



Australian Federal Police Categories of Conduct Determination 2013

Australian Federal Police Act 1979

WE, TONY W NEGUS, Commissioner, Australian Federal Police and COLIN NEAVE, Commonwealth Ombudsman make this Determination under subsection 40RM (1) of the *Australian Federal Police Act 1979*.

Dated 5 July 2013

TONY W NEGUS
Commissioner, Australian Federal Police

COLIN NEAVE
Commonwealth Ombudsman

1 Name of Determination

This Determination is the *Australian Federal Police Categories of Conduct Determination 2013*.

2 Commencement

This Determination commences on the day after it is registered.

3 Definitions

In this Determination:

Act means the *Australian Federal Police Act 1979*.

ACLEI means Australian Commission for Law Enforcement Integrity.

AFP means the Australian Federal Police.

AFP appointee has the same meaning as in s 4 of the *Australian Federal Police Act 1979*.

AFP Code of Conduct means the AFP Code of Conduct as published by the AFP on 26 September 2012

CRAMS refers to the AFP's Complaint Recording and Management System.

Minor Misconduct: means intentional or negligent conduct that is inconsistent with the AFP Code of Conduct and/or values of the AFP, and should reasonably be dealt with through training and development or remedial action in the workplace. Minor misconduct does not include matters of underperformance or workplace conflict. These matters should be dealt with through the appropriate managerial mechanisms before being referred as a conduct issue.

PRS means the Professional Standards section of the AFP.

Serious Misconduct: means intentional, deliberate or grossly negligent conduct that demonstrates wilful or reckless indifference to the AFP Code of Conduct and/or values of the AFP, whether in the AFP appointee's official capacity or otherwise, and /or could reasonably raise a question of employment suitability. In accordance with Part V of the Act, serious misconduct may include the commission of a criminal offence.

4 **Categorisation**

For subsection 40RM(1) of the Act, conduct is conduct of a particular category if it is described in a table in the Schedule relating to that category.

Schedule

Category 1

Category 1 conduct issues are minor management matters, customer service issues, or conduct that reveals a need for improvement in the performance of an AFP appointee. These complaints may be generated by members of the public or by AFP appointees.

Supervisor action using appropriate AFP governance should be considered when dealing with Category 1 minor misconduct involving AFP appointees. Should the behaviour continue or be repeated, consideration may be given to whether or not the minor misconduct constitutes a Category 2 conduct issue.

Category 1 matters may be conciliated within 5 days of receipt without being recorded in CRAMS. Where appropriate, any training and development action should be recorded in the AFP appointee's Performance Development Assessment (PDA).

Category 1 complaints may be elevated to Category 2 complaints at the discretion of the relevant Complaints Management Team (CMT).

Conduct	Description
Customer Service Issues	Failure to provide a service or facility in an adequate, professional or appropriate manner.
	Failure to provide appropriate or correct advice.
	Unreasonable delay in dealing with an issue or providing a service.
	Failure to take appropriate action in relation to an issue where action by the AFP appointee was warranted in the circumstances.
	Discourteous behaviour including (but not limited to) rudeness, abruptness, verbal abuse, derisive attitude or behaviour, unreasonableness, lack of respect.
	Failure to comply with an AFP guideline, practice or procedure that resulted in a customer service issue of a minor nature.

Category 2

Category 2 conduct issues include:

- Minor misconduct;
- Inappropriate conduct that reveals unsatisfactory behaviour by an AFP appointee;
- Conduct that would otherwise be a Category 1 matter but warrants treatment as Category 2 due to its repeated nature; or
- Misconduct as defined in Part V of the Act, which does not warrant being classified as either a Category 3 conduct issue or a corruption matter.

Complaints that begin as a Category 2 matter may be elevated to a Category 3 complaint on the recommendation of the relevant CMT or by determination of PRS management.

