



ACT
Government

Transport Canberra and
City Services

FREEDOM OF INFORMATION COVERSHEET

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

FOI reference: TCCSFOI 2018-084

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents and schedule	Published
4. Additional information identified	No
5. Fees	n/a
6. Processing time (in working days)	41 days
7. Decision made by Ombudsman	n/a
8. Additional information identified by Ombudsman	n/a
9. Decision made by ACAT	n/a
10. Additional information identified by ACAT	n/a



Bruan, Nicole

From: Katie Burgess <katie.burgess@fairfaxmedia.com.au>
Sent: Monday, 1 October 2018 1:23 PM
To: TCCS_FreedomOfInformation
Subject: Canberra Times freedom of information request - Fraud

18-084

To the FOI contact officer,

I write under the Freedom of Information Act 2016 to request the following documents in the possession of the Transport Canberra and City Services Directorate:

- All emails, reports and ministerial briefs related to the six adverse findings of corruption against TCCS staff in 2017-18

The object of freedom of information laws is to make the people and bodies that are responsible for governing the territory more accountable to the public.

The release of these documents would satisfy provisions 2.1 (a) (i)(iii)(v) and (vi) of the Freedom of Information Act 2016.

I can be contacted on 0428617524 to discuss the scope of my request if required.

Katie Burgess
Reporter - The Canberra Times
Australian Metro Media

m 0428 617 524
katie.burgess@fairfaxmedia.com.au
www.canberratimes.com.au

The Canberra Times

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ACT
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Transport Canberra and
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Ms Katie Burgess
katie.burgess@faxmedia.com.au

Dear Ms Burgess

Freedom of Information request: 18-084 Corruption findings against TCCS Staff

I refer to your application under section 30 of the Freedom of Information Act 2016 (the FOI Act), received by the Transport and City Services (TCCS) on 1 October 2018, in which you sought access to:

- “All emails, reports and ministerial briefs related to six adverse findings of corruption against TCCS staff in 2017-18”

On 16 November 2018 you agreed to reduce the scope of the enquiry to:

- “the notices of proposed action and the notice of final action for the employees”.

I am an Information Officer appointed by the Director-General under section 18 of the Act to deal with access applications made under Part 5 of the Act.

TCCS was required to provide a decision on your access application by 29 October. I note that you agreed to an extension until 27 November 2018.

Decision on access

Searches were completed for relevant documents and 23 documents (relating to 6 employees) were identified that fall within the scope of your request. They relate to disciplinary proceedings and formally provide preliminary and final findings and penalties.

I have included as **Attachment A** to this decision the schedule of relevant documents. This provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

All the documents identified as relevant to your request contain information that I consider to be:

- Capable of identifying the individuals involved and contain information about an identified individual or information from which an individual is reasonably identifiable, (but do not contain sensitive information within the meaning of s14 of the Information Privacy Act 2014) and is not ‘personal information’, as an officer is excluded from the definition in the dictionary in the FOI Act.
- Information that may, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the FOI Act. An individual’s

right to privacy is a factor favouring non-disclosure under Schedule 2 section 2.2. (a) (ii) which refers to the right to Privacy provided in s12 of the *Human Rights Act 2004*.

12 Privacy and reputation

Everyone has the right—

- (a) not to have his or her privacy, family, home or correspondence interfered with unlawfully or arbitrarily; and
- (b) not to have his or her reputation unlawfully attacked.

That is a general personal entitlement which does not necessarily extend to protecting every circumstance from which an individual's identity may, with diligence, be gleaned from lawfully recorded circumstances.

Nothing in Schedule 1 of the FOI Act applies to the nature of these documents and therefore they cannot be "taken to be contrary to the public interest". There is nothing in Schedule 1 of the FOI Act indicating that this material is specified as being taken to be contrary to the public interest, save perhaps for Section 1.3(6):

- 1.3 Information disclosure of which is prohibited under law
 - (1)....
 - (6) Any other information the disclosure of which is prohibited by a secrecy provision of a law.

Unlike, for example, the prohibition on disclosure of records under Part 8 of the *Health Act 1993* there is nothing in the *Public Sector Management Act 1994* specifically prohibiting the disclosure of staff management arrangements. Misconduct procedures are contemplated to be contained in subordinate Industrial Agreements.

