

## Fact sheet 1

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# What is minor misconduct?

**This fact sheet has been prepared to assist people to understand, in practical terms, what behaviours and circumstances might constitute minor misconduct.**

## Minor misconduct in context

Minor misconduct, as defined in the [Corruption, Crime and Misconduct Act 2003](#) (CCM Act) is actually not that minor. To meet the definition, the misconduct should be so significant that it could reasonably lead to termination of a public officer's employment if proved. However, conduct matters involving public officers that are not misconduct under the CCM Act are not required to be notified and are to be dealt with through other processes. These matters (such as discipline, grievance or performance management) are considered to be matters that can be appropriately dealt with, without notifying to the Public Sector Commission.

## Minor misconduct defined

Section 4(d) of the CCM Act defines minor misconduct.

Minor misconduct occurs if a public officer engages in conduct 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 his or her functions in a manner that is not honest or impartial; or
- iii. constitutes or involves a breach of 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. a disciplinary offence providing reasonable grounds for the termination of a person's office or employment as a public service officer under the *Public Sector Management Act 1994* (**whether or not the public officer to whom the allegation relates is a public service officer or is a person whose office or employment could be terminated on the grounds of such conduct**).

## **Applying the definitions**

In making judgments about suspected misconduct, the two factors that should be considered are:

- a) The significance of the harm, potential harm, benefit or detriment associated with the alleged misconduct.
- b) The behavioural context and the apparent, or potential, culpability of the officer that allegations are about. Does the alleged misconduct appear naïve, ill-informed or careless or negligent or wilful, or planned and deliberate?

## **Further advice**

To gain a legal understanding of minor misconduct, refer to the [Corruption, Crime and Misconduct Act 2003](#).

Please contact the Public Sector Commission's Integrity Advisory Service on (08) 6552 8888 for advice on whether matters are required to be notified to us.

**This fact sheet is for information purposes only and should not be considered a substitute for legal advice.**