below.

Additionally, under ss 19T and 19U of the PC Act, a Matter Reportable to the Ombudsman must be reported to the Chief Executive, who must report the matter to the Ombudsman.[1]

The Department CEO, the Chief Executive (CE) and Board of a Health Service Provider, and Staff Members each have legislative responsibilities in relation to Notifiable or Reportable Conduct. With the exception of those in the PC Act, these responsibilities are described in the tables at Appendix 1 to this Guide.

Further guidance and advice on the requirements of the PC Act is available from the Ombudsman's office.

2. Process for Notifying or Reporting Conduct

Legislated or policy mandated obligations to report Notifiable or Reportable conduct must be met regardless of any mitigating circumstances. Notifications or reports must be made as soon as the reporting or notifying threshold is met.

The Guide sets out the process required when information that may concern Notifiable or Reportable conduct is received by a Health Service Provider.

The explanatory notes at Section 9 of this Guide provide further detail regarding the elements of the assessment and management of Notifiable or Reportable Conduct.

3. Elements of Notifying or Reporting Conduct Process

There are five main elements of the Notifying or Reporting Conduct process. These are:

- information is received
- a risk assessment is made in relation to the safety of patients, staff and/or the broader health system
- an assessment is conducted to determine the type of behaviour involved; for matters that have a clinical element, the assessment is conducted by a group of designated senior staff
- notifying and reporting obligations are determined
- a determination is made to treat the matter as disciplinary, non-disciplinary or another type of matter.

[1] The Ombudsman is the more commonly known term for the Parliamentary Commissioner for Administrative Investigations. The Ombudsman is an independent officer of the Western Australian Parliament and responsible to the Parliament rather than a minister or the government.

The Decision Tree provided at Figure 1 is a tool designed to assist in determining whether a matter may have met the threshold for reporting or notifying.

All of these elements must be included in the Notifying or Reporting Conduct process. The process elements are not necessarily sequential, and some will occur simultaneously. Some will also need to be revisited, for example, as the assessment continues, when the investigation is completed, and when the Outcome of any action is reached and a closure report provided to the Department CEO.

The Notifiable or Reportable Conduct process must be concluded as soon as reasonably practicable. Notification of the Outcomes from this process must also be provided to the Department CEO as soon as reasonably practicable, using the Reporting Conduct Form. For notifications under section 167 of the HS Act, this is required within 30 days of a Breach of Discipline finding being made.

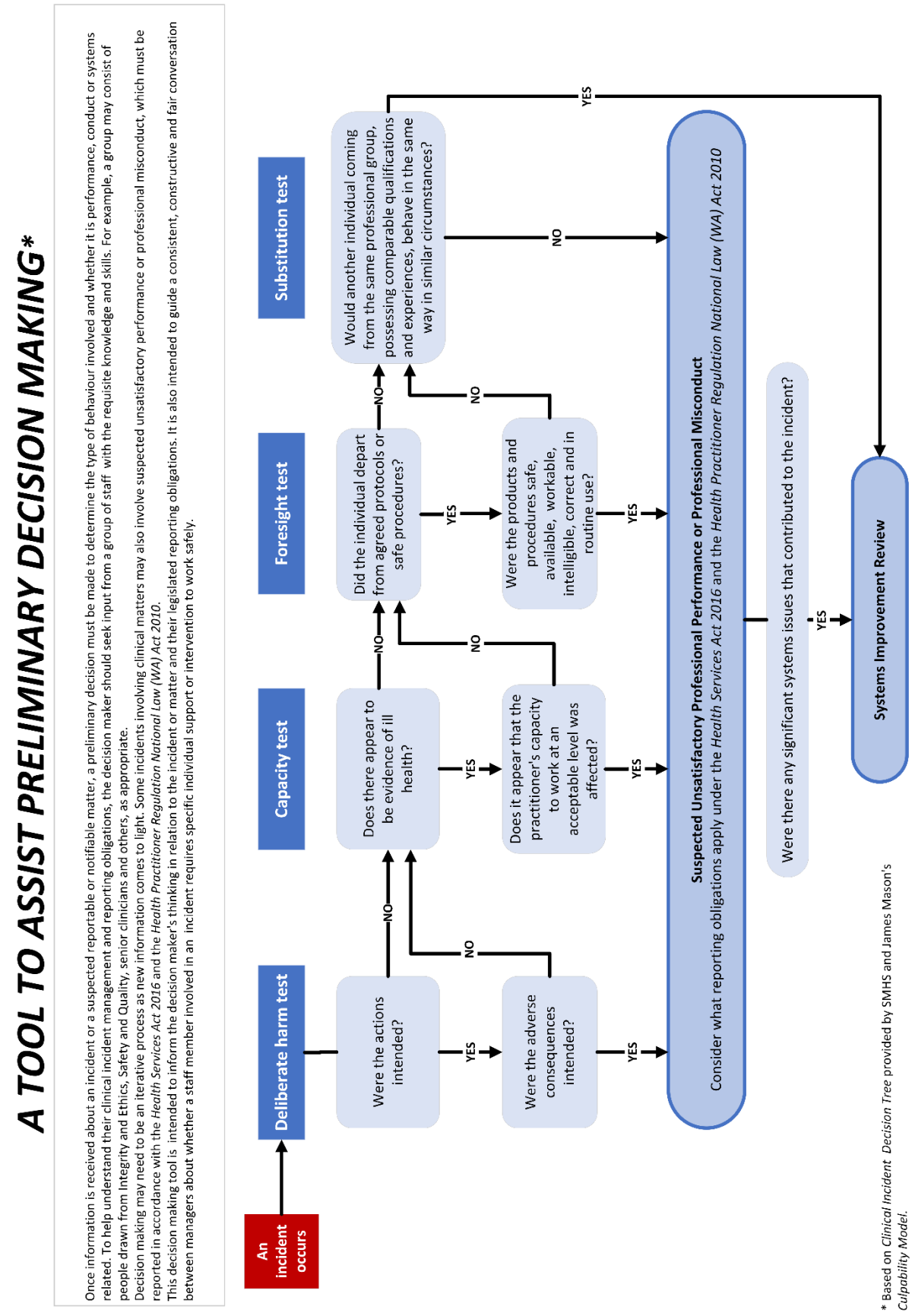

Figure 1 – Decision tree

Information is received

An incident occurs or a complaint or information in relation to a Staff Member is received by the Health Service Provider regarding behaviour that may concern Notifiable or Reportable Conduct. When a Health Service Provider receives information that may concern a matter that is notifiable or reportable, the information must be assessed to determine the most appropriate course of action. For matters that have a clinical element, the assessment should be made by a group of designated senior staff. This group could be comprised of staff from Integrity and Ethics, Safety and Quality, Human Resources and clinical review/senior clinicians, as appropriate. to the matter being considered.

A preliminary assessment is conducted to ascertain whether the behaviour concerns one or more of the following:

- suspected Professional Misconduct or Unsatisfactory Professional Performance
- a charge, finding of guilt, or conviction for a Serious Offence
- a suspected Breach of Discipline by an Employee
- suspected Minor or Serious Misconduct
- suspected Unprofessional Conduct of a Staff Member
- a Mandatory Notification to AHPRA under the National Law
- a Matter Reportable to the Ombudsman

An assessment of notifying and reporting thresholds is conducted

An assessment is conducted to ascertain whether the behaviour concerns:

- suspected Professional Misconduct or Unsatisfactory Professional Performance
- a charge or conviction for a Serious Offence
- a suspected Breach of Discipline by an Employee
- suspected Minor or Serious Misconduct
- mandatory reporting to AHPRA
- an allegation, conduct or conviction reportable to the Ombudsman

Risk assessment

A risk assessment includes considerations relating to the ongoing safety of patients, staff and the broader health system.

Options for mitigating these risks include, but are not limited to whether:

- a Scope of Practice or duties has been altered
- a suspension from duty has been imposed
- Disciplinary Action and/or Improvement Action is being taken (in accordance with section 150 HS Act)
- any other relevant action considered by the Health Service Provider has been taken
- consultation has occurred with OHS, which might include a fitness for work assessment

Identifying notifying and reporting obligations

An assessment is conducted in accordance with the HS Act, the CCM Act and the National Law to determine whether the behaviour meets the threshold for:

- reporting to the Department CEO
- reporting to AHPRA
- reporting to the Ombudsman
- notification to:
  - o Corruption and Crime Commission (CCC)
  - o Public Sector Commission (PSC)
  - o Western Australia Police Force (WA Police)

This assessment must be made based on the thresholds for and timing of reports and notifications provided in the relevant legislation and the Policy.

When new information comes to light, further assessment may be required to determine if the threshold for reporting or notifying is met and alters the determination to Notify/Report.

Determining to treat the matter as disciplinary, non-disciplinary or another type of matter

The Health Service Provider determines how to treat the behaviour, including, but not limited to:

- treating the matter as disciplinary (Refer to Discipline Policy)
- treating the matter as non-disciplinary:
- taking Improvement Action
- taking no action
- referring the matter to the relevant area to manage via another process (Unsatisfactory performance as it relates to the Managing Unsatisfactory and Substandard Performance Policy; or Disputes about the Professional Conduct of a Contracted Medical Practitioner Engaged Under a Medical Services Agreement Policy)
- enacting a power under the HS Act that deals specifically with serious charges and convictions (i.e. sections 148 and 150 HS Act enacting)

4. Recording Matters in the System Manager Case Management System

To ensure the effective management of the information entered into the System Manager Case Management System (CMS) regarding Staff Members, it is essential that the System Manager is provided with accurate, timely and relevant data for analysis and reporting, particularly for the purpose of any applicable Pre-Employment Integrity Checks (PEICs).

A key function of the System Manager is to oversee, monitor and promote improvements in the safety and quality of health services provided by Health Service Providers, to monitor their performance and to take remedial action when performance does not meet the expected standard.

This oversight and monitoring role relies on the System Manager receiving and validating performance and other data, including that required under the service agreements.[1]

This Guide should be read in conjunction with the *MP 0126/19 Pre-Employment Integrity Check Policy* and the *MP 0127/20 Discipline Policy*. This Guide should also be read in conjunction with the business rules relating to the CMS.

5. Pre-Employment Integrity Check

The *MP 0126/19 Pre-Employment Integrity Check Policy* sets out the purpose of the PEIC, which is to support the maintenance of professional standards, including appropriate standards of conduct, and to determine a preferred applicant's eligibility for employment within the WA health system.

Information relating to Notifiable or Reportable Conduct is inherently linked to the PEIC Policy and is the mechanism whereby information is registered into the CMS for the purpose of a PEIC.

A determination will be made by the Health Service Provider regarding a preferred applicant's eligibility for employment if one of the following circumstances has occurred. The preferred applicant:

- was dismissed previously from the WA health system for:
  - a Breach of Discipline under the HS Act
  - a Breach of Discipline or Misconduct prior to the proclamation of the HS Act
  - a suspension or conditional registration as a Registered Health Practitioner under the National Law
  - a Serious Offence under the *Public Sector Management Act 1994* (PSM Act) and Regulations.
- resigned (or their contract of employment expired) from the WA health system prior to the commencement of a process or the determination of a finding regarding:
  - a Breach of Discipline, where the matter concerns a serious risk to the safety or protection of patients or staff, and/or a risk to the WA health system;

[1] 'Establishing an Effective System Manager', 2017, p 18, https://doh-healthpoint.hdwa.health.wa.gov.au/directory/Governance%20and%20System%20Support/Strategy%20Policy%20and%20Planning/Planning%20and%20Sustainable%20Health%20Review%20Secretariat/System-Risk-and-Assurance/Documents/Establishing%20an%20effective%20system%20manager%20discussion%20paper%20-%20July%202017%20v2.0.pdf.