However, I note that Schedule 2 section 2.1 contains a number of applicable factors favouring disclosure to be in the public interest:

- (i) promote open discussion of public affairs and enhance the government's accountability;
- (ii) contribute to positive and informed debate on important issues or matters of public interest;
- (ii) inform the community of the government's operations, including the policies, guidelines and codes of conduct followed by the government in its dealings with members of the community;
- (iv) ensure effective oversight of expenditure of public funds;
- (v) allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or public official;
- (vi) reveal or substantiate that an agency or public official has engaged in misconduct or negligent, improper or unlawful conduct or has acted maliciously or in bad faith;
- (vii) advance the fair treatment of individuals and other entities in accordance with the law in their dealings with the government;
- (viii) reveal the reason for a government decision and any background or contextual information that informed the decision;

I particularly note item (vi) above and consider a general prohibition on every detail that might upon enquiry, enable the individuals in misconduct processes to perhaps be identified, might make applying that factor impossible to disclose. That the circumstances might, with diligence, identify an individual is not necessarily sufficient in my view to preclude publishing, in the public interest, those circumstances not identifying the individual but going to the administration of proper employee discipline and due process. However, the unique circumstances of the particular allegations and the work being done by them, might here, identify individuals and unnecessarily interfere with their right to privacy. Employees are entitled to expect that disciplinary matters will be dealt with privately. The public interest in examining the process does not always outweigh that reasonable expectation. In that regard Schedule 2 Section 2.2(a)(xv) also provides an important factor favouring non-disclosure namely:

- (xv) prejudice the management function of an agency or the conduct of industrial relations by an agency;

I have decided to grant access as being in the public interest, under section 50 of the FOI Act, to copies of documents but only with significant deletions applied to information that I consider would unnecessarily identify the individuals and which would be, on balance, contrary to the public interest to disclose. I consider it necessary to delete most of the information that relates to the circumstances of the individual's position, apparent misconduct and some of the processes and actions taken because that information or opinion stated will also too readily identify the particular individual.

Only one of these employees (Employee F) was dealt with by a court leading to termination of employment. More of those circumstances may be released given the already public nature of those court proceedings but should still not identify the employee under the FOI regime.

Any possibility that the release of the individual's identity, or circumstances by which the individual's identity can reasonably be ascertained, would require third party consultation as that information "...may reasonably be expected to be of concern to a person..." (see s38 (1)(b)). If any personal information is included, it would be of such concern (see s38(3)(a)(i)). It is unlikely that individuals would approve of their personal information being disclosed, even if a potential public interest purpose could be made out, to consult them about doing so. Consultation would need a better purpose than just the desire to provide their data to an FOI applicant. Removal of all personal information of the employees involved, is therefore essential. There is no apparent public interest in disclosing, directly or indirectly, the identity of individual employees. There is, nevertheless, a public interest in disclosing the processes and the general nature and extent of those actions.

Charges

I have waived fees associated with your access application because there are only 59 pages which only marginally exceeds the 50-copy threshold, so no fee will be levied.

Online publishing – disclosure log

Under section 28 of the Act, TCCS maintains an online record of access applications called a disclosure log. Your original access application, my decision in response to your access application and documents will be published in the TCCS disclosure log from 3 days after the date of this decision. Your personal details will not be published.

You may view TCCS' disclosure log at www.tccs.act.gov.au/about-us/freedom_of_information.

Ombudsman review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in TCCS disclosure log, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

Via email: ombudsman@ombudsman.gov.au

ACT Civil and Administrative Tribunal (ACAT) review

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision.

Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal
Level 4, 1 Moore Street
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740

www.acat.act.gov.au/

If you have any queries concerning the Directorate's processing of your request, or would like further information, please contact me on telephone 6205 5408 or email tccs.foi@act.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Cherie Hughes', written in a cursive style.

Cherie Hughes
Information Officer

27 November 2018



ACT
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Transport Canberra and
City Services

Attachment A

FREEDOM OF INFORMATION SCHEDULE

PLEASE BE AWARE THAT UNDER THE FREEDOM OF INFORMATION ACT 2016, SOME OF THE INFORMATION PROVIDED TO YOU WILL BE RELEASED TO THE PUBLIC THROUGH THE ACT GOVERNMENT'S OPEN ACCESS SCHEME. THE OPEN ACCESS RELEASE STATUS COLUMN OF THE TABLE BELOW INDICATES WHAT DOCUMENTS ARE INTENDED FOR RELEASE ONLINE THROUGH OPEN ACCESS.

PERSONAL INFORMATION OR BUSINESS AFFAIRS INFORMATION WILL NOT BE MADE AVAILABLE UNDER THIS POLICY. IF YOU THINK THE CONTENT OF YOUR REQUEST WOULD CONTAIN SUCH INFORMATION, PLEASE INFORM THE CONTACT OFFICER IMMEDIATELY.