Conduct	Description
Breach of Commissioner's Orders	Breach of a Commissioner's Order where that breach is not specifically identified within this Determination.
Breach of Commissioner's Order 3 on Operational Safety	Breach of Commissioner's Order 3 on Operational Safety (not relating to excessive use of force).
	A complaint of excessive use of force where the circumstances are unlikely to amount to serious misconduct or serious negligence.
	Unauthorised discharge of a conducted energy weapon.
Breach of Commissioner's Order 9 on Security	Failure to report a security incident as required by Commissioner's Order 9 on Security.
	Failure to apply sound security practices within their role and duties.
	Any other breach of Commissioner's Order 9 on Security.
Breach of National Guideline or Practical Guide	Breach of an AFP National Guideline or AFP Practical Guide where departure is inappropriate, unwarranted or unjustified and that does not amount to serious misconduct or serious neglect of duty.
Breach of the Code of Conduct	Traffic matters which result in a requirement to appear in court.
	Failure of due care or diligence.
	Failure to adequately and/or appropriately supervise an AFP appointee within the supervisor's line of responsibility.
	Failure to comply with a lawful direction.

Conduct	Description
	Unwarranted attention towards a person who is not an AFP appointee, including harassment or taking action at a level that was unreasonable or unjustified.
	Failure to meet the standards of behaviour reasonably expected of an AFP appointee.
	Sexual harassment as defined in the Commonwealth <i>Sex Discrimination Act 1984</i> where the victim wants the matter to be dealt with informally in the workplace and it is not going to be dealt with as criminal conduct.
	Workplace harassment and/or bullying.
	Breach of the AFP Code of Conduct – other.
	Breach of the AFP Code of Conduct – multiple Category 1 conduct.

Category 3

A Category 3 issue is serious misconduct as defined under Part V of the Act, but does not give rise to a corruption issue.

A matter should be initially investigated as a Category 3 matter if:

1. The conduct as described in the complaint would, prima facie, amount to serious misconduct pursuant to Commissioner’s Orders 2; or
2. The conduct is assessed to have been carried out deliberately and/or is of such seriousness as to demonstrate that the AFP appointee has been wilfully or recklessly indifferent to the professional standards and integrity of the AFP.; or
3. The description of the conduct would reasonably lead to consideration of the employment suitability of the AFP appointee; or
4. The description of the conduct, prima facie amounts to a criminal offence.

With the exception of corruption matters, if the conduct complained of fails to meet the above principles, it should be determined to be Category 2 minor misconduct.

Corruption matters are referred to ACLEI.

The descriptions provided in the below table are examples only. This table is designed to further guide the assessment of Category 3 matters, which are not limited to the examples given.

Conduct	Description
Serious Breach of law	Driving over the prescribed concentration of alcohol.
	Arrested, summonsed or charged in relation to an alleged criminal offence (other than traffic offences) in

Conduct	Description
	any jurisdiction (including court attendance notices).
	Traffic offences that may lead to criminal charges.
	Breach of the <i>Australian Federal Police Act 1979</i>
	Sexual harassment where the victim wants the matter dealt with formally and/or the behaviour is of such a serious nature (e.g. constitutes criminal conduct) as to require formal intervention.
	Workplace harassment and/or bullying which is repeated and unreasonable or is of such a serious nature as to require formal intervention.
Serious Breach of Commissioner's Order 3 amounting to serious misconduct or serious negligence through excessive use of force	Serious breach of Commissioner's Order 3 that warrants examination as a Category 3 matter.
	Unauthorised discharge of a firearm.
	Use of force where non - approved methods or accoutrements are used to affect the force applied.
	Any complaint made regarding excessive use of force where injury is sustained to the subject.
	Threatening to use excessive force against a person, which involves a weapon.
	Failure to secure ammunition and/or accoutrements posing potential danger to the public or which may damage the reputation of the AFP.
Serious Breach of other Commissioner's Orders and Instructions amounting to serious misconduct or serious neglect of duty.	Failure to report a contravention of Professional Standards by an AFP appointee.
	Serious/deliberate Breach of Commissioner's Order 9 which may lead to a breach of operational or national security, or which may damage the reputation of the AFP.
	Serious Breach of Commissioner's Orders or Instructions – other.
Serious Breach of the AFP Code of Conduct	Breach of the AFP Code of Conduct – multiple Category 2 conduct.
	A serious breach of the Code of Conduct that involves serious misconduct or a serious neglect of duty as defined under Commissioner's Order 2.
Serious Breach of AFP National Guidelines	A serious breach of an AFP National Guideline that involves serious misconduct or a serious neglect of duty as defined under Commissioner's Order 2.