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    - a charge for a Serious Offence that has not reached a court decision.
- was subject to a report or notification under s 146 or s 167 of the HS Act for which the Department CEO, at that time, determined the conduct or performance warranted their registration in the CMS.

The decision to flag a Staff Member in the CMS for the purpose of a PEIC is made by the Department CEO having given due consideration to the appropriateness of notifying other Health Service Providers of a Part 10 or 11 report for the protection of patients.

It is critical that the Department CEO is advised of the Outcome of a discipline process or other resolution regarding a report pursuant to section 146 or section 167 of the HS Act as it ensures the accuracy of the information in the CMS about a Staff Member flagged for PEIC purposes.

The Department CEO must consider retaining or removing the flag in the CMS to ensure procedural fairness for a preferred applicant in an employment selection process. The continued application of a PEIC flag will be periodically reviewed by the System Manager to ensure procedural fairness.

6. Aggregated Report

Reports based on aggregated data will be generated by the System Manager for the purpose of compliance monitoring.

This is necessary for making system-wide improvements relating to:

- decision making and policy
- systemic integrity risks and issues of concern
- the quality, accuracy and integrity of the information in the systems
- work practices and processes
- initiatives, strategies and direct solutions to address integrity risks.

7. Record Keeping

A record of documents relating to each report of Notifiable or Reportable Conduct and any subsequent action must be maintained.

Health Service Providers must enter and manage information relating to matters that may concern notifiable or reportable behaviour in the CMS. This includes notifiable misconduct in accordance with the CCM Act.

Information relevant to the matter must be entered into the CMS in a timely manner and be updated on an ongoing basis. Documented decisions relating to each matter should be appropriately recorded and stored to ensure the details of the matter, including all decisions, are capable of review.

Records must be maintained, retained and disposed in accordance with the *State Records Act 2000* and the Health Service Provider's record keeping plan.

8. Confidentiality

Maintaining confidentiality helps to reduce the risk of victimisation of the subject of a report or notification and those who are making reports and notifications. Maintaining confidentiality as far as is possible throughout all the elements of notifying or reporting conduct allows staff to have confidence in these integrity processes.

Confidentiality must be maintained as far as is possible while meeting reporting requirements and ensuring procedural fairness is afforded to all parties. A breach of confidentiality by an Employee may constitute a Breach of Discipline.

9. Notifying or Reporting Conduct – Explanatory Notes

The following is provided as a guide to and overview of the five main elements that comprise the process for assessing behaviour that may concern Notifiable or Reportable Conduct.

Information is received

An incident occurs or a complaint or information in relation to a Staff Member is received by the Health Service Provider regarding behaviour that may concern Notifiable or Reportable Conduct. When a Health Service Provider receives information that may concern a matter that is notifiable or reportable, the information must be assessed to determine the most appropriate course of action.

The source of information that may be received concerning potential Notifiable or Reportable Conduct by a Staff Member includes, but is not limited to:

- a verbal complaint (recorded in writing by the recipient)
- a written complaint
- an incident
- consumer related feedback
- observed behaviour (recorded in writing)
- an investigation
- notification from the CCC or PSC in accordance with the CCM Act
- notification by WA Police regarding charges laid or court convictions
- notification by AHPRA.

Information that may concern Notifiable or Reportable Conduct by a Staff Member may be received by the Health Service Provider from anyone, including a Health Service Provider's Staff Member(s), patients or family members, clients, members of the public, suppliers or External Authorities.

Clinical incident management process

It should be noted that clinical incidents are managed in accordance with the *MP 0122/19 Clinical Incident Management Policy*, including the identification of contributing factors and areas for system improvement. One of the principles on which clinical incident management is based is that of a just culture, requiring a focus on identifying and addressing systems issues that contribute to human error. This view assesses an individual's actions within a wider context of circumstances which occurred at the time of the event.

While matters that include clinical elements may ultimately be subject to a Clinical Incident Management (CIM) review, this does not remove the need to consider separately the reporting requirements as set out in the Policy. Although relatively uncommon, a clinical incident investigation may reveal Professional Misconduct. The main area of intersection between the management of a clinical incident and an integrity matter is Unsatisfactory Professional Performance.

A clinical incident review investigation and/or report should not be used to generate the reporting of Notifiable or Reportable Conduct to the Department CEO. However, this does not mean that staff involved in a Clinical Incident are not subject to the *MP 0125/19 Notifiable and Reportable Conduct Policy*.

It is possible that a Notifiable or Reportable Conduct process and a Clinical Incident Management process may need to be run simultaneously, but separately.

It is important to recognise that while the patient is the first victim in any incident, others involved, including clinicians, can also be impacted. Being the subject of a report or notification is a stressful situation and it is essential the presumption of innocence prevails throughout these processes. It is equally important to recognise that Health Service Providers have a duty of care to all staff and must ensure that appropriate support, including access to EAP, is available to affected staff and that staff are informed on the avenues of support available.

Risk assessment

The Policy recognises that the health, safety and wellbeing of a Health Service Provider's patients is of primary importance. Also of great importance are the health, safety and wellbeing of Staff Members and the broader health system.

In determining the appropriate way in which to manage a matter, a Health Service Provider must assess the level of ongoing risk to patients, staff and the health system.

A risk assessment includes consideration of factors including, but not limited to:

- recency of the conduct
- seriousness of the conduct
- single or multiple occurrence of the conduct
- any evidence of a pattern of conduct – which may indicate behavioural/performance issues of concern
- relevance of identified issues to the duties to be performed
- alteration to the Scope of Practice or duties
- employment status (including suspension from duty)
- status of a discipline process
- notifications to other external agencies
- previous adverse history or similar conduct
- risk mitigation strategies implemented by the Health Service Provider
- any other relevant considerations.

A Staff Member's behaviour can have consequences of varying levels of severity. A Consequence Rating Table that Health Services Providers might find useful in assessing risk is attached to this Guide as Appendix 2. The table was developed as a tool to help the Department CEO make decisions in relation to Notifiable or Reportable Conduct, and to make those decisions transparent and accountable.

A risk assessment includes considerations relating to the ongoing safety of patients, staff and the broader health system.

Options for mitigating these risks include, but are not limited to whether:

- a Scope of Practice or duties has been altered
- a suspension from duty has been imposed
- Disciplinary Action and/or Improvement Action is being taken (in accordance with section 150 of the HS Act)
- any other relevant action considered by the Health Service Provider has been taken
- consultation has occurred with Work Health and Safety, which might include a fitness for work assessment.

Once a risk assessment has been carried out, Health Service Providers must decide upon and implement risk mitigation measures.

An assessment of notifying and reporting thresholds is conducted

An assessment is conducted to ascertain whether the behaviour concerns:

- suspected Professional Misconduct or Unsatisfactory Professional Performance
- a charge, finding of guilt or conviction for a Serious Offence
- a suspected Breach of Discipline by an Employee
- suspected Minor or Serious Misconduct
- suspected Unprofessional Conduct of a Staff Member
- mandatory reporting to AHPRA
- a Matter Reportable to the Ombudsman
- more than one of the above.

Whether or not the information received meets the threshold for either Notifiable or Reportable Conduct depends on the following legislative provisions:

- Professional Misconduct or Unsatisfactory Professional Performance under section 146 of the HS Act and section 5 of the National Law
- Mandatory Notifications to AHPRA under sections 140, 141 and 142 of the National Law
- Serious Offence, as per section 80A of the PSM Act, regulation 15 of the *Public Sector Management (General) Regulations 1994* and section 146(2) of the HS Act
- Breach of Discipline under section 161 of the HS Act
- Minor or Serious Misconduct under section 4 of the CCM Act.

The Decision Tree provided at Figure 1 may assist in assessing whether the matter may have met a reporting or notifying threshold under section 146 of the HS Act or sections 140,141 or 142 of the National Law.

Information received in relation to a Staff Member may relate to performance or conduct, and each of these has internal processes for managing such matters and for making the required external reports or notifications. There may also be Notifiable or Reportable Conduct revealed as part of an internal systems review process, and these are also subject to policy and processes, including the provisions of the Policy.

Figure 2 represents the reporting requirements and processes for managing concerns that arise in the workplace. Managing one issue may require more than one approach or process.

Identify notifying and reporting obligations

An assessment is conducted in accordance with the HS Act, the CCM Act, the PC Act and the National Law to determine whether the behaviour meets the threshold for:

- reporting to the Department CEO
- reporting or notification to AHPRA
- reporting to the Ombudsman
- notification to:

  o Corruption and Crime Commission (CCC)
  o Public Sector Commission (PSC)

o Western Australia Police Force (WA Police)

This assessment must be made based on the thresholds for and timing of reports and notifications provided in the relevant legislation and the Policy.

When new information comes to light, further assessment may be required to determine if the threshold for reporting or notifying is met and alters the determination to Notify/Report.

Mandatory Notifying and Reporting

Health Service Providers must comply with the mandatory notifying and reporting requirements contained in several pieces of legislation. These include the HS Act, the National Law, the CCM Act, the PSM Act, the PC Act and others. The following outlines the mandatory reporting requirements necessary to meet these obligations as they relate to the Policy.

All mandatory notifying and reporting obligations must be met and are not subject to, or superseded by, any other reporting obligations under another relevant law. If the threshold is met, a matter must be reported, and discretion cannot be applied. One episode of conduct may trigger several reporting obligations.

Figure 3 at Appendix 3 outlines the dual reporting and notifying requirements of the HS Act and the National Law.

The lack of a requirement to make a Mandatory Notification to AHPRA under the National Law does not remove the obligation to report to the Department CEO and AHPRA under section 146(1) of the HS Act.

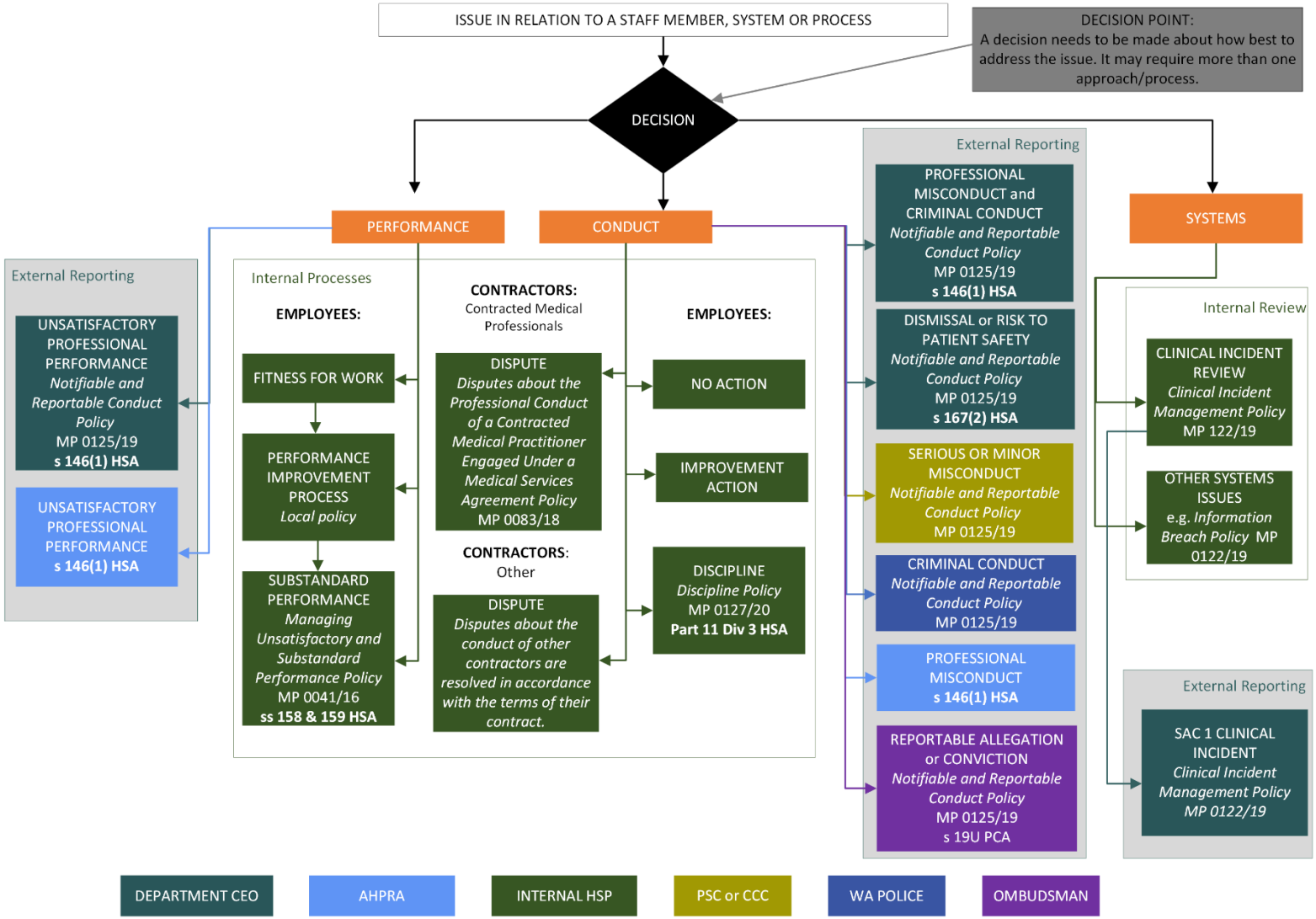


Figure 2 – Reporting requirements and processes for managing behaviour matters

The obligation to report is a legal requirement and failure to make mandatory reports and notifications may result in a disciplinary process being undertaken.

