



Notifiable and Reportable Conduct Policy

1. Purpose

This Policy sets the minimum requirements for recording, reporting and managing Notifiable and Reportable conduct, and is intended for:

- the protection and safety of patients
- the identification of integrity related risks
- the broader public interest
- reputational excellence
- confidence by the community.

This Policy operationalises the legislative requirements of the *Health Services Act 2016* (HS Act) relating to conduct.

For the purpose of this Policy, Notifiable and Reportable Conduct means conduct by a staff member that:

- is suspected on reasonable grounds to constitute or may constitute Professional Misconduct or Unsatisfactory Professional Performance as defined in accordance with section 5 of the *Health Practitioner Regulation National Law (WA) Act 2010* (National Law), reportable to the Department Chief Executive Officer (CEO) pursuant to section 146(1) of the HS Act; and/or
- relates to a charge for a Serious Offence reportable to the Department CEO pursuant to section 146(2) of the HS Act; and/or
- may concern a Breach of Discipline pursuant to sections 160, 161 & 162 of the HS Act; and/or
- concerns suspected Minor or Serious Misconduct as defined in accordance with section 4 of the *Corruption Crime and Misconduct Act 2003* (CCM Act) (notifiable to the Corruption and Crime Commission or the Public Sector Commission pursuant to sections 28 or 45H of the CCM Act).

This Policy should be read in conjunction with:

- the [Criminal Record Screening Policy OD0275/10](#)
- [Case Management System \(CMS\) User Document \(access restricted to authorised employees only\)](#)
- [Notifying misconduct - A guide for Principal Officers of Notifying Authorities](#), joint CCC / PSC publication, August 2018.

This Policy is a mandatory requirement under the *Integrity Policy Framework* pursuant to section 20(1)(l) and (o) of the *Health Services Act 2016*.

This Policy supersedes *Notifying Misconduct Policy* MP 0029/16 and *Reporting of Criminal Conduct and Professional Misconduct Policy* MP 0043/16.

2. Applicability

This Policy is applicable to all Health Service Providers.

3. Policy requirements

Health Service Providers must ensure that:

- All conduct that concerns a suspected breach of discipline is recorded in the CMS, and in accordance with the Discipline Policy.
- Reportable and Notifiable Conduct (that requires reporting to the Department CEO in accordance with sections 146 and 167 of the HS Act), is:
 - reported using the Reporting Conduct Template
 - concluded as soon as reasonably practicable and outcomes are reported to the Department CEO as soon as reasonably practicable and within 30 calendar days, using the Closure Reporting Template.
- When a notification is received from the Department CEO regarding a Staff Member in accordance with sections 146(3) or 167(4) of the HS Act, the Health Service Provider must as soon as reasonably practicable:
 - ascertain whether the staff member is employed or contracted within their Health Service Provider, and if so
 - provide notification to the Department CEO and inform on the management of any potential risks to the protection or safety of patients.
- Suspected criminal offences are reported to the Police.

In accordance with section 146(3) of the HS Act, the Responsible Authority and/or Employing Authority of a staff member subject to a report must assess and respond to any risks arising from the report.

The System Manager (System-wide Integrity Services on behalf of the Department CEO) must be notified as soon as reasonably practicable of all:

- Health Service Provider administrators who have been granted access to CMS
- Health Service Provider administrators who have had their access to CMS revoked.

Access to information in the CMS must be limited to:

- approved employees of the Health Service Provider
- information that pertains to that specific Health Service Provider.

4. Compliance monitoring

Health Service Providers are responsible for complying with this Policy.

Health Service Providers must:

- provide to the Department CEO (System-wide Integrity Services), via the Chief Executive or Health Service Provider Board, an aggregated report including trend analysis bi-annually.

Nothing in this Policy limits the Department CEO's powers to:

- disclose to a person or body any information relevant, for the purpose of meeting the requirement of sections 146(3) or 220 of the HS Act
- access a Health Service Provider's data in CMS for the purpose of performing a function
- seek further information from a Health Service Provider regarding conduct, within the provisions of sections 146 or 220 of the HS Act.

Nothing in this Policy limits a Health Service Provider from collecting, using or disclosing information to a relevant external agency in accordance with section 220(1)(a) or (g) of the HS Act.

5. Related documents

The following documents are mandatory pursuant to this Policy:

- [Annexure 1 Reporting Conduct Template](#)
- [Annexure 2 Closure Reporting Template](#)
- [Annexure 3 Aggregated Report Example](#)

6. Supporting information

The following information is not mandatory but informs and/or supports the implementation of this Policy:

- [Notifiable and Reportable Conduct Guide](#)

7. Definitions

The following definitions are relevant to this Policy.

Term	Definition
Administrator	An Administrator is a person who can: <ul style="list-style-type: none">• grant CMS access to users;• grant Administrator access to other users; and• access, create and export data in CMS.