INFORMATION ABOUT WHAT IS PUBLISHED ON OPEN ACCESS IS AVAILABLE ONLINE AT: [HTTP://WWW.TCCS.ACT.GOV.AU/ABOUT-US/FREEDOM_OF_INFORMATION](http://www.tccs.act.gov.au/about-us/freedom_of_information)

REF NO	PAGE NUMBER	DESCRIPTION	DATE	STATUS	REASON FOR NON-RELEASE OR DEFERRAL	OPEN ACCESS RELEASE STATUS
TCCS FOI 18-084						
FOI REQUEST – THE NOTICES OF PROPOSED ACTION AND THE NOTICE OF FINAL ACTION FOR THE EMPLOYEES RELATED TO THE SIX ADVERSE FINDINGS OF CORRUPTION AGAINST TCCS STAFF IN 2017-18						
DOCUMENTS IN RELATION TO EMPLOYEE A						
1	1-4	EMPLOYEE A RECORD OF MEETING WITH EMPLOYEE A (4 PAGES)	31/10/16	PARTIAL ACCESS	INFORMATION PRIVACY ACT 2014 SCHEDULE 2.2(A)(II)	PUBLISHED
2	5	EMPLOYEE A E-MAIL TO EMPLOYEE A FROM MANAGER EMPLOYEE RELATIONS FORWARDING LETTER (1PAGE)	1/11/16	PARTIAL ACCESS	INFORMATION PRIVACY ACT 2014 SCHEDULE 2.2(A)(II)	PUBLISHED
3	6-8	EMPLOYEE A LETTER TO EMPLOYEE A FROM DEPUTY DIRECTOR GENERAL - NOTICE OF INVESTIGATION & SUSPENSION WITHOUT PAY (3 PAGES)	1/11/16	PARTIAL ACCESS	INFORMATION PRIVACY ACT 2014 SCHEDULE 2.2(A)(II)	PUBLISHED

4	9	EMPLOYEE A E-MAIL TO KM AT TCCS FROM EMPLOYEE A RESIGNATION	15/11/18	PARTIAL ACCESS	INFORMATION PRIVACY ACT 2014 SCHEDULE 2.2(A)(II)	PUBLISHED
6	10-12	EMPLOYEE B LETTER TO EMPLOYEE B FROM EXECUTIVE DIRECTOR NOTICE OF PROPOSED DISCIPLINARY ACTION (3 PAGES)	22/1/18	PARTIAL ACCESS	INFORMATION PRIVACY ACT 2014 SCHEDULE 2.2(A)(II)	PUBLISHED
7	13-15	EMPLOYEE B STATEMENT OF REASONS PROPOSED ACTION AGAINST EMPLOYEE B (3 PAGES)	22/1/18	PARTIAL ACCESS	INFORMATION PRIVACY ACT 2014 SCHEDULE 2.2(A)(II)	PUBLISHED
8	16-17	EMPLOYEE B LETTER TO EMPLOYEE B FROM EXECUTIVE DIRECTOR NOTICE OF DISCIPLINARY ACTION (2 PAGES)	2/2/18	PARTIAL ACCESS	INFORMATION PRIVACY ACT 2014 SCHEDULE 2.2(A)(II)	PUBLISHED
9	18	EMPLOYEE B WRITTEN WARNING FOR MISCONDUCT TO EMPLOYEE B FROM EXECUTIVE DIRECTOR (1 PAGE)	2/2/18	PARTIAL ACCESS	INFORMATION PRIVACY ACT 2014 SCHEDULE 2.2(A)(II)	PUBLISHED
10	19-21	EMPLOYEE C LETTER TO EMPLOYEE C FROM DIRECTOR NOTICE OF PROPOSED DISCIPLINARY ACTION (3 PAGES)	14/12/17	PARTIAL ACCESS	INFORMATION PRIVACY ACT 2014 SCHEDULE 2.2(A)(II)	PUBLISHED
11	22-24	EMPLOYEE C STATEMENT OF REASONS PROPOSED ACTION AGAINST EMPLOYEE C (3 PAGES)		PARTIAL ACCESS	INFORMATION PRIVACY ACT 2014 SCHEDULE 2.2(A)(II)	PUBLISHED
12	25-26	EMPLOYEE C LETTER TO EMPLOYEE C FROM DIRECTOR TERMINATING EMPLOYMENT (2 PAGES)	28/02/2018	PARTIAL ACCESS	INFORMATION PRIVACY ACT 2014 SCHEDULE 2.2(A)(II)	PUBLISHED