Reporting Conduct to the Department CEO

The HS Act provides that a Health Service Provider *must* report to the Department CEO:

- any suspected Professional Misconduct or Unsatisfactory Professional Performance of a Staff Member (under section 146(1))
- any awareness of a Staff Member being charged with or convicted of a Serious Offence (under section 146(2)).

The threshold for reporting under section 146(1) is having a suspicion on reasonable grounds. This is a low threshold.

A Reasonable Suspicion means that a Health Service Provider has formed a suspicion of the existence of notifiable or reportable conduct after making an assessment that is fair, sensible and based on sound judgement.

While information about the alleged conduct does not have to be in the direct knowledge of the Health Service Provider, consideration must be given to the reliability of the information sources.

A Reasonable Suspicion requires some factual basis, but does not require definitive proof. It only requires a stronger level of knowledge than mere speculation, rumour, gossip or innuendo.

The threshold for a report under section 146(2) is much higher, being based on an awareness of charges being laid, a conviction made or a finding of guilt for a Serious Offence.

For notifications to the Department CEO under section 167(2), the threshold is a finding of a Breach of Discipline *and* either the Outcome was dismissal of the Employee or the breach posed a serious risk to the safety of patients.

Professional Misconduct or Unsatisfactory Professional Performance

Section 146(1) of the HS Act requires Health Service Providers to report suspected Professional Misconduct or Unsatisfactory Professional Performance of Registered Health Practitioners to the Department CEO and AHPRA. The definitions of Professional Misconduct or Unsatisfactory Professional Performance are those contained in the National Law.

Under the National Law, there are three types of Professional Misconduct.

First, there is one instance of conduct that is substantially below the standard reasonably expected of a Registered Health Practitioner of an equivalent level of training or experience.

Second, there is more than one instance of such conduct which, when considered together, falls substantially below the expected standard.

The third relates to conduct that is not consistent with the practitioner being a fit and proper person to hold registration in their profession. Importantly, this conduct does not need to occur in connection with the practice of the health practitioner's profession.

Conduct under this third provision can occur outside the practice of the practitioner's profession and indicates that he or she is not a fit and proper person to hold registration. This means that it can relate to a non-clinical matter.

Therefore, in determining whether a Staff Member's conduct might mean they are not a fit and proper person to hold registration, consideration needs to be given to factors such as whether, for example:

- the person was acting within his or her authority
- the conduct was done in secrecy
- the conduct was in not in accordance with a Health Service Provider or other mandated Department of Health policy
- there was a financial or other benefit gained by the practitioner
- there was a significant detriment to the Health Service Provider, financial or otherwise
- patient or public safety, or public confidence in the health system was compromised
- the practitioner's profession was brought into disrepute
- the values or qualities possessed by the practitioner are incompatible with their profession or indicate a lack of qualities essential to their profession.

Unsatisfactory Professional Performance means the knowledge, skill or judgment possessed, or care exercised by, the practitioner in the practice of their registered health profession is below the standard reasonably expected of a health practitioner of an equivalent level of training or experience. This definition restricts Unsatisfactory Professional Performance to performance occurring within the health professional's practice of their profession.

It is important to recognise that any work that involves any knowledge, skill or judgement gained through the practice of a profession constitutes professional practice. It does not need to be clinical practice. For example, a clinical services director who is also a registered medical practitioner would necessarily use the knowledge, skill and judgement gained in the practice of their profession in their role as director. Similarly, a registered pharmacist working in policy development would also be drawing on the knowledge, skill and judgement gained in the practice of their profession. In both examples, these Registered Health Practitioners could be reported for suspected Unsatisfactory Professional Performance.

Disclosure of information

As noted above, there is a legal obligation to report certain behaviour, which necessarily involves disclosing information in relation to a Staff Member. In meeting the reporting and notifying requirements of sections 146 and 167 of the HS Act, a Health Service Provider is authorised to disclose information and in doing so, under sections 146(6) and 220(1)(g):

- does not incur any civil or criminal liability
- is not deemed to have breached any duty of confidentiality or professional ethics or standards
- has not engaged in Unprofessional Conduct.

Using Reporting Forms

The Policy mandates the use of a Reporting Conduct Form, and provides an electronic version of the form. All reports made in accordance with sections 146(1) and 146(2), and notifications made under section 167(2) to the Department CEO must be made using the Reporting Conduct Form.

An initial assessment of a Health Service Provider's Reporting Conduct Form is made by System-wide Integrity Services. This, in turn, informs the Department CEO's consideration of the matter. It is essential that all fields on this form are completed in full and sufficient

detail is provided to allow the Department CEO to adequately assess and consider the matter, and to make fully informed decisions including whether to register a Staff Member on the CMS for PEIC purposes and notify other Health Service Providers of this action.

Similarly, information relating to a closure of a matter must be made using the Reporting Conduct Form.

In making preliminary or closure reports, it is not sufficient to state: 'see attached report'. The details of the Preliminary Investigation report, for example, must be summarised on the Reporting Conduct Form, and the Health Service Provider's reasons for any decision made must be included.

Similarly, while updates of a matter do not need to be made on a Reporting Conduct Form, any update should include a summary of relevant information and the rationale for decision making.

As well as protecting patient and staff safety, and facilitating the Department CEO's consideration of the matter, this also provides procedural fairness for the Staff Member and goes to accountability and transparency of decision making.

During SWIS and Department CEO consideration of reports and notifications further information may be requested from the Health Service Provider to allow the Department CEO to perform their functions under the *Health Services Act 2016*.

To assist Health Service Providers complete the required form, a sample containing details of a matter is provided at Appendix 4.

Reporting Conduct to AHPRA

The HS Act also requires reports in accordance with section 146(1) of suspected Professional Misconduct or Unsatisfactory Professional Performance to be made to the professional board or authority that deals with the registration of the Staff Member as a health practitioner. This authority is the Australian Health Practitioner Regulation Agency (AHPRA).

The National Law also requires AHPRA be notified of conduct by a Registered Health Practitioner that is deemed to be notifiable conduct. Under section 140 of the National Law, notifiable conduct by a Registered Health Practitioner is defined as:

- practising while intoxicated by alcohol or drugs;
- sexual misconduct in the practice of the profession;
- placing the public at risk of substantial harm because of an impairment (health issue); or
- placing the public at risk because of a significant departure from accepted professional standards.

Section 142 of the National Law makes it mandatory for an employer of a Registered Health Practitioner to notify AHPRA of behaviour that, based on a reasonable belief, may constitute notifiable conduct.

This section 142 National Law reasonable belief threshold is higher than the section 146 HS Act Reasonable Suspicion threshold; it requires a reasonable belief, based on reasonable grounds, that a practitioner has behaved in a way that constitutes notifiable conduct.

The National Law also provides for voluntary notifications about a Registered Health Practitioner to be made to AHPRA by any entity that believes that one of the grounds

prescribed in section 144 exists. Those who, in good faith, make a notification under the National Law are protected from civil, criminal and administrative liability by section 237 of that Act. The making of a notification does not constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct. Nor is any liability for defamation incurred.

Notifying conduct in accordance with the *Corruption, Crime and Misconduct Act 2003*

Health Service Providers also have two notification obligations under the *Corruption, Crime and Misconduct Act 2003* (CCM Act).

First, under section 28, a Health Service Provider must notify the CCC of any conduct suspected on reasonable grounds to constitute Serious Misconduct. These notifications must be made as soon as practicable.

Serious Misconduct occurs when a Public Officer:

- acts corruptly or corruptly fails to act
- corruptly takes advantage of their office or employment to obtain benefit for themselves or another person
- in their official capacity, commits an offence punishable by two or more years' imprisonment.

Second, under section 45H, a Health Service Provider must notify the Public Sector Commissioner of conduct that is suspected on reasonable grounds to constitute Minor Misconduct. Notifications of Minor Misconduct must be made to the Public Sector Commissioner as soon as practicable.

Minor Misconduct occurs when a Public Officer:

- adversely affects or could adversely affect the honest or impartial performance of the functions of a public authority or Public Officer. The effect can be direct or indirect, and can occur whether the Public Officer was acting in their official capacity at the time; or
- performs their functions in a manner that is not honest or impartial; or
- breaches the trust placed in them as a Public Officer; or
- misuses information or material acquired in connection with their functions, whether the misuse is for their benefit or the benefit or detriment of another person; and
- constitutes or could constitute a disciplinary offence providing reasonable grounds for dismissal.

The CCM Act also provides protection in relation to confidentiality surrounding an alleged matter, and notifications under the CCM Act are considered paramount.

For a matter that includes suspicions relating to both Serious Misconduct and Minor Misconduct that are directly related or cannot be separated, the Health Service Provider should notify the CCC.

Notifying conduct to the Western Australia Police Force

It is the expectation of the Department CEO that Public Officers are held to the same accountability standards as members of the public would be for suspected criminal offences.

The Department CEO, as the System Manager, requires all suspected criminal offences to be reported to WA Police. The Department CEO acknowledges that WA Police are the appropriate responsible authority to consider whether conduct matters concerning suspected criminal offences should be subject to a criminal investigation and criminal charges. Disclosure of information for the purpose of such an investigation is provided for under section 220(1)(g) of the HS Act.

Reporting matters to the Ombudsman

In line with ss 19T and 19U of the PC Act, matters reportable to the Ombudsman must be reported to a health service provider's Chief Executive who must then report the matter to the Ombudsman.

Further guidance and advice on the requirements of the PC Act is available from the Ombudsman's office.

Delegations

Unless the power to notify and report under the HS Act and CCM Act have been delegated by the CE in accordance with section 119 of the HS Act, reports to the Department CEO and notifications to certain External Agencies (AHPRA, CCC and PSC) must be made by the CE.

The responsibility to comply with these legislative obligations, including assessment and decision making relating to reports and notifications in accordance with the HS Act and the CCM Act, rests with the CE.

Determining how to address the matter

Once information is received in relation to a Staff Member's behaviour that may constitute Notifiable or Reportable Conduct it must be assessed and a decision made on the most appropriate way to manage the matter.

