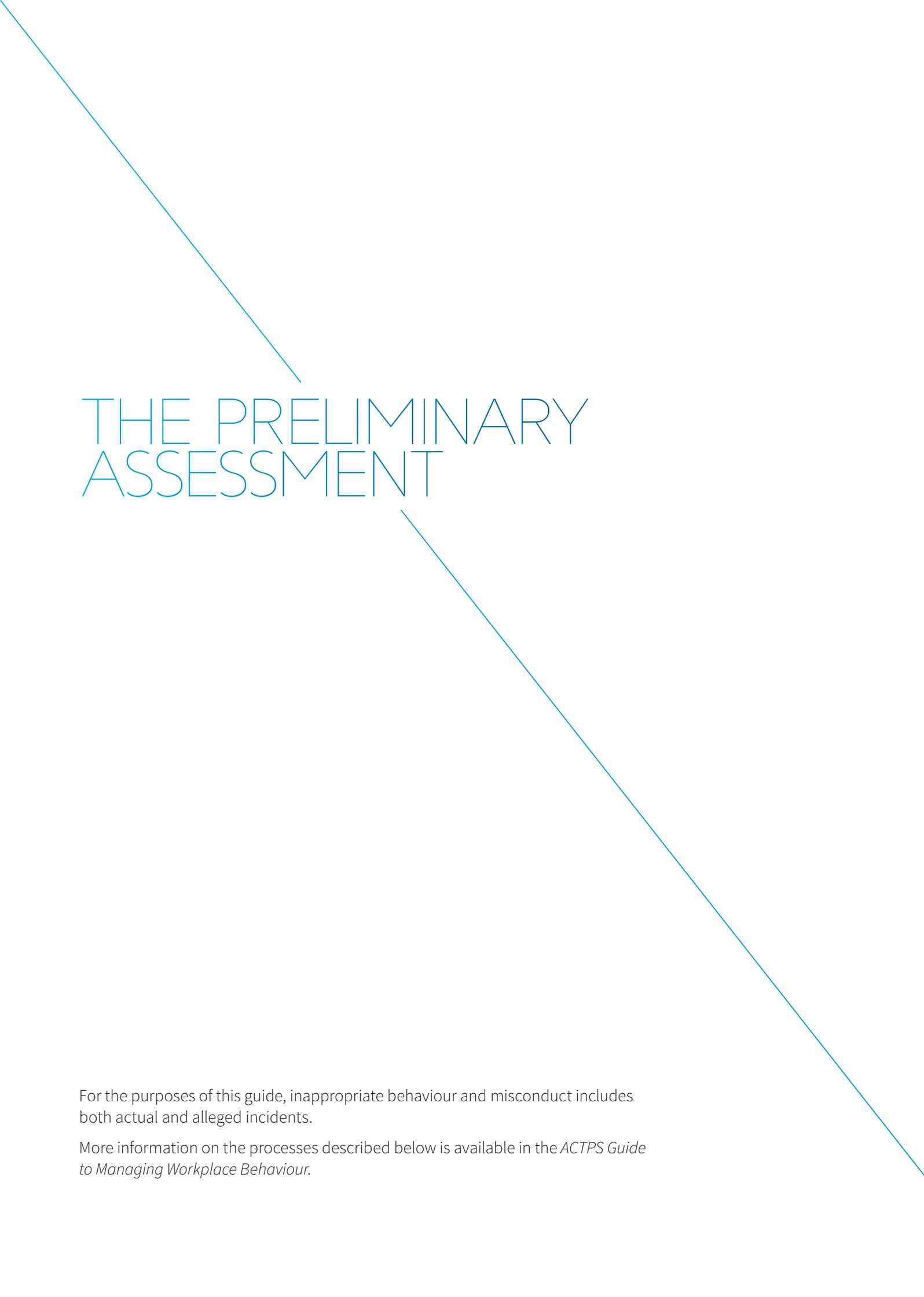


# WORKPLACE BEHAVIOURS TOOLKIT **THE PRELIMINARY ASSESSMENT**







# THE PRELIMINARY ASSESSMENT

For the purposes of this guide, inappropriate behaviour and misconduct includes both actual and alleged incidents.

More information on the processes described below is available in the *ACTPS Guide to Managing Workplace Behaviour*.

## OVERVIEW

Managers may observe one-off inappropriate behaviour among their staff, or receive a complaint from another employee or member of the public. Sometimes, this behaviour may be of a more serious or sustained nature and may amount to an incident/s misconduct under Section H of ACTPS enterprise agreements. In either case, there are a range of tools available to managers when responding to such situations, including remedial or administrative action such as performance management, counselling and education, or more formal action such as investigations and disciplinary sanctions.

When a manager or supervisor becomes aware of inappropriate workplace behaviour, the first step is to conduct a preliminary assessment to determine what further action, if any, is required. This process also needs to be applied to more serious incidents that may involve misconduct.

## WHAT DOES THE PRELIMINARY ASSESSMENT INVOLVE?

A preliminary assessment is not a formal investigation; it is an expedient means of determining if, and how, to proceed. The assessment should be conducted as soon as possible, be as short as is practical and should cease as soon as it becomes evident how best to handle the issue. An employee should be told that the assessment is being conducted if it is appropriate to do so.

The most appropriate person to conduct the preliminary assessment is usually the relevant manager. However, in cases where the complainant, or individual subject to a complaint, has a concern about the independence of the manager conducting the assessment, that individual may request that the next level of management within the relevant section nominate an appropriate person (who may be themselves), to complete the assessment. Alternatively, they may raise the matter with the relevant Executive.