13	27-29	EMPLOYEE D LETTER TO EMPLOYEE D FROM DIRECTOR NOTICE OF PROPOSED DISCIPLINARY ACTION (3 PAGES)	21/2/18	PARTIAL ACCESS	INFORMATION PRIVACY ACT 2014 SCHEDULE 2.2(A)(II)	PUBLISHED
14	30-31	EMPLOYEE D STATEMENT OF REASONS PROPOSED ACTION AGAINST EMPLOYEE D (2 PAGES)	21/2/18	PARTIAL ACCESS	INFORMATION PRIVACY ACT 2014 SCHEDULE 2.2(A)(II)	PUBLISHED
15	32-34	EMPLOYEE D LETTER TO EMPLOYEE D FROM DIRECTOR NOTICE OF DISCIPLINARY ACTION (3 PAGES)	11/5/18	PARTIAL ACCESS	INFORMATION PRIVACY ACT 2014 SCHEDULE 2.2(A)(II)	PUBLISHED
16	35	EMPLOYEE D WRITTEN WARNING FOR MISCONDUCT TO EMPLOYEE D FROM DIRECTOR (1 PAGE)	11/5/18	PARTIAL ACCESS	INFORMATION PRIVACY ACT 2014 SCHEDULE 2.2(A)(II)	PUBLISHED
17	36-39	EMPLOYEE E LETTER TO EMPLOYEE E FROM DIRECTOR NOTICE OF PROPOSED DISCIPLINARY ACTION (4 PAGES)	16/4/18	PARTIAL ACCESS	INFORMATION PRIVACY ACT 2014 SCHEDULE 2.2(A)(II)	PUBLISHED
18	40-41	EMPLOYEE E Statement of Reasons Proposed Action against Employee E (2 pages)	16/4/18	PARTIAL ACCESS	INFORMATION PRIVACY ACT 2014 SCHEDULE 2.2(A)(II)	PUBLISHED
19	42-43	EMPLOYEE E Letter to Employee E from Director Notice of Disciplinary Action (2 pages)	17/5/18	PARTIAL ACCESS	INFORMATION PRIVACY ACT 2014 SCHEDULE 2.2(A)(II)	PUBLISHED
20	44	EMPLOYEE E Written Warning for misconduct to Employee E from Director (1 page)	17/5/18	PARTIAL ACCESS	INFORMATION PRIVACY ACT 2014 SCHEDULE 2.2(A)(II)	PUBLISHED
21	45-53	EMPLOYEE F Interim Report on Employee F by Principal Investigator (9 pages)	3/5/18	PARTIAL ACCESS	INFORMATION PRIVACY ACT 2014	PUBLISHED

22	54-57	EMPLOYEE F STATEMENT OF FACTS FOR COURT PAGES 2-5 ONLY; REDACTED BY POLICE CONCERNING EMPLOYEE F ATTACHED TO INVESTIGATOR'S REPORT (4 PAGES)	3/5/18	PARTIAL ACCESS	SCHEDULE 2.2(A)(II) INFORMATION PRIVACY ACT 2014 SCHEDULE 2.2(A)(II)	PUBLISHED
23	58-59	EMPLOYEE F LETTER TO EMPLOYEE F FROM DEPUTY DIRECTOR GENERAL - NOTICE OF TERMINATION OF EMPLOYMENT FOR SERIOUS AND WILFUL MISCONDUCT (2 PAGES)	7/5/18	PARTIAL ACCESS	INFORMATION PRIVACY ACT 2014 SCHEDULE 2.2(A)(II)	PUBLISHED

RECORD OF MEETING

Location: Macarthur House

Time: 9:30 am

DATE: 31/10/16

Present	██████████, ██████████, Kim-marie Ivens
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Conversation Details (please record legibly during conversation (where possible))

██████████ was approached by a ██████████, ██████████, ██████████

(supervisors) who had concerns about ██████████.

██████████ was at the back dook and ██████████ and another employee where talking and laughing and giggling, ██████████ asked what was so funny, they said they were talking about ██████████ vlotims.

██████████ said there is a bit of talk about the place that ██████████ has been borrowing money didn't know exact amount but knew it was in the thousands.

██████████ and ██████████ from ██████████ were amongst those that had lent money.

██████████ then talked to ██████████ about ██████████ concerns.

██████████ had approached ██████████ for money early September 2016, she had said oan I have a talk to you, ██████████ asked does it need to be private, ██████████ had explained that she had applied for a house but she didn't have bond money. She said she didn't have the money and although didn't ask directly said she needed \$1200, ██████████ said she did not have the money but would see what they could do with respect of bond loans etc through housing. ██████████ advised that she should not be asking for money from other staff.

██████████ then found out that ██████████ had the same conversation with ██████████ and

██████████. She asked them for \$1600 and said the money was for rent. ██████████ then was asked who else might have been asked to loan money she identified, ██████████ and ██████████, ██████████ and ██████████ (some names still to be confirmed). She wasn't sure of how much or whether the money was paid back.