At this stage a Health Service Provider needs to determine if the matter does, if fact, involve Notifiable or Reportable Conduct or if it constitutes another form of behaviour requiring management under, for example, *MP 0041/16 Managing Unsatisfactory and Substandard Performance Policy* or *MP 0116/19 Grievance Resolution Policy*.

Matters relating to unsatisfactory performance (except where it involved Unsatisfactory Professional Performance of Registered Health Practitioners under the National Law or the HS Act), substandard performance or grievances are not Notifiable or Reportable Conduct matters.

Unsatisfactory performance occurs where an Employee is not achieving the required standard of performance for their position. An Employee's performance is substandard when they do not reach or sustain the standard reasonably expected of them in performing their functions. A grievance is a problem or concern raised by an Employee about their work, work environment or working relationships that has a direct impact on them.

Determining to treat the matter as disciplinary, non-disciplinary or another type of matter

The Health Service Provider determines how to treat the behaviour, including, but not limited to:

- treating the matter as disciplinary (Refer to MP 0127/20 Discipline Policy)
- treating the matter as non-disciplinary:

  - taking Improvement Action
  - taking no action
  - referring the matter to the relevant area to manage via another process (Unsatisfactory performance as it relates to the *MP 0041/16 Managing Unsatisfactory and Substandard Performance Policy*; or *MP 0083/18 Disputes about the Professional Conduct of a Contracted Medical Practitioner Engaged Under a Medical Services Agreement Policy*)
- utilising a power under the HS Act that deals specifically with serious charges and convictions (i.e. sections 148 and 150 HS Act).

The assessment is based on the information ascertained at this stage, and any legislative requirements, which may include, but is not limited to:

- witness accounts
- supervisory notes
- closed circuit television footage
- letters of complaint
- admissions by the Staff Member concerned
- possible risk to the protection of patients
- legislative obligations
- previous patterns of behaviour or incidents
- any other information considered relevant to the Health Service Provider.

Based on this assessment, the Health Service Provider will determine:

- any notifying or reporting obligations
- whether the matter would appropriately be dealt with as a disciplinary matter in accordance with the MP 0127/20 Discipline Policy or as a non-disciplinary matter to be resolved through another process in line with, for example, the *MP 0041/16 Managing Unsatisfactory and Substandard Performance Policy*.

For matters that involve an Employee whose registration has been suspended or made conditional, or where an Employee is involved in a Serious Offence, the Health Service Provider must also decide whether to utilise sections 147, 148 or 150 of the HS Act.

For matters that involve a Contracted Medical Professional whose registration has been suspended or made conditional, consideration should be given to the *MP 0083/18 Disputes about the Professional Conduct of a Contracted Medical Practitioner Engaged Under a Medical Services Agreement Policy.*

Where a matter relates to a former Employee, the *Health Services (General) Regulations 2019* provisions relating to public interest considerations must be considered. Part 4 of the Regulations concerns disciplinary matters relating to former Employees. In deciding whether it is appropriate to commence or to continue a disciplinary matter for a former Employee, Regulations 10 and 11 require the former Employing Authority to have regard to public interest considerations.

In relation to a suspected Breach of Discipline, Regulation 10 provides that public interest considerations include:

a) the seriousness of the suspected breach;
b) whether the suspected breach was an isolated incident;
c) the status and position of the Employee;

d) whether the person is employed, or is likely to be re-employed in the future, by a health service provider or a public authority;
e) the length of time that has elapsed since the suspected breach occurred;
f) the likely impact on public confidence in the WA health system if the suspected breach is not dealt with as a disciplinary matter;
g) any mitigating factors relating to the personal circumstances of the Employee;
h) the likely cost and administrative burden involved in dealing with the suspected breach as a disciplinary matter.

10. Definitions

Definitions relevant to the Policy and this Guide are provided below.

Term	Definition
Administrator	An administrator is a person who can: • grant Case Management System access to users • grant administrator access to other users.
Breach of discipline	Pursuant to section 161 of the *Health Services Act 2016*, an employee commits a breach of discipline if the employee: *(a) disobeys or disregards a lawful order;* *(b) contravenes —* *(i) any provision of this Act* [the HS Act] *or the Public Sector Management Act 1994 applicable to that employee; or* *(ii) any public sector standard or code of ethics; or* *(iii) a policy framework;* *or* (c) *commits an act of misconduct;* (d) *is negligent or careless in the performance of the employee's functions; or* (e) *commits an act of victimisation within the meaning of the Public Interest Disclosure Act 2003 section 15.*
Chief executive	The person appointed by the Department CEO as chief executive of the health service provider pursuant to section 108 of the *Health Services Act 2016.*

Conduct	Conduct includes: • parts 10 and 11 reports in accordance with the *Health Services Act 2016* • suspected misconduct as defined in the *Corruption Crime and Misconduct Act 2003* • a suspected breach of discipline as defined in the *Health Services Act 2016* • a misconduct finding in accordance with the *Health Practitioner Regulation National Law (WA) Act 2010*. Misconduct finding includes a finding of unsatisfactory professional performance, unprofessional conduct or professional misconduct.
Department CEO	The chief executive officer (Director General) of the Department of Health.
Disciplinary action	Pursuant to section 6 of the *Health Services Act 2016*, and in relation to a breach of discipline by an employee, means any one or more of the following: *(a) a reprimand;* *(b) the imposition of a fine not exceeding an amount equal to the amount of remuneration received by the employee in respect of the last 5 days during which the employee was at work as an employee before the day on which the finding of the breach of discipline was made;* *(c) transferring the employee to another health service provider with the consent of the employing authority of that health service provider;* *(d) if the employee is not a chief executive, transferring the employee to another office in the health service provider in which the employee is employed;* *(e) reduction in the monetary remuneration of the employee;* *(f) reduction in the level of classification of the employee;* *(g) alteration of the employee's scope of practice or duties, or both; or* (h) *dismissal*.

Employee	Pursuant to section 6 of the *Health Services Act 2016,* an employee means a person employed in a health service provider and includes: (a) *the chief executive of the health service provider;* (b) *a health executive employed in the health service provider;* (c) *a person employed in the health service provider under section 140;* (d) *a person seconded to the health service provider under section 136 or 142*.
Employing authority	Pursuant to section 103 of the *Health Services Act 2016,* means: (a) *in relation to a chief executive — the Department CEO;* (b) in relation to a health service provider, health executive or an employee (other than a chief executive) of a health service provider — *(i) if the health service provider is a board governed provider — the board;* *(ii) if the health service provider is a chief executive governed provider — the chief executive.*
Improvement action	Pursuant to section 6 of the *Health Services Act 2016*, in relation to an employee, means any one or more of the following to improve the employee's performance or conduct: *(a) counselling;* *(b) training and development;* *(c) issuing a warning to the employee that certain conduct is unacceptable or that the employee's performance is not satisfactory;* (d) *any other action of a similar nature*.
Mandatory notification	Pursuant to section 5 of the *Health Practitioner Regulation National Law (WA) Act 2010*, means: *a notification an entity is required to make to the National Agency under Part 8 Division 2*. Note: Mandatory notifications are made in relation to the notifiable conduct of a registered health practitioner. Notifiable Conduct is defined in section

	140 of the National Law as meaning the practitioner has – (a) *practised the practitioner's profession while intoxicated by alcohol or drugs; or* (b) *engaged in sexual misconduct in connection with the practice of the practitioner's profession; or* (c) *placed the public at risk of substantial harm in the practitioner's practice of the profession because the practitioner has an impairment; or* (d) *placed the public at risk of harm because the practitioner has practised the profession in a way that constitutes a significant departure from accepted professional standards.*
Matter reportable to the Ombudsman (reportable allegation, reportable conviction)	A matter reportable to the Ombudsman is a reportable allegation or a reportable conviction as defined in sections 19F and 19H of the *Parliamentary Commissioner Act 1971*. Under section 19F(1), 'a **reportable allegation** is any information that leads a person to form the belief on reasonable grounds that an employee of a relevant entity has engaged in reportable conduct or conduct that may involve reportable conduct, whether or not the conduct is alleged to have occurred in the course of the employee's employment'. In line with section 19F(2), this does not include information about a reportable conviction. Under section 19G(1): ***reportable conduct*** *is the following conduct, whether or not a criminal proceeding in relation to the conduct has been commenced or concluded and whether the conduct occurred before, on or after commencement day —* *(a) a sexual offence;* *(b) sexual misconduct;* *(c) a physical assault committed against, with or in the presence of, a child;* *(d) an offence prescribed by the regulations for the purposes of this paragraph.*

	Note also that under section 19G(3), conduct includes an act or omission. Under section 19(2), reportable conduct does not include conduct that is: *(a) reasonable for the discipline, management or care of a child or of another person in the presence of a child, having regard to [... the characteristics of the child, and any relevant code of conduct or professional standard]; or* *(b) trivial or negligible and that has been or will be investigated and recorded as part of another workplace procedure; or* *(c) of a class or kind exempt from being reportable conduct under section 19N(1).* Under section 19H: *a **reportable conviction** is a conviction, whether before, on or after commencement day, for an offence under a law of this State, another State, a Territory or the Commonwealth that is an offence referred to in section 19G(1)(a) or (d).*
Minor misconduct	Pursuant to section 3 and 4(d) of the *Corruption, Crime and Misconduct Act 2003*, minor misconduct is conduct by a public officer that: *(i) adversely affects, or could adversely affect, directly or indirectly, the honest or impartial performance of the functions of a public authority or public officer, whether or not the public officer was acting in their public officer capacity at the time of engaging in the conduct;* or *(ii) constitutes or involves the performance of functions in a manner that is not honest or impartial;* or *(iii) constitutes or involves a breach of the trust placed in the public officer by reason of his or her office or employment as a public officer; or* *(iv) involves the misuse of information or material that the public officer has acquired in connection with his or her functions as a public officer, whether the misuse is for the benefit of the public officer or the benefit or detriment of another person, and constitutes, or could constitute —* *[(v) deleted]*

	(vi) a disciplinary offence providing reasonable grounds for termination of a person's office or employment [...].
Notifying authority	Pursuant to section 3 of the *Corruption, Crime and Misconduct Act 2003*, notifying authority means: (a) *a department or organisation as defined in the Public Sector Management Act 1994;* (b) *an entity in respect of which a declaration is in effect under section 56(2) of the Financial Management Act 2006;* (c) *a statutory authority as defined in the Financial Management Act 2006;* (d) *an authority to which the Parliamentary Commissioner Act 1971 applies;* (e) *a person or body, or holder of an office —* *(i) under whom or which a public officer holds office or by whom or which a public officer is employed; or* *(ii) who or which is prescribed for the purposes of this subparagraph,* *but does not include the President of the Legislative Council or the Speaker of the Legislative Assembly.*
Outcome	The outcome of a notifiable or reportable conduct matter means a resolution of a matter and includes, but is not limited to, matters that are: • substantiated • not substantiated • discontinued • require no further action • Australian Health Practitioner Regulation Agency findings • court outcomes • any other relevant action.
Principal officer of a notifying authority	Pursuant to section 3 of the *Corruption, Crime and Misconduct Act 2003*, in the case of a department or organisation as defined in *Public Sector*