Term	Definition
Breach of discipline	<p>Pursuant to section 161 of the HS Act, an Employee commits a breach of discipline if the Employee:</p> <ul style="list-style-type: none"> (a) disobeys or disregards a lawful order; or (b) contravenes – <ul style="list-style-type: none"> (i) any provision of the HS Act 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; or (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 <i>Public Interest Disclosure Act 2003</i> section 15.
Chief Executive	The person appointed by the Department CEO as CE of the Health Service Provider pursuant to section 108 of the HS Act.
Conduct	<p>For the purpose of this Policy, Conduct includes:</p> <ul style="list-style-type: none"> • parts 10 and 11 reports in accordance with the HS Act; • suspected Misconduct as defined in the CCM Act; • a suspected breach of discipline as defined in the HS Act; and • a Misconduct Finding in accordance with the National Law. <p>Misconduct finding includes a finding of unsatisfactory professional performance, unprofessional conduct or professional misconduct.</p>
Criminal Conduct	Where a Staff Member has been charged with having committed, or is convicted or found guilty of a Serious Offence.
Department CEO	The CEO (Director General) of DoH.
Employee	<p>Pursuant to section 6 of the HS Act means a person employed in a Health Service Provider and includes:</p> <ul style="list-style-type: none"> (a) the CE of the Health Service Provider; (b) a health executive employed in the Health Service Provider;

Term	Definition
	<p>(c) a person employed in the Health Service Provider; or</p> <p>(d) a person seconded to the Health Service Provider.</p>
Employing Authority	<p>Pursuant to section 103 of the HS Act employing authority means –</p> <p>(a) in relation to a chief executive – the Department CEO;</p> <p>(b) in relation to a health executive employed in a Health Service Provider -</p> <p style="padding-left: 40px;">(i) if the Health Service Provider is a board governed provider – the board;</p> <p style="padding-left: 40px;">(ii) if the Health Service Provider is a chief executive governed provider – the chief executive;</p> <p>(c) in relation to a Health Service Provider or an employee (other than a chief executive or a health executive) in the Health Service Provider, the chief executive or board on whom the power to employ or engage employees is conferred.</p>
Minor Misconduct	<p>Pursuant to section 3 and 4(d) of the CCM Act, minor misconduct is conduct by a Public Officer that –</p> <p>i. adversely affects 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 official capacity at the time of engaging in the conduct;</p> <p>ii. involves the performance of functions in a manner that is not honest or impartial;</p> <p>iii. involves a breach of the trust placed in the public officer; or</p> <p>iv. involves the misuse of information or material that is in connection with their 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</p> <p>vi. constitutes, or could constitute, a disciplinary offence providing reasonable grounds for termination of a person's office or employment.</p>
Outcome	<p>The outcome of reportable conduct means a resolution of a matter and includes, but is not limited to, matters that are:</p>

Term	Definition
	<ul style="list-style-type: none"> • substantiated • not substantiated • discontinued • require no further action • AHPRA findings • court outcomes • any other relevant action.
Professional Misconduct	<p>For the purposes of section 5 of the National Law means misconduct which includes:</p> <p>(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</p> <p>(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</p> <p>(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.</p>
Responsible Authority	<p>Pursuant to section 144 of the HS Act means the following:</p> <ul style="list-style-type: none"> • in relation to a CE, the Responsible Authority is the Department CEO. • in relation to a Staff Member in a Health Service Provider (other than the CE) the Responsible Authority is the CE of the Health Service Provider.
Serious Misconduct	<p>Pursuant to section 3 and 4(a) (b) and (c) of the CCM Act, serious misconduct is conduct by a Public Officer who –</p> <p>a) acts corruptly or corruptly fails to act in the course of their duties; or</p> <p>b) corruptly takes advantage of their office or employment to obtain a benefit or to cause a detriment to any person; or</p>

Term	Definition
	<p>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.</p> <p>(Corrupt conduct tends to show a deliberate intent for an improper purpose or an improper motivation.</p> <p>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.)</p>
Serious Offence	<p>Has the same meaning as section 80A of the <i>Public Sector Management Act 1994</i>:</p> <p><i>Serious Offence</i> means —</p> <p>(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</p> <p>(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</p> <p>(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</p> <p>(d) an offence, or an offence of a class, prescribed under section 108 (see Offences Prescribed).</p>
Staff Member	<p>In relation to a Health Service Provider and pursuant to section 6 of the HS Act means:</p> <p>(a) an Employee in the Health Service Provider; and/or</p> <p>(b) a person engaged under a contract for services by the Health Service Provider.</p>
Unprofessional Conduct	<p>For the purposes of section 5 of the National Law 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:</p> <p>(a) a contravention by the practitioner of this Law, whether or not the practitioner has been prosecuted</p>

Term	Definition
	<p>for, or convicted of, an offence in relation to the contravention; and</p> <p>(b) a contravention by the practitioner of</p> <ul style="list-style-type: none"> 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 <p>(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</p> <p>(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</p> <p>(e) influencing, or attempting to influence, the conduct of another registered health practitioner in a way that may compromise patient care; and</p> <p>(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</p> <p>(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</p> <p>(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.</p>
<p>Unsatisfactory Professional Performance</p>	<p>For the purposes of section 5 of the National Law 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.</p>

8. Policy contact

Enquiries relating to this Policy may be directed to:

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9. Document control

Version	Published date	Effective from	Review date	Effective to	Amendment (s)
MP0125/19	31 October 2019	31 October 2019	October 2022	4 December 2019	Original version
MP0125/19 v.1.1	4 December 2019	4 December 2019	October 2022	12 December 2019	Section 4 of the <i>Notifiable and Reportable Conduct Guide</i> is updated to include MP 0126/19 after the text <i>Pre-Employment Integrity Check Policy</i> .
MP0125/19 v.1.2	12 December 2019	12 December 2019	October 2022	6 August 2021	Minor amendment to supporting information Case Management System (CMS) - Protocols - Administration of complaints. Document superseded by Case Management System (CMS) User Document. Access restricted to authorised employees only.
MP0125/19 v.1.3	6 August 2021	6 August 2021	October 2022	Current	Minor amendment to hyperlink in Section 1.

10. Approval

Approval by	Dr David Russell-Weisz, Director General, Department of Health
Approval date	25 October 2019

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