RECORD OF MEETING

Met with [REDACTED] she advised that it appeared the [REDACTED] targeted new staff and asked them for a small amount of money for petrol or lunch, she would pay this money back and then start asking for larger sums. [REDACTED] had asked several staff in mid September (already asked [REDACTED] but she said she didn't have money), [REDACTED] lent her \$500. [REDACTED] said she would give money back the next day. [REDACTED] had day off which was pay day and then [REDACTED] had the Friday off, on the Monday [REDACTED] did not turn up, Tuesday [REDACTED] asked for the money back and told she would get some back, one and a bit weeks later got \$200 back and next payday got the other \$300 but only after continually having to ask for it back, although [REDACTED] did not advise anyone else it did get around [REDACTED] about the loan. [REDACTED] is now scared to put anything in writing as she believes she will get into trouble with her job because [REDACTED] is her supervisor. [REDACTED] identified several other people that had loaned money but as she is new she did not know the names. On 3rd September 2016 [REDACTED] said she lent [REDACTED] \$2,000 this money is required to finalise [REDACTED] application. [REDACTED] had a message through face book and then after several calls from [REDACTED] she was crying using "please sister I have been caught by police and need to pay a fine, promise to pay back on 5th September [REDACTED] has transferred money (has evidence including text messages and copy of transfer), last Thursday 27 October 2016 got paid back \$600, [REDACTED] has texted that she will get balance by \$500 per fortnight. [REDACTED] has spoken to [REDACTED] and told her not to lend [REDACTED] any money after she heard [REDACTED] asking to borrow money from her.

[REDACTED] has heard the rumours and has got verbally aggressive to [REDACTED].

[REDACTED] [REDACTED] advised that she has borrowed money off him, he said she borrowed money from [REDACTED], [REDACTED] and others. She said she needed money as she can't get a loan, she had a sick uncle. [REDACTED] asked how much had he lent her. In the beginning he wouldn't say because it was evident he was embarrassed. [REDACTED] said she asks people to have sex for money. On mother's day

RECORD OF MEETING

she asked for the first loan, when first asked for money she keeps harassing you until you say yes, she would ring him constantly after work and send messages on face book. Then she makes up stories that her dad had been slok took advantage of him trying to be his friend. [REDACTED] said he had told her he was looking for a wife and this started her continuing to ring him and bugging for nude photos to be sent by text. [REDACTED] and [REDACTED] has been contacted by [REDACTED], he has advised that the bank has contacted him to advise that [REDACTED] bank is now overdrawn. Apparetnly [REDACTED] keycard had gone missing (he thinks [REDACTED] had it) and the account has been emptied. [REDACTED] brother is going to support him and his sister in law has rung [REDACTED] and advised to stop borrowing from [REDACTED]. They have made calls to [REDACTED] to tell her to pay back the money. She has paid him back \$400, [REDACTED] asked how much more he just said lots, finally he said it was around \$30,000 will be able to get statements and has records of bank transfers. Once [REDACTED] told [REDACTED] he would not give her any more money she blocked him from facebook, refused to answer telephone calls from him and has ostracised him at work.

[REDACTED] to gather statements and evidence from all parties that are happy to provide the information. Contact to be made with [REDACTED] to explain what we need from him.

Jim Corrigan has been consulted and wants the matter to be dealt with.

31/10/2016 - [REDACTED] called into [REDACTED] office, I explained that a number of serious allegations had been made in relation to her borrowing money. She said she never borrows money. I said we have evidence to the contrary. She advised "oh that one I have arranged to pay that back". I said not just that one. I also said that she had told [REDACTED] that she had not borrowed money. I told her that she didn't need to respond and that a meeting was scheduled for 10:30 on Wednesday, she could bring any support person but we would prefer it was not a member of staff. [REDACTED] suggested someone from her church. I

RECORD OF MEETING

advised her that she would be paid for today and the delegate would confirm the arrangements and she provided email address

████████████████████ and mobile ██████████

I advised her I would call her on Tuesday as a welfare check as she lives on her own and also on Wednesday to remind her of meeting.

Gave her my card and told her to contact me if she wanted to discuss further and also that she was not to make any contract with any staff by any medium (text, facebook etc) any contact may lead to further disciplinary action.

Provided with EAP Information.

Action Taken

Signed: ██████████

31 /10 /16

Information Only Not for Action File

Kildea, Brian

From: Ivens, Kim
Sent: Tuesday, 1 November 2016 9:43 AM
To: [REDACTED]
Subject: Notice of Investigation [SEC=UNCLASSIFIED]
Attachments: 20161101 Notice of Investigation.pdf

Good morning

I have attached the Notice of Investigation and Suspension Without Pay in relation to the allegations of misconduct.

The delegate has determined that during the course of the investigation you are to be suspended without pay, this letter sets out the process if you wish to provide a reason why you should not be suspended.

The details of the allegations will be provided to you at interview, scheduled for 10:30am on 2/11/2016. You have advised that you have support from the CPSU and we would encourage you to either request that they attend the interview or bring another person to provide you with support.

I have spoken to your union representative this morning and have advised that I will send a copy of this letter once I have your authority.

We discussed the Employee Assistance Programs yesterday, I would like to remind you of the availability of both EAP and NewAccess, details of both of these providers are in the attached letter.

Please contact me if you wish to discuss any aspects of this matter.