	Management Act 1994, means the chief employee of the organisation. The principal officer for the Department of Health is the CEO. The principal officer for a health service provider is the chief executive.
Professional misconduct	Pursuant to section 5 of the *Health Practitioner Regulation National Law (WA) Act 2010*, means misconduct which includes: *(a) unprofessional conduct by the practitioner that amounts to conduct that is substantially below the standard reasonably expected of a registered health practitioner of an equivalent level of training or experience; and* *(b) more than one instance of unprofessional conduct that, when considered together, amounts to conduct that is substantially below the standard reasonably expected of a registered health practitioner of an equivalent level of training or experience; and* (c) *conduct of the practitioner, whether occurring in connection with the practice of the health practitioner's profession or not, that is inconsistent with the practitioner being a fit and proper person to hold registration in the profession*.
Public officer	A full definition of the term 'public officer' is found in section 1 of the *Criminal Code 1913*. The term 'public officer' includes: a) all public sector employees b) members of government boards and committees c) local government elected officials and employees d) a person exercising authority under a written law e) employees of public utilities and some volunteers f) a member, officer or employee of any authority, board, corporation, commission, local government, council of a local

	government, council or committee or similar body established under a written law g) any other person holding office under, or employed by, the State of Western Australia, whether for remuneration or not. To enliven the CCC and PSC jurisdiction, the notifiable misconduct must be conducted by a public officer. Employees are public officers.
Reasonable suspicion or suspicion on reasonable grounds	A reasonable suspicion means that a health service provider has formed a suspicion of the existence of notifiable or reportable conduct after making an assessment that is fair, sensible and based on sound judgement. While information about the alleged conduct does not have to be in the direct knowledge of the health service provider, consideration must be given to the reliability of the information sources. A reasonable suspicion requires some factual basis, but does not require definitive proof. It only requires a stronger level of knowledge than mere speculation, rumour, gossip or innuendo.
Registered health practitioner	Pursuant to section 5 of the *Health Practitioner Regulation National Law (WA) Act* 2010, means an individual who: *a) is registered under this Law* [the National Law] *to practise a health profession, other than as a student; or* b) *holds non-practicing registration under this Law* [the National Law] *in a health profession*.
Scope of practice	The extent of an individual practitioner's approved clinical practice within a particular organisation based on an individual's credentials, competence, performance and professional suitability and the needs and capability of the organisation to support the practitioner's scope of clinical practice.
Serious misconduct	Pursuant to sections 3 and 4(a) (b) and (c) of the *Corruption, Crime and Misconduct Act 2004*, is conduct by a public officer who – (a) acts corruptly or corruptly fails to act in the course of their duties; or

	(b) corruptly takes advantage of their office or employment to obtain a benefit or to cause a detriment to any person; or (c) acting in the course of their duties or while deliberately creating the appearance of acting in the course of their duties, commits an offence punishable by two or more years imprisonment. Corrupt conduct tends to show a deliberate intent for an improper purpose or an improper motivation. Corrupt conduct may involve an exercise of a public power or function, but for private benefit. It may involve conduct such as the deliberate failure to perform the functions of office properly, or the exercise of a power or duty for an improper purpose.
Serious offence	Has the same meaning as section 80A of the *Public Sector Management Act 1994.* Serious offence means: *(a) an indictable offence against a law of the State (whether or not the offence is or may be dealt with summarily), another State or a Territory of the Commonwealth or the Commonwealth; or* *(b) an offence against the law of another State or a Territory of the Commonwealth that would be an indictable offence against a law of this State if committed in this State (whether or not the offence could be dealt with summarily if committed in this jurisdiction); or* *(c) an offence against the law of a foreign country that would be an indictable offence against a law of the Commonwealth or this State if committed in this State (whether or not the offence could be dealt with summarily if committed in this jurisdiction); or* (d) *an offence, or an offence of a class, prescribed under section 108.*
Staff member	Pursuant to section 6 of the *Health Services Act 2016,* a staff member of a health service provider means: *(a) an employee in the health service provider;* (b) *a person engaged under a contract for services by the health service provider*.

	Note: Staff member includes a contracted medical practitioner engaged under a Medical Services Agreement.
System Manager Case Management System	The database administered by the System Manager provided to the health service providers to enter, track and report cases of conduct that may concern a breach of discipline.
Unprofessional Conduct	Pursuant to section 5 of the *Health Practitioner Regulation National Law (WA) Act 2010*, means: *professional conduct that is of a lesser standard than that which might reasonably be expected of the health practitioner by the public or the practitioner's professional peers, and includes —* *(a) a contravention by the practitioner of this Law, whether or not the practitioner has been prosecuted for, or convicted of, an offence in relation to the contravention; and* *(b) a contravention by the practitioner of* *(i) a condition to which the practitioner's registration was subject; or* *(ii) an undertaking given by the practitioner to the National Board that registers the practitioner; and* *(c) the conviction of the practitioner for an offence under another Act, the nature of which may affect the practitioner's suitability to continue to practise the profession; and* *(d) providing a person with health services of a kind that are excessive, unnecessary or otherwise not reasonably required for the person's well-being; and* *(e) influencing, or attempting to influence, the conduct of another registered health practitioner in a way that may compromise patient care; and* *(f) accepting a benefit as inducement, consideration or reward for referring another person to a Health Service Provider or recommending another person use or consult with a Health Service Provider; and* *(g) offering or giving a person a benefit, consideration or reward in return for the*

	person referring another person to the practitioner or recommending to another person that the person use a health service provided by the practitioner; and (h) *referring a person to, or recommending that a person use or consult, another health service provider, health service or health product if the practitioner has a pecuniary interest in giving that referral or recommendation, unless the practitioner discloses the nature of that interest to the person before or at the time of giving the referral or recommendation*.
Unsatisfactory professional performance	Pursuant to section 5 of the *Health Practitioner Regulation National Law (WA) Act 2010*, means: *the knowledge, skill or judgment possessed, or care exercised by, the practitioner in the practice of the health profession in which the practitioner is registered, is below the standard reasonably expected of a health practitioner of an equivalent level of training or experience*.

11. Legislative Obligations Tables

The Department CEO and Health Service Provider CEs, board members and Staff Members have legislative obligations relating to the:

- duty of the Department Chief Executive Officer (CEO) as a Responsible Authority, Employing Authority and Principal Officer of a Notifying Authority
- duty of the Chief Executive (CE) as a Responsible Authority and Principal Officer of a Notifying Authority
- duty of the Chief Executive (CE) or the Board as an Employing Authority duty of a Staff Member.

These are provided at Appendix 1.

12. Appendix 1 – Legislative responsibilities of Department CEO, CE, Board Members and Staff Members

Duty of the Department Chief Executive Officer (CEO) as a Responsible Authority, Employing Authority and Principal Officer of a Notifying Authority

The Department CEO is legislatively responsible for the purpose of –

- reporting to the Australian Health Practitioner Regulation Agency (AHPRA) and Health Service Providers (HSPs) in accordance with the *Health Services Act 2016* (HS Act) and the *Health Practitioner Regulation National Law (WA) Act 2010* (National Law); and
- notifications to the Corruption and Crime Commission (CCC) and the Public Sector Commission (PSC) in accordance with the *Corruption, Crime and Misconduct Act 2003* (CCM Act).

Legislation	Obligation	Report To	When to Report
s 146(1) HS Act	The Department CEO is required to report on reasonable grounds a suspicion that a CE's conduct (if the CE is a registered health practitioner) constitutes, or may constitute Professional Misconduct or Unsatisfactory Professional Performance under the National Law.	AHPRA	When Reasonable Suspicion has been formed
s 146(3) HS Act	The Department CEO may, if the Department CEO considers it appropriate to do so for the protection of a HSPs patients, notify a HSP or any other person or body of a report received under s 146(1) or (2) of the HS Act.	A HSP or any other person or body	When considered appropriate
s 146(5) HS Act	The Department CEO may make a notification under s 146(3) of the HS Act, despite — a) the provisions of any other Act, whether enacted before or after this Act; or b) any obligation the Department CEO has to maintain confidentiality about a matter to which the report relates.		
s 146(6) HS Act	Without limiting s 220, in giving a notification under subsection (3) the Department CEO — a) does not incur any civil or criminal liability; and b) is not to be taken to have breached any duty of confidentiality or secrecy imposed by law; and c) is not to be taken to have breached any professional ethics or standards or any principles of conduct applicable to the person's employment or to have engaged in Unprofessional Conduct.		
s 167(4) HS Act	The Department CEO may notify any Employing Authority of the Employee of the matters notified under s 167(2) of the HS Act.	Employing Authority of the Employee	When considered appropriate
s 220(3) HS Act	If the collection, use or disclosure of information is authorised under s 220(1) of the HS Act, — a) no civil or criminal liability is incurred in respect of the collection, use or disclosure; and b) the collection, use or disclosure is not to be regarded as — i. a breach of any duty of confidentiality or secrecy imposed by law; or ii. a breach of professional ethics or standards or any principles of conduct applicable to a person's employment; or iii. Unprofessional Conduct.		
s 28 CCM Act **s 3 1(b) CCM Act**	The CEO is obligated to report their suspicion on reasonable grounds any matter which concerns or may concern Serious Misconduct.	CCC	As soon as practicable
s 45H CCM Act **s 45K(b) CCM Act**	The CEO is obligated to report their suspicion on reasonable grounds any matter which concerns or may concern Minor Misconduct.	PSC	As soon as practicable

s 29 CCM Act **s 45I CCM Act**	The duty of the CEO to make a notification under sections 28 and 45H of the CCM Act is paramount and must be complied with despite – a) the provisions of any other Act, whether enacted before or after this Act; or b) any obligation the person has to maintain confidentiality about a matter to which the allegation relates, and the CEO does not commit an offence by reason of that compliance.

Duty of the Chief Executive (CE) as a Responsible Authority and Principal Officer of a Notifying Authority

The CE is legislatively responsible for the purpose of –

Reporting to the Australian Health Practitioner Regulation Agency (AHPRA) and the Department CEO in accordance with the *Health Services Act* 2016 (HS Act) and the *Health Practitioner Regulation National Law (WA) Act 2010* (National Law), and Notifications to the Corruption and Crime Commission (CCC) and the Public Sector Commission (PSC) in accordance with the *Corruption, Crime and Misconduct Act 2003* (CCM Act).

Legislation	Obligation	Report To	When to Report
s 146(1)(a) HS Act **s 146(1)(b) HS Act**	A Staff Member's responsible authority must report any conduct of the Staff Member that the responsible authority suspects on reasonable grounds constitutes or may constitute Professional Misconduct or Unsatisfactory Professional Performance under the National Law.	AHPRA and Department CEO	When Reasonable Suspicion has been formed
s 146(2) HS Act	A Staff Member's Responsible Authority must, on becoming aware that the Staff Member has been charged with having committed, or has been convicted or found guilty of, a Serious Offence, report the Staff Member's charge, conviction or the finding of guilt to the Department CEO. (**Note:** this section may constitute Professional Misconduct and would therefore require reporting to AHPRA in accordance with s 146(1)(a) of the HS Act).	Department CEO and AHPRA (if charges/ convictions are preferred against a health practitioner)	On becoming aware
s 146(5) HS Act	The duty of the Responsible Authority to make a report under s 146(1) or (2) must be complied with, despite — a) the provisions of any other Act, whether enacted before or after this Act; or b) any obligation the person has to maintain confidentiality about a matter to which the report relates.		
s 220(3) HS Act	If the collection, use or disclosure of information is authorised under s 220(1) HS Act, — a) no civil or criminal liability is incurred in respect of the collection, use or disclosure; and b) the collection, use or disclosure is not to be regarded as — i. a breach of any duty of confidentiality or secrecy imposed by law; or ii. a breach of professional ethics or standards or any principles of conduct applicable to a person's employment; or iii. Unprofessional Conduct.		
s 28 CCM Act **s 31(b) CCM Act**	The CE is obligated to report their suspicion on reasonable grounds any matter which concerns or may concern Serious Misconduct.	CCC	As soon as practicable
s 45H CCM Act **s 45K(b) CCM Act**	The CE is obligated to report their suspicion on reasonable grounds any matter which concerns or may concern Minor Misconduct.	PSC	As soon as practicable

s 29 CCM Act **s 45I CCM Act**	The duty of the CE to make a notification under sections 28 and 45H of the CCM Act is paramount and must be complied with despite – a) the provisions of any other Act, whether enacted before or after this Act; or b) any obligation the person has to maintain confidentiality about a matter to which the allegation relates, and the CE does not commit an offence by reason of that compliance.