The following factors should be considered in any preliminary assessment:

- whether there is sufficient information to determine how to handle the incident/s;
- whether there is an alternative and satisfactory means of redress (e.g. an apology or mediation);
- whether the incident/s should be managed via the Underperformance, Internal Review or Appeal processes within ACTPS Enterprise Agreements;
- how much time has elapsed since the incident/s took place;
- the seriousness of the incident/s and, if proven, potential ramifications for the Directorate and broader ACTPS;
- whether the incident/s implies the existence of a systemic problem;
- whether the incident/s are inconsistent with the obligations of public employees set out in Part 2 of the *Public Sector Management Act (1994)*;
- whether criminal conduct may be present;
- if the incident is serious, but the facts are known, whether the matter can be managed rather than investigated;
- whether other risks are identified (e.g. health and safety of employees, detriment to members of the ACTPS or community, reputation of the ACTPS, security of documents, employees and community members etc); and
- if the preliminary assessment is regarding an allegation or complaint:
  - what the complainants' expectations are regarding actions and outcomes for themselves and other persons involved; and/or
  - whether the complaint is trivial, frivolous or vexatious.

## WHAT ARE THE POSSIBLE OUTCOMES OF A PRELIMINARY ASSESSMENT?

Upon conclusion of the preliminary assessment, managers must make a determination regarding the incident/s. Under Section H2 of ACTPS enterprise agreements, the options available to managers are:

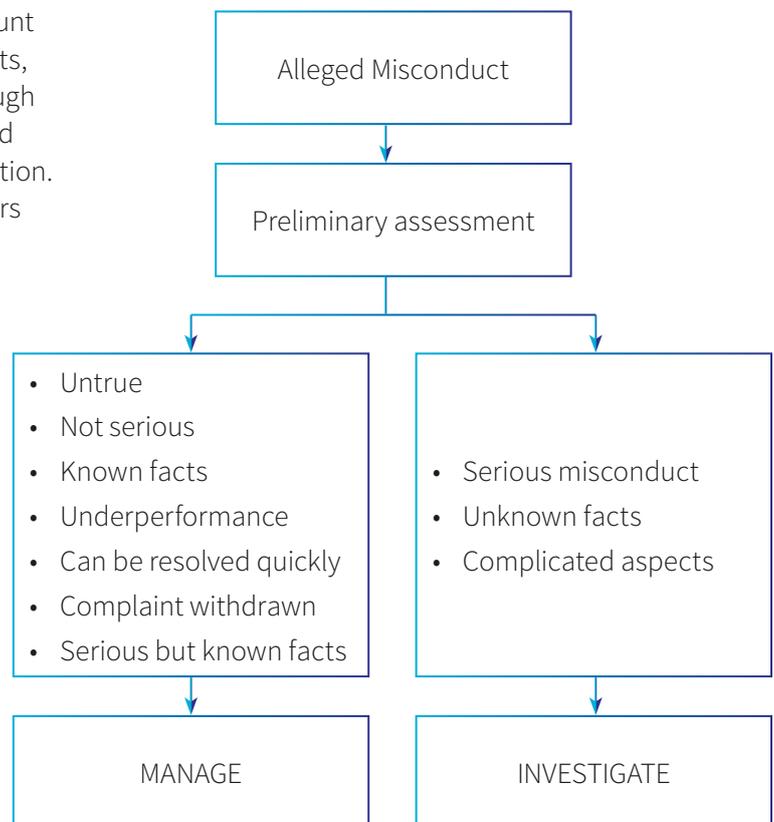
- a) if the manager is satisfied that no further action is necessary, no further action need be taken; or
- b) if the manager is of the view that counselling or other remedial action is appropriate, the manager should implement that action; or
- c) if the allegations are better resolved through the internal review procedures set out in the Agreement or through some alternative mechanism (e.g. as a public interest disclosure), the manager may refer the matter accordingly; or
- d) if the manager considers the allegations relate to performance issues, the manager may commence an underperformance process in accordance with H4; or
- e) if the manager determines that that the allegations require formal investigation the manager/supervisor will recommend to the delegate that the matter be investigated under the misconduct and discipline process in section H6; or
- f) where the manager considers the allegation/s to be vexatious or knowingly false, the manager/supervisor will recommend to the delegate that action may be taken in relation to the person who made the allegations.

## IS AN INVESTIGATION ALWAYS NECESSARY?

Investigations are, depending upon the nature of the matter at hand, sometimes necessary and appropriate. However, managers must use their judgement, assess the facts and clearly understand the process for managing workplace behaviour to determine whether an investigation is necessary.

Investigations are not a tool to devolve responsibility for managing incidents of inappropriate behaviour, nor should they be used to address minor matters that could be resolved by managerial action of a less formal nature. An investigation simply uncovers all material related to an incident; it does not impose an administrative or disciplinary sanction, which is the responsibility of the relevant manager or delegate. When used to resolve lesser disputes or minor incidents, investigations can unnecessarily delay the resolution of a matter, restrict managerial initiative, and limit the opportunity for open dialogue and apologies between disputing parties.

If the incident is minor, does not appear to amount to serious misconduct, and there are known facts, the manager can opt to resolve the matter through remedial action such as counselling, training and education, performance management or mediation. The below diagram is a useful guide for managers to aid these decision-making processes.





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