Thanks

Kim-Marie Ivens | Manager Employee Relations
HR Business Partner
Phone: 02 62052070 | Email: kim.iven@act.gov.au
Human Resources | Transport Canberra and City Services | ACT Government
12 Wattle Street, Lyneham ACT 2602 | GPO Box 158, Canberra 2601 | www.act.gov.au

Information contained in this email (and attachments) may contain personal and private information on staff within the directorate. It is your responsibility to ensure that any further dissemination of this information is done so in accordance with the Territory Privacy Principles (TPPs) contained within the *Information Privacy Act 2014*. Information on the TPPs can be found at the Office of the Australian Information Commissioner [website](http://www.oaic.gov.au). Further dissemination of this email should only occur on a need to know basis. If you are not the intended recipient any use, disclosure or copying of this email is unauthorised and you should delete it and notify TCCS Human Resources immediately on (02) 6207 6737.



ACT
Government

Transport Canberra and
City Services

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Dear [REDACTED]

Notice of Investigation and Suspension Without Pay

I am writing to advise you that I have requested an investigation into allegations of misconduct against you.

It is alleged that you have:

1. Obtained money from a number of staff within [REDACTED], and in doing so you have used your position to influence subordinate staff to provide you this money.
2. Become hostile to staff that have loaned you money when approached for repayment.
3. Requested that a subordinate member of staff text you naked pictures of himself and offered sexual favours as a method to obtain further loans.
4. Lied about the above matters in a conversation with [REDACTED] HR Manager [REDACTED] on 13 October 2016 when asked about whether you had borrowed money from staff.

Misconduct Investigation

I have determined that this matter warrants formal investigation in accordance with Section H – Workplace Behaviours of the *ACT Public Sector Infrastructure Services Enterprise*

Agreement 2013-2017 (the Agreement). At this point, no judgement has been made as to the truth or otherwise of the allegations.

I have requested an independent investigation to be undertaken by the Human Resource Team, at the conclusion of which I will be provided with a written report on the findings. The investigation process provides you with an opportunity to respond to the allegations and entitles you to have a support person present during any interview.

You have been advised that the interview will be conducted at 10:30 am on Wednesday, 2 November 2016, please report to [REDACTED]. You may bring a support person of your choosing to this interview, and are encouraged to do so.

Suspension without Pay

I consider it in the best interest of the Directorate that you be suspended from duty without pay while the investigation is underway. I have formed this view on the basis of the amount of money you are alleged to have borrowed from more than one staff member, and the alleged use of authority as a supervisor in respect to influencing these staff.

You are required to be contactable during business hours for the period of your suspension. While suspended from duty, you are directed not to return to your normal workplace or any other Directorate workplace until further notice. You are also directed not to speak to or contact staff through any media including but not limited to text and facebook.

Breaching this direction may result in disciplinary action.

You may provide me with a written statement setting out the reasons why you should not be suspended without pay. This written statement is in addition to any response you provide to the allegations.

Subject to my consideration of any written statement you provide to me, this suspension will continue for a maximum of 30 days unless exceptional circumstances apply. In addition, your suspension will be reviewed every 30 days to consider whether it should continue or be altered. You are required to be contactable during business hours for the period of your suspension.

As this suspension is without pay, you may:

- apply to me for permission to seek alternate employment outside the ACTPS for the period of the suspension or until the permission is revoked;
- access accrued long service leave and/or recreation leave where you can demonstrate hardship as a result of this suspension;
- apply to me for the suspension to be with pay on the grounds of demonstrated hardship.

The Agreement establishes the process and sanctions that may apply should a finding of misconduct result from the investigation. Misconduct is defined to include:

- a failure to meet the general obligations set out in Section 9 of the *Public Sector Management Act 1994*,
- conduct that brings, or is likely to bring, the Directorate or ACT Public Service into disrepute.

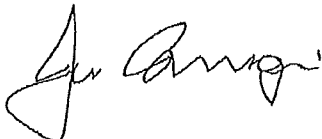
You can access a copy of the Agreement from the ACT Government Jobs ACT website, <http://www.jobs.act.gov.au/about-the-actps/agreements>. I have attached a copy of Section H to this letter for your reference.

The Employee Assistance Program is available to provide confidential and professional counselling to you and members of your family throughout this process. You may access this service by phoning OPTUM on 1300 361 008.

Alternatively you can contact NewAccess on 6287 8066. NewAccess is a program run by Beyond Blue and services are free and confidential.

If you have any queries regarding this letter please do not hesitate to contact Kim-marie Ivens Manager Employee Relations on 6205 2070.

Yours sincerely



Jim Corrigan
Deputy Director-General City Services

/ November 2016

Kildea, Brian

From: Ivens, Kim
Sent: Tuesday, 15 November 2016 3:03 PM
To: HRSharedServices
Cc: [REDACTED]
Subject: resignation - [REDACTED] [SEC=UNCLASSIFIED]

Good afternoon

Please process the resignation of [REDACTED] there will not be an exit clearance or obligations of former employee document.