Duty of the Chief Executive (CE) or the Board as an Employing Authority

The Employing Authority is legislatively responsible for the purpose of –

Reporting to the Department CEO in accordance with the *Health Services Act 2016* (**HS Act**).

Legislation	Obligation	Report To	When to Report
s 148 HS Act **s 149 HS Act**	The Employing Authority may suspend an Employee on full pay, partial pay or no pay if the Employee has been charged with having committed a Serious Offence.		
s 150(1) HS Act	The Employing Authority may suspend an Employee from duty on full pay, partial pay or no pay if: a) the registration of the Employee as a Registered Health Practitioner is suspended under the National Law; or b) conditions are imposed on the registration of an Employee as a Registered Health Practitioner under the National Law that, in the opinion of the Employing Authority: i. are inconsistent with the inherent requirements of the terms of employment of the Employee; or ii. the HSP is unable to accommodate for operational reasons.		
s 150(2) HS Act	An Employing Authority cannot take action under s 150(1) – a) until all rights of appeal under the National Law against the action taken under that Act have lapsed or been exhausted; or b) if the Employee successfully appeals under the National Law against the action taken under that Act.		
s 150(3) HS Act	The Employing Authority may initiate Disciplinary Action and/or Improvement Action if an Employee is convicted or found guilty of a Serious Offence.		
s 167(2) HS Act **s 167(3) HS Act**	The Employing Authority of an Employee must notify the Department CEO if – a) the Employee has been found under Division 3 to have committed any Breach of Discipline alleged against the Employee; and b) the Disciplinary Action ordered was dismissal, or the Employing Authority is of the opinion that the Breach of Discipline could result in a serious risk to the safety of patients.	Department CEO	Must be given in writing within 30 days of the finding being made

Duty of a Staff Member

Staff Members are legislatively responsible for the purpose of –

Reporting to their Responsible Authority in accordance with the *Health Services Act 2016* (HS Act).

Legislation	Obligation	Report To	When to Report
s 145(1) HS Act	A Staff Member must, within 7 days of being charged, convicted or found guilty of a Serious Offence, report in writing to their Responsible Authority of the charge being laid or the conviction.	Responsible Authority	Within 7 Days
s 145(2) HS Act	A Staff Member must, within 7 days of receiving notice of a misconduct finding against them under the National Law, report the fact and provide a copy of the misconduct finding to their Responsible Authority.	Responsible Authority	Within 7 Days

13. Appendix 2 – Consequence rating table

Using Table 1, choose the most appropriate category for the identified consequence from the left-hand side of the table, then work along the columns of that row to find the best fit for the severity of the consequence as identified by the worst, realistic, primary consequence(s) should a conduct or performance matter arise.
If the conduct or performance results in a 'near miss', the assessment should still be based on a reasonable, realistic, worst-case scenario.
It is *not* necessary to address each consequence category within the table.
There may be multiple categories applicable to each consequence. Unauthorised secondary employment, for example, can be both an 'impact on staff category' and a 'non-compliance with policy' category. Where this occurs, each consequence must be assessed individually.
It is also possible for one category to have different levels of consequence—theft, for example, may be of different levels, with different impacts.
The descriptors and examples provided are not exhaustive and are intended only as a guide to assist decision-making. Nor are the severity levels such as insignificant, minor etc intended to be measured or clinically assessed. These are provided as a starting point. The context in which individual conduct and behaviour matters occur may result in an assessment that is higher or lower on the consequence rating scale.

Table 1—Consequence rating

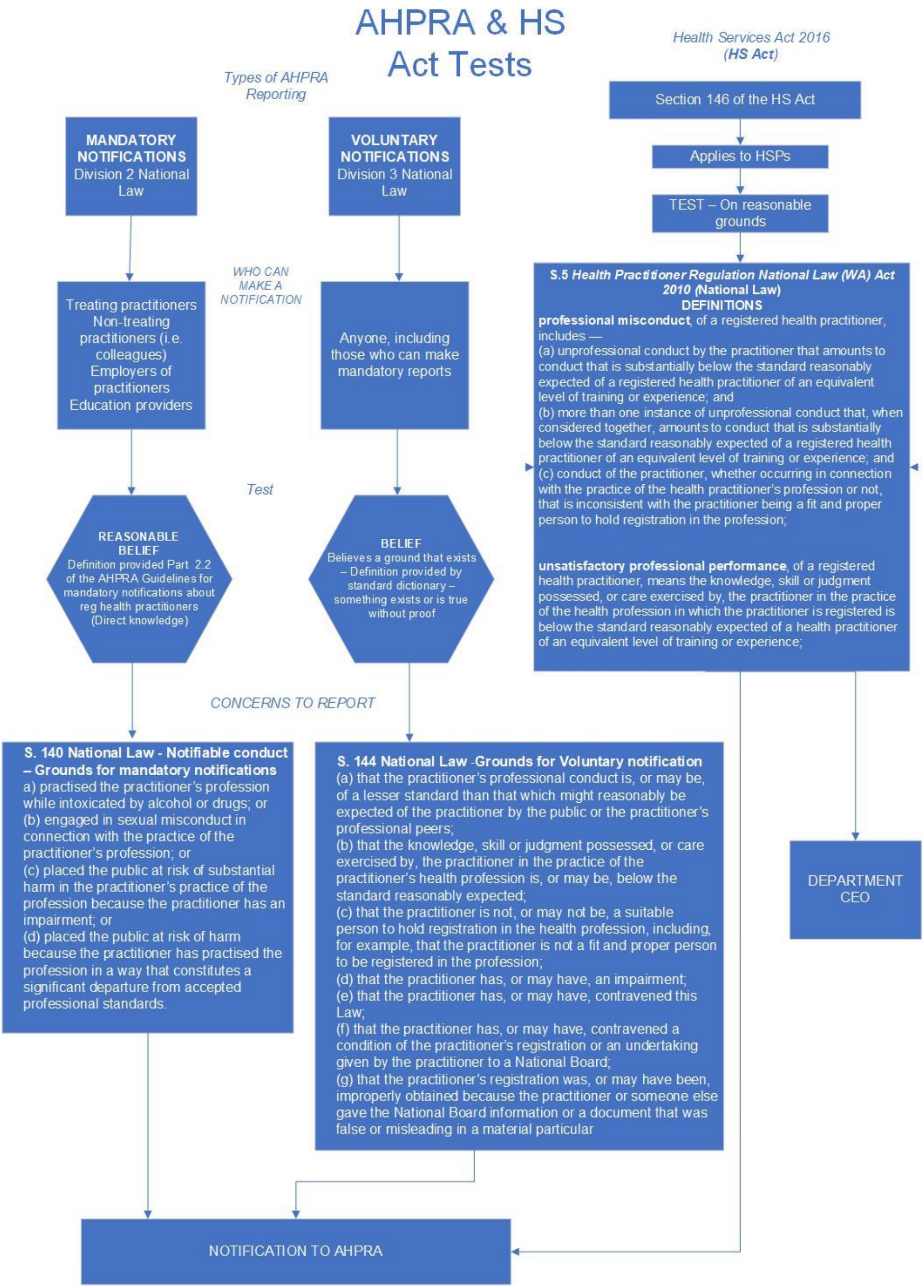
Consequence level **Categories**	**Insignificant**	**Minor**	**Moderate**	**Major**	**Catastrophic**
*Impact on patient's health/safety/wellbeing**	• Minimal impact requiring no/minimal increased level of care • No detriment to the patient e.g. no loss of money or belongings, no loss of trust	• Increased level of care • Recovery without complication • Some non-clinical impact on patient e.g. some loss of money or belongings, or some loss of trust	• Moderate increase in level of care • Recovery without serious complication • An event that impacts on a small number of patients • Increased non-clinical impact on patient e.g. loss of money or belongings, or loss of trust	• Significant increase in level of care • Significant complication and/or significant permanent disability • An event that impacts on several patients • Mismanagement of patient care with long-term impacts • Increased non-clinical impact on patient e.g. loss of money or belongings, or loss of trust	• Death or permanent total disability • An event that impacts upon a large number of patients
*Assessment of this category could be impacted by a number of factors, including the level of vulnerability of the patient, power relationships in play, culture and remoteness of location.					

Consequence level Categories	Insignificant	Minor	Moderate	Major	Catastrophic
*Impact on patient's health/safety/wellbeing**	**Examples:** • Inappropriate posting on social media e.g. a photo that includes a patient • Repeated failure to follow policy/procedure e.g. failure to notify if taking sick or personal leave	**Examples:** • Loss of trust due to medication error; or other Staff Member behaviour • Inappropriate verbal comments • Inappropriate use of social media with impact on patient • Inappropriate or unnecessary physical contact	**Examples:** • Inappropriate verbal comments/unprofessional behaviour • Providing advice to a patient contrary to current treatment or WA Health/HSP position • Bullying/harassment • Accessing and/or disclosing confidential information, not for a work purpose • Inappropriate use of social media, with impact on patient • Falsification of records • Breach of a clinical policy (e.g. consent, chaperone, neglect) with near miss or impact	**Examples:** • Physical assault that requires medical treatment • Disclosure of confidential information, not for a work purpose • Under the influence of alcohol/drugs at work • Theft • Convincing a patient to alter their financial affairs favour Staff Member e.g. a will, bank access • Patient treatment following withdrawal of consent	**Examples:** • Physical assault resulting in serious injury • Patient treatment following withdrawal of consent • Under the influence of drugs at work • Sexual assault • Significant breach of/total disregard for a clinical policy resulting in serious injury or death • Harm resulting in death or permanent total disability
Impact on staff or others' health/safety/wellbeing *('Others' includes volunteers, students, visitors etc)*	• No injury and/or no first aid required • No time off work • No loss of money or property	• Minimal impact requiring first aid or equivalent only • A small amount of time lost or period of altered duties due to injury • Some impact e.g. some loss of money or belongings, or some loss of trust	• Increased level of medical attention required • Moderate time lost or period of altered duties due to injury • Increased impact on person e.g. some loss of money or belongings, or some loss of trust	• Severe health crisis and/or injuries • Prolonged period of absence or period of altered duties due to injury • Abuse of power or relationship of trust to gain a benefit or cause a detriment	• Death or permanent total disability • Negligent behaviour that has a serious impact on a person(s)
	Examples: • Personal discussion with other Staff Member, causing disruption/ disturbance	**Examples:** • Non-aggressive inappropriate comments • Unwanted physical attention • Inappropriate verbal comments/unprofessional behaviour • Unauthorised secondary employment	**Examples:** • Repeated unwanted physical attention • Repeated inappropriate verbal comments/ unprofessional behaviour • Sexualised comments and/or behaviour • Inappropriate touching • Bullying/harassment • Accessing and/or disclosing confidential information • Unfair treatment including withholding acting appointments or shifts	**Examples:** • Physical assault that requires medical treatment • Disclosure of confidential information • Under the influence of alcohol/drugs at work • Bullying/harassment/ discrimination leading to staff resignation or moving ward	**Examples:** • Physical assault resulting in serious injury • Under the influence of drugs at work • Sexual assault

Consequence level Categories	Insignificant	Minor	Moderate	Major	Catastrophic
			• Reputation being undermined by circulation of rumours or inappropriate materials		
Critical services interruption/impact on work environment	• No material disruption to dependent work • No patient/public impact • Spontaneous recovery with no intervention required • No exposure or disruption to access	• Short-term low staffing level that temporarily reduced service quality • Short-term temporary suspension of work • Quick recovery with minimal intervention • Minimal exposure or disruption to access	• Medium-term temporary suspension of work • Manageable impact • Backlog requiring extended work, overtime or additional resources to clear • Medium level intervention indicated to bring about recovery • Short to medium-term restriction of access or exposure	• Prolonged suspension of work • Additional resources, budget and/or management assistance required • Significant intervention • Permanent cessation of harmful activity • Action resulted in significant loss of funds or required significant funds to remedy	• Indeterminate prolonged suspension of work • Impact not manageable • Non-performance • Other providers appointed
	Examples: • Repeatedly late for work • Failure to return paging devices, phones or other equipment • Losing or taking home drug keys	**Examples:** • Inappropriate use of facilities or equipment • Using software that is not approved by HSP	**Examples:** • Inappropriate use of computer equipment exposing ICT to security breach • Failure to present for shift and not advise, resulting in cancellation of procedures • Negligent management e.g. not ensuring adequate financial, human or physical resources • Failure to report Clinical Incidents/hazards/issues of significance in accordance with policy	**Examples:** • Very long-term or permanent denial of access or exposure • Failure to follow procedure, resulting services shutting down e.g. due to contamination • Deliberately allowing radioisotopes to be exposed in an area	**Examples:** • Failure to report Clinical Incidents/hazards/issues of significance in accordance with policy, resulting in serious injury or total permanent disability
Non-compliance with legislation, policy, procedure	• Minor procedural breach • Evidence of good faith by degree of care/diligence • Little impact	• Minor breach, with objection/complaint lodged • Minor harm, with investigation • Evidence of good faith arguable	• Moderate/more serious breach • Lack of good faith evident • Performance review initiated • Material harm caused • Misconduct established	• Significant breach or gross negligence • Significant harm • Serious misconduct • Multiple repeats of similar behaviours • Criminal offence	• Very serious breach • Criminal negligence or act • Serious criminal offence

Consequence level Categories	Insignificant	Minor	Moderate	Major	Catastrophic
	Examples: • Sharing access card with other Staff Member, and no impact from this sharing • Personal discussion with other Staff Member causing disruption/ disturbance	**Examples:** • Inconsistent attendance at work • Refusal to follow a lawful direction • Unauthorised secondary employment	**Examples:** • Refusal to follow a lawful direction • Unauthorised research • Inappropriate verbal comments/unprofessional behaviour • Bullying/harassment • Accessing and/or disclosing confidential information • Theft of drugs, PPE or other Health assets • Sharing passwords • Unauthorised destruction of government records • Corrupt practices; nepotism • Failure to follow S4R/S8 Policy—medication not secured—with minimal impact on patient	**Examples:** • Physical assault • Disclosure of confidential information • Under the influence of alcohol/drugs at work • Theft • Misusing government credit card/travel entitlements • Repeated falsifying of work/leave hours • Negligence in performing duties • Harm to patient due to failure to follow policy • Police charges and/or conviction for a serious criminal offence • Failure to follow S4R/S8 Policy—medication not secured—with impact on patient	**Examples:** • Theft of drugs • Failure to follow policy, leading to death or permanent disability of patient • Police charges and/or conviction for a serious criminal offence e.g. grievous bodily harm • AHPRA imposing immediate suspension
Reputation damage/loss of public confidence in WA Health	• No exposure • Settled quickly • No impact	• Non-headline exposure • Settled quickly by HSP response • Negligible impact	• Repeated non-headline exposure • Slow resolution • System-wide response required • Ministerial enquiry/briefing • Qualified Accreditation of a health facility	• Headline profile • Repeated exposure • Ministerial involvement • High priority recommendation to preserve accreditation	• Maximum multiple high-level exposure • Ministerial censure • Direct intervention • Loss of credibility and public/key stakeholder support • Accreditation withdrawn
	Examples: • Any breach of the code of conduct	**Examples:** • Voicing opinion regarding government policy on social media	**Examples:** • Perception of discrimination e.g. on the basis of race, culture, age, disability, gender • Giving unfair advantage to a supplier or contractor • Failure to properly maintain equipment	**Examples:** • CCC releases report into operations of a HSP • Sexual assault of patient or Staff Member resulting in some media coverage	**Examples:** • Unexpected death of patient

14. Appendix 3 – Dual reporting obligations



15. Appendix 4 – Reporting Conduct Form

Reporting Conduct Form (completed by HSP)

Report to the Department CEO in accordance with Parts 10 and 11 of the *Health Services Act 2016* (HS Act)

Part 1: Report details and nexus to patient safety	
Part 1A: Report details	
Date assessment prepared:	
Health Service Provider (**HSP**):	[choose from list]
Responsible Authority:[3]	[Enter Chief Executive's name here]
Employing Authority:[4]	Choose an item.
Matter being reported	There are three possible types of report, as follows:
s 146(1)	The responsible authority must report any conduct of a staff member that the responsible authority suspects on reasonable grounds constitutes or may constitute professional misconduct or unsatisfactory professional performance to:[5] a) the professional board or authority that deals with the registration of the staff member as a health practitioner; and b) the Department CEO.
s 146(2)	A staff member's responsible authority must, on becoming aware that the staff member has been charged with having committed, or has been convicted or found guilty of, a serious offence,[6] report the staff member's charge, conviction or the finding of guilt to the Department CEO.
s 167(2)	The employing authority of an employee must notify the Department CEO, if the employee has been found under this division to have committed any breach of discipline AND if the disciplinary action ordered was dismissal, or if the breach of discipline could result in serious risk to the safety of patients. The notification must be in writing within 30 days of the finding being made.
The matter is being reported under:	
s 146(1)	☐ Suspected professional misconduct; /or ☐ Suspected unsatisfactory professional performance
s 146(2)	☐ Charged with having committed a serious offence; or ☐ Convicted or found guilty of a serious offence
s 167(2)	☐ A breach was found, *and* the disciplinary action ordered was dismissal; and/or ☐ A breach was found, *and* the breach of discipline could result in a serious risk to the safety of patients

Part 1B: Details of the Staff Member subject of the report (in bold type)		
Name:		Date of birth:
HE no.:	Registration no/s:	
Occupation:	Is the registration a prerequisite for the position held? If yes, which registration?	
Position/Job title:		
Type of engagement:	☐ Employee ☐ Contracted staff ☐ CMP ☐ Other (specify):	
Location:	[Insert location in full]	

[3] Section 144 of the HS Act defines the Responsible Authority as the Chief Executive of the HSP.
[4] Section 103 of the HS Act defines the Employing Authority as the Board or Chief Executive, depending on how the HSP is governed.
[5] The HS Act defines pprofessional misconduct or unsatisfactory professional performance as defined within the *Health Practitioner Regulation National Law WA 2010* (WA National Law) at Part 1 s 5.
[6] Serious Offence has the same meaning as section 80A of the *Public Sector Management Act 1994*.

Status of engagement:	☐ still employed/engaged ☐ dismissed ☐resigned ☐ suspended ☐ directed to remain from the workplace ☐ abandoned
System Case Management System (CMS) Reference Number	

Part 1C: Details of report to Department CEO

Documents attached (Refer to as Attachment 2 and onwards in this form)	1. Detail attachment, example, Letter of Allegation (if provided) 2. AHPRA search date and results 3.

Description of conduct or performance issue(s)

The description of the conduct or performance issue(s) should include:

- a summary of the allegation(s) including date(s) and location
- patient details, deidentified or referenced with the URN only
- any risk or danger to a patient, staff member or any other person, or the broader health system
- any other relevant information, including that used in assessing the issue.

Actions taken by the HSP

Detail the actions taken in relation to the conduct or performance issue(s), including:

- any preliminary enquiries undertaken, and their findings/outcome if available
- any action being taken, or proposed actions or processes (discipline, substandard performance, fitness for work)
- the relevant legislation, policies and/or procedures supporting the actions or processes – for registered health practitioners
- the date and results of a search of the Australian Health Practitioner Regulation Agency (**AHPRA**) Register of Practitioners (to be provided as Attachment 2), including any conditions, undertakings or reprimands on the Register against this practitioner
- reports to external agencies: AHPRA, Western Australian Police (**WA Police**), the Corruption and Crime Commission (**CCC**), the Public Sector Commission (PSC) or the Ombudsman (refer to section 2B(1))
- for a suspected criminal offence, the relevant breach of legislation if known; for example, Unlawful use of a computer, section 440A of the *Criminal Code Act Compilation Act 1913*.

Part 1D: Nexus of conduct or performance issue to patient safety

Description of the nexus: *Insert description of nexus*

Could the conduct have directly/indirectly impacted upon the safety of patients? If so describe:

Part 2: Identification and mitigation of identified risks

Part 2A: Assessment of impact of conduct or behaviour

Using the table below, complete the following assessment (**tick box where applicable**). The consequence table attached to this form at Appendix 1 may be useful in assessing the impact.

Impact	**Level**	**N/A**	**Insignificant**	**Minor**	**Moderate**	**Major**	**Catastrophic**
Impact on patient's health/safety/ wellbeing		☐	☐	☐	☐	☐	☐
Impact on staff or other's health/safety/ wellbeing		☐	☐	☐	☐	☐	☐
Critical services interruption/impact on work environment		☐	☐	☐	☐	☐	☐
Non-compliance with legislation, policy, procedure		☐	☐	☐	☐	☐	☐
Reputation damage/loss of public confidence in WA Health		☐	☐	☐	☐	☐	☐

Part 2B: External reporting requirements and other considerations

A staff member's responsible authority has certain obligations to report conduct under s 146 or s 167 of the HS Act. There are also external reporting requirements for some matters, including to AHPRA, the CCC, the PSC and the WA Police. HSPs are also required to follow particular processes in relation to disciplinary matters.

The information provided by completing Parts 2B(1), 2B(2), 2(B) 3 and 2 B(4) below will assist the Department CEO's decision-making in relation to whether to register the person's details in the CMS for Pre-employment Integrity Check purposes, and whether to notify other HSPs of the matter.

Part 2B(1): External reporting requirements

Reporting requirement*	Response	Report date
If the matter concerns a registered health practitioner, given the requirements of s 146(1), has the matter been reported to AHPRA? If no, in the actions taken by HSP section, explain why the matter has not been reported.	Choose an item.	Click here to enter a date.
If the matter concerns a suspected criminal offence, has it been reported to WA Police?	Choose an item.	Click here to enter a date.

If no, in the actions taken by HSP section, explain why the matter has not been reported.		
If the matter concerns serious misconduct, has the matter been reported to the CCC in accordance with s 4 of the *Corruption, Crime and Misconduct Act 2003* (WA)? If no, in the actions taken by HSP section, explain why the matter has not been reported.	Choose an item.	Click here to enter a date.
If the matter concerns minor misconduct, has it been reported to the PSC in accordance with s 28 or s 45H of the *Corruption, Crime and Misconduct Act 2003* (WA)? If no, in the actions taken by HSP section, explain why the matter has not been reported.	Choose an item.	Click here to enter a date.
If it is a matter reportable to the Ombudsman under s 19 of the *Parliamentary Commissioner Act 1971*, has it been reported to the Ombudsman? If no, in the actions taken by HSP section, explain why the matter has not been reported.	Choose an item.	Click here to enter a date.
Has the matter been reported to any other authority? (For example, Mandatory reporting of Child Abuse in WA, in accordance with the *Children and Community Services Act 2004*) If yes, provide details provide response in the actions taken by HSP.	Choose an item.	Click here to enter a date.
Part 2B(2): Process used to manage issue		
Have any processes associated with the conduct been concluded? If no, what stage is the process or processes at?	Choose an item Choose an item.	Click here to enter a date.
Has the person had their scope of practice or duties been altered?[7] If yes, provide details:	Choose an item.	Click here to enter a date.

[7] Section164 of the HS Act provides options to suspend or alter the employee's scope of practice or duties.