[REDACTED] will be able to advise if there are any outstanding leave forms.

Thanks

Kim

From: [REDACTED]
Sent: Tuesday, 15 November 2016 2:03 PM
To: Ivens, Kim
Subject:

Dear Kim,

I hereby submit my resignation effective as of today, 15th November 2016, due to unforeseen reasons.

I wish to take this opportunity to thank [REDACTED] for making me a part of the company. I wish that I could stay longer but, at this stage, I have to move on.

I am saddened that it has come to this, but life goes on and I am sure that there will be a company that will appreciate my service.

I wish the [REDACTED] all the success in the future.

Yours truly,

[REDACTED]



ACT
Government

Transport Canberra and
City Services

[REDACTED]
[REDACTED]
[REDACTED]

Dear Mr [REDACTED]

Notice of Proposed Disciplinary Action

I am writing to inform you of the outcome into allegations of misconduct against you and the proposed discipline action to be taken. I have outlined my findings and proposed action below. The full reasons for my decisions are at Attachment A.

The process was conducted in accordance with the misconduct procedures set out in Section H – Workplace Behaviours of the *ACT Public Service Administrative and Related Classifications Enterprise Agreement 2013-2017* (the Agreement).

Findings

In your response dated 21 December 2017 you admitted to the below allegations and waived the need for an investigation.

1. On Sunday 27 August 2017 you inappropriately used an ACT Government vehicle when you attended the Kaleen Playing Fields to watch soccer games that were being played. Specifically, you parked the ACT Government vehicle with the registration plate [REDACTED] in the vicinity of the Kaleen Playing Fields from 9:46am to 11:54am and again from 1:49pm to 3:37pm.
2. You falsified your attendance record for the 27 August 2017 which resulted in you being paid for hours that you did not work.
3. You were dishonest in your response to management when asked why you were at the Kaleen Playing Field on Sunday 27 August 2017. In particular, you stated that you completed your updates while you were there and was only there for an hour and a half.

Based on your admission and the information available I have determined that the above allegations are proven on the balance of probabilities and constitute misconduct, as defined in clause H6.5 of the Agreement.

Whilst I note you consider allegation two to be extremely unfair as you have stated the current work practice amongst [REDACTED] is to reflect rostered hours, not hours actually worked on timesheet, behaviour of this nature does constitute misconduct and is not acceptable.

I find your conduct on 27 August 2017 breaches Sections 9 of the *Public Sector Management Act 1994*, specifically:

- (1) A public servant must –
 - d. do the public servant's job with reasonable care and diligence, impartiality and honesty.
- (2) A public servant must not –
 - a. behave in a way that –
 - ii. undermines the integrity and reputation of the service; or
 - b. take improper advantage of the public servant's job or information gained through the public servant's job; or
 - c. improperly use a Territory resource, including information gained through the public servant's job.

Furthermore, your behaviour is inconsistent with the Transport Canberra and City Services (TCCS) Code of Conduct.

Discipline Action

In accordance with Clause H1.0 of the Agreement I consider the below sanctions appropriate and proportionate to the degree of misconduct:

- a) A fine of \$250.00 to be recovered over 5 pay periods; and
- b) A written warning and admonishment.

Right of Reply

You may provide a written response to me within fourteen calendar days of receiving this letter addressing my findings of misconduct and proposed disciplinary action. This will be considered before a final decision is made.

Any response should be addressed to:

[REDACTED]
 Executive Director [REDACTED]
 City Services
 Transport Canberra and City Services Directorate
 GPO Box 158
 CANBERRA ACT 2602

Or by email to [REDACTED]@act.gov.au

Section J of the Agreement also provides that you have the right to appeal any discipline action taken, with the exception of termination of employment. You will be further advised of these appeal rights if discipline action is taken.

In accordance with the disposal schedules under the *Territory Records Act 2002*, records of investigations of misconduct allegations which are found proven must be retained for a minimum of five years.

Should you require support in relation to this matter, the Employee Assistance Program is available to provide confidential and professional counselling to you and members of your family throughout this process. These services can be sought by contacting any of the below providers:

Assure	1800 808 874
Converge Internations	1800 808 874
Davidson-Trahaire Corpsych	1300 360 364
Peoplesense	1300 807 912

If you have any queries regarding this letter please do not hesitate to contact Casey Barrie, Employee Relations on 6207 5766.

Yours sincerely

[REDACTED]

[REDACTED]

Executive Director [REDACTED]
City Services

22 January 2018

Attachment A

 Statement of Reasons – Proposed Disciplinary Action against ██████████

Allegations

The allegations relate to your conduct on 27 August 2017. Specifically, it is alleged that:

1. On Sunday 27 August 2017 you inappropriately used an ACT Government vehicle when you attended the Kaleen Playing Fields to watch soccer games that were being played. Specifically, you parked the ACT Government vehicle with the registration plate ██████████ in the vicinity of the Kaleen Playing Fields from 9:46am to 11:54am and again from 1:49pm to 3:37pm.
2. You falsified your attendance record for the 27 August 2017 which resulted in you being paid for hours that you did not work.
3. You were dishonest in your response to management when asked why you were at the Kaleen Playing Field on Sunday 27 August 2017. In particular, you stated that you completed your updates while you were there and was only there for an hour and a half.