Is this the first instance of this behaviour by this person? If no, provide details of previous matters/reports/ outcomes:	Choose an item.	
Could this matter be seen as contributing to a pattern of behaviour, potentially indicating behavioural/performance problems? If yes, provide further detail to the report.	Choose an item.	
Part 2B(3) Employment status		
Is this person a former employee?	Choose an item.	
Is consideration being given to the former employee provisions, pursuant to the *Health Services (General) Regulations 2019*?	Choose an item.	
Has the person resigned from or abandoned the position related to the report?	Choose an item.	Click here to enter a date.
Is the person employed/engaged elsewhere in the WA public health system? If known, provide details:	Choose an item.	
To your knowledge, is the person employed/engaged by a private health provider? If yes, provide details if known:	Choose an item.	
Part 2B(4): Other considerations		
Are there other relevant considerations or lessons learnt from this matter? If yes, provide details:	Choose an item.	

*Attach a copy of any external reports as Attachment 2

Assessment Prepared by: First Last Name **POSITION** **DEPARTMENT / UNIT**

Date: Click here to enter a date.

Sign off: First Last Name **CHIEF EXECUTIVE** Choose an item.

Date Click here to enter a date.

Part 3: Closure report Choose an item.

* If applicable complete now, or complete as soon as practicable.

Part 3A: Provide an update of matter and additional actions by HSP
Provide details of the current situation in relation to the matter, and any additional actions taken by the HSP, including: • whether the Closure report relates to a closure of a matter relating to s146(1) or 146(2) or to a notification in relation to s167 of the HS Act. Provide details. • a list of the allegations • whether each allegation was substantiated or not, and outcomes of any management process/es. Provide legislative reference if applicable • any decision making rationale • an update to the matter which may not have been provided in the initial report • an update report if external reporting has occurred • a current AHPRA registration of practitioner check.

Attach relevant documents

Part 4: Outcome (if applicable)		
Date of decision	Click here to enter a date.	
Outcome	Choose an item. Click here to enter a date.	
Was Disciplinary and/or Improvement Action implemented?	Disciplinary Action	Improvement Action
	Choose an item.	Choose an item. Provide details of 'other action' taken:
Was the matter dealt with as per the Substandard Performance Process?	Choose an item.	
Was the matter dealt with via the disputes mechanism process (for CMPs)?	Choose an item.	
Has the person entered into a deed of settlement or other post-separation agreement?		Choose an item.
Has the person appealed the outcome?		Choose an item.
For s 167(2) matters, could the conduct have resulted in a serious risk to safety? If yes provide details:	Choose an item. []	

Closure Report Prepared by: First Last Name **POSITION** **DEPARTMENT / UNIT** **Date:** Click here to enter a date.

Sign off: First Last Name **CHIEF EXECUTIVE** Choose an item. **Date:** Click here to enter a date.

Appendix 1 – Consequence table

Using Table 1, choose the most appropriate category for the identified consequence from the left-hand side of the table, then work along the columns of that row to find the best fit for the severity of the consequence as identified by the worst, realistic, primary consequence(s) should a conduct or performance matter arise.

If the conduct or performance results in a 'near miss', the assessment should still be based on a reasonable, realistic, worst-case scenario.

It is *not* necessary to address each consequence category within the table.

There may be multiple categories applicable to each consequence. Unauthorised secondary employment, for example, can be both an 'impact on staff category' and a 'non-compliance with policy' category. Where this occurs, each consequence must be assessed individually.

It is also possible for one category to have different levels of consequence—theft, for example, may be of different levels, with different impacts.

The descriptors and examples provided are not exhaustive and are intended only as a guide to assist decision-making. Nor are the severity levels such as insignificant, minor etc intended to be measured or clinically assessed. These are provided as a starting point. The context in which individual conduct and behaviour matters occur may result in an assessment that is higher or lower on the consequence rating scale.

Table 1—Consequence rating

Consequence level **Category**	**Insignificant**	**Minor**	**Moderate**	**Major**	**Catastrophic**
*Impact on patient's health/safety/wellbeing** *Assessment of this category could be impacted by a number of factors, including the level of vulnerability of the patient, power relationships in play, culture and remoteness of location.	• Minimal impact requiring no/minimal increased level of care • No detriment to the patient e.g. no loss of money or belongings, no loss of trust	• Increased level of care • Recovery without complication • Some non-clinical impact on patient e.g. some loss of money or belongings, or some loss of trust	• Moderate increase in level of care • Recovery without serious complication • An event that impacts on a small number of patients • Increased non-clinical impact on patient e.g. loss of money or belongings, or loss of trust	• Significant increase in level of care • Significant complication and/or significant permanent disability • An event that impacts on several patients • Mismanagement of patient care with long-term impacts • Increased non-clinical impact on patient e.g. loss of money or belongings, or loss of trust	• Death or permanent total disability • An event that impacts upon a large number of patients
*Impact on patient's health/safety/wellbeing**	**Examples:** • Inappropriate posting on social media e.g. a photo that includes a patient • Repeated failure to follow policy/procedure e.g. failure to notify if taking sick or personal leave	**Examples:** • Loss of trust due to medication error; or other staff member behaviour • Inappropriate verbal comments • Inappropriate use of social media with impact on patient • Inappropriate or unnecessary physical contact	**Examples:** • Inappropriate verbal comments/unprofessional behaviour • Providing advice to a patient contrary to current treatment or WA Health/HSP position • Bullying/harassment • Accessing and/or disclosing confidential information, not for a work purpose • Inappropriate use of social media, with impact on patient • Falsification of records • Breach of a clinical policy (e.g. consent, chaperone, neglect) with near miss or impact	**Examples:** • Physical assault that requires medical treatment • Disclosure of confidential information, not for a work purpose • Under the influence of alcohol/drugs at work • Theft • Convincing a patient to alter their financial affairs favour staff member e.g. a will, bank access • Patient treatment following withdrawal of consent	**Examples:** • Physical assault resulting in serious injury • Patient treatment following withdrawal of consent • Under the influence of drugs at work • Sexual assault • Significant breach of/total disregard for a clinical policy resulting in serious injury or death • Harm resulting in death or permanent total disability
Impact on staff or others' health/safety/wellbeing *('Others' includes volunteers, students, visitors etc)*	• No injury and/or no first aid required • No time off work • No loss of money or property	• Minimal impact requiring first aid or equivalent only • A small amount of time lost or period of altered duties due to injury • Some impact e.g. some loss of money or belongings, or some loss of trust	• Increased level of medical attention required • Moderate time lost or period of altered duties due to injury • Increased impact on person e.g. some loss of money or belongings, or some loss of trust	• Severe health crisis and/or injuries • Prolonged period of absence or period of altered duties due to injury • Abuse of power or relationship of trust to gain a benefit or cause a detriment	• Death or permanent total disability • Negligent behaviour that has a serious impact on a person(s)
	Examples: • Personal discussion with other staff member, causing disruption/ disturbance	**Examples:** • Non-aggressive inappropriate comments • Unwanted physical attention • Inappropriate verbal comments/unprofessional behaviour • Unauthorised secondary employment	**Examples:** • Repeated unwanted physical attention • Repeated inappropriate verbal comments/ unprofessional behaviour • Sexualised comments and/or behaviour • Inappropriate touching • Bullying/harassment • Accessing and/or disclosing confidential information • Unfair treatment including withholding acting appointments or shifts • Reputation being undermined by circulation of rumours or inappropriate materials	**Examples:** • Physical assault that requires medical treatment • Disclosure of confidential information • Under the influence of alcohol/drugs at work • Bullying/harassment/ discrimination leading to staff resignation or moving ward	**Examples:** • Physical assault resulting in serious injury • Under the influence of drugs at work • Sexual assault
Critical services interruption/impact on work environment	• No material disruption to dependent work • No patient/public impact • Spontaneous recovery with no intervention required • No exposure or disruption to access	• Short-term low staffing level that temporarily reduced service quality • Short-term temporary suspension of work • Quick recovery with minimal intervention • Minimal exposure or disruption to access	• Medium-term temporary suspension of work • Manageable impact • Backlog requiring extended work, overtime or additional resources to clear • Medium level intervention indicated to bring about recovery	• Prolonged suspension of work • Additional resources, budget and/or management assistance required • Significant intervention • Permanent cessation of harmful activity	• Indeterminate prolonged suspension of work • Impact not manageable • Non-performance • Other providers appointed

Consequence level Category	Insignificant	Minor	Moderate	Major	Catastrophic
			• Short to medium-term restriction of access or exposure	• Action resulted in significant loss of funds or required significant funds to remedy	
	Examples: • Repeatedly late for work • Failure to return paging devices, phones or other equipment • Losing or taking home drug keys	**Examples:** • Inappropriate use of facilities or equipment • Using software that is not approved by HSP	**Examples:** • Inappropriate use of computer equipment exposing ICT to security breach • Failure to present for shift and not advise, resulting in cancellation of procedures • Negligent management e.g. not ensuring adequate financial, human or physical resources • Failure to report Clinical Incidents/hazards/issues of significance in accordance with policy	**Examples:** • Very long-term or permanent denial of access or exposure • Failure to follow procedure, resulting services shutting down e.g. due to contamination • Deliberately allowing radioisotopes to be exposed in an area	**Examples:** • Failure to report Clinical Incidents/hazards/issues of significance in accordance with policy, resulting in serious injury or total permanent disability
Non-compliance with legislation, policy, procedure	• Minor procedural breach • Evidence of good faith by degree of care/diligence • Little impact	• Minor breach, with objection/complaint lodged • Minor harm, with investigation • Evidence of good faith arguable	• Moderate/more serious breach • Lack of good faith evident • Performance review initiated • Material harm caused • Misconduct established	• Significant breach or gross negligence • Significant harm • Serious misconduct • Multiple repeats of similar behaviours • Criminal offence	• Very serious breach • Criminal negligence or act • Serious criminal offence
	Examples: • Sharing access card with other staff member, and no impact from this sharing • Personal discussion with other staff member causing disruption/ disturbance	**Examples:** • Inconsistent attendance at work • Refusal to follow a lawful direction • Unauthorised secondary employment	**Examples:** • Refusal to follow a lawful direction • Unauthorised research • Inappropriate verbal comments/unprofessional behaviour • Bullying/harassment • Accessing and/or disclosing confidential information • Theft of drugs, PPE or other Health assets • Sharing passwords • Unauthorised destruction of government records • Corrupt practices; nepotism • Failure to follow S4R/S8 Policy—medication not secured—with minimal impact on patient	**Examples:** • Physical assault • Disclosure of confidential information • Under the influence of alcohol/drugs at work • Theft • Misusing government credit card/travel entitlements • Repeated falsifying of work/leave hours • Negligence in performing duties • Harm to patient due to failure to follow policy • Police charges and/or conviction for a serious criminal offence • Failure to follow S4R/S8 Policy—medication not secured—with impact on patient	**Examples:** • Theft of drugs • Failure to follow policy, leading to death or permanent disability of patient • Police charges and/or conviction for a serious criminal offence e.g. grievous bodily harm • AHPRA imposing immediate suspension
Reputation damage/loss of public confidence in WA Health	• No exposure • Settled quickly • No impact	• Non-headline exposure • Settled quickly by HSP response • Negligible impact	• Repeated non-headline exposure • Slow resolution • System-wide response required • Ministerial enquiry/briefing • Qualified Accreditation of a health facility	• Headline profile • Repeated exposure • Ministerial involvement • High priority recommendation to preserve accreditation	• Maximum multiple high-level exposure • Ministerial censure • Direct intervention • Loss of credibility and public/key stakeholder support • Accreditation withdrawn
	Examples: • Any breach of the code of conduct	**Examples:** • Voicing opinion regarding government policy on social media	**Examples:** • Perception of discrimination e.g. on the basis of race, culture, age, disability, gender • Giving unfair advantage to a supplier or contractor • Failure to properly maintain equipment	**Examples:** • CCC releases report into operations of a HSP • Sexual assault of patient or staff member resulting in some media coverage	**Examples:** • Unexpected death of patient