Based on your admission and the information available I am satisfied that the above allegations on the balance of probabilities are proven and constitute misconduct as defined in clause H6.5 of the Agreement. As your actions breach Sections 9 of the *Public Sector Management Act 1994* (PSM Act), specifically:

- (1) A public servant must –
 - d. do the public servant's job with reasonable care and diligence, impartiality and honesty.
- (2) A public servant must not –
 - a. behave in a way that –
 - ii. undermines the integrity and reputation of the service; or
 - b. take improper advantage of the public servant's job or information gained through the public servant's job; or
 - c. improperly use a Territory resource, including information gained through the public servant's job.

Furthermore, your behaviour is inconsistent with the Transport Canberra and City Services (TCCS) Code of Conduct.

Conclusion

In determining the appropriate discipline action, I have considered the following factors as required under Clause H10.3 of the Enterprise Agreement:

- (a) *The nature and seriousness of the misconduct;*

As an ACT Public Service (ACTPS) employee you have an obligation to ensure your behaviour is consistent with Section 9 of the PSM Act. Based on the evidence available I am satisfied there is sufficient evidence to support your conduct on 27 August 2017 was inconsistent with your obligations. As you demonstrated a lack of integrity and engaged in behaviour that has the potential to adversely affect the reputation of the Transport Canberra and City Services Directorate. Furthermore, you improperly used your position and Territory resources when you used a government vehicle to attend the soccer during your rostered shift.

Whilst I note you did admit to the allegations and acknowledged that on this occasion your conduct demonstrated poor judgement, your behaviour was inconsistent with your obligations and amounts to misconduct.

(b) the degree of relevance to the employee's duties or to the reputation of the Directorate or the ACTPS;

Given you have been an employee of the ACT Government for approximately [REDACTED] [REDACTED] there is an expectation that you have a comprehensive understanding of your obligations as an ACTPS employee. Your conduct on 27 August 2017 fails to uphold the standard that is expected and involved conduct that adversely affects the reputation of the Directorate.

(c) the circumstances of the misconduct;

Whilst I note that you find your behaviour on 27 August 2017 to be consistent with your usual work practices, and further stated that it is not uncommon for [REDACTED] to stop at locations such as the Kaleen Playing Fields to complete their updates. There is sufficient evidence to support on 27 August 2017 you improperly used your position and Territory resources. As you stopped at the Kaleen Playing Fields on two occasions and spent approximately four hours of your eight and a half hour shift at the playing fields.

Furthermore, I do not believe you have been entirely truthful in your responses. As you stated in your initial response to [REDACTED] that you completed your updates while you were stopped at the Kaleen Playing fields. However, in your subsequent response to the notice of investigation letter you stated you cannot recall what paper work you completed whilst stopped at the Kaleen Playing Field given the time that has lapsed. After reviewing the evidence available, I note that no updates were recorded in the system by you during the periods you were parked at the Kaleen Playing Fields. Additionally, I note from your initial response that you had every intention of attending the soccer.

Having considered all of the information available I am satisfied your behaviour constitutes misconduct.

(d) any mitigating factors; including any full admission of guilt; and

I note that you have admitted to the alleged misconduct and waived the need for an investigation.

Additionally, I have had regard to your explanation that it is common practice amongst ██████ to reflect rostered hours not hours actually worked on your timesheet. However, the subsequent advice I have received from the business unit confirms that ██████ should be recording hours actually worked on their timesheets and any changes to rostered hours require prior approval by management. Whilst I am satisfied your behaviour constitutes misconduct I am not applying a sanction in relation to your behaviour outlined in allegation two.

(e) the previous employment history and the general conduct of the employee.

I have considered your previous employment history and note there are no previous findings of misconduct.



ACT
Government

Transport Canberra and
City Services

[REDACTED]
[REDACTED]
[REDACTED]

Dear Mr [REDACTED]

Notice of Disciplinary Action

Further to my letter dated 22 January 2018 advising you of my findings in relation to allegations of misconduct against you and the proposed disciplinary action, I am writing to advise you of my final decision.

You were invited to provide a written submission to me in relation to my findings and the proposed discipline actions.

I note from your email to [REDACTED] on 25 January 2018 that you accept the proposed sanction. Additionally your request to have the fine of \$250.00 deducted from one pay period.

Decision

As you elected not to provide a response I wish to confirm that the below sanctions are appropriate and proportionate to the degree of misconduct:

- a) A fine of \$250.00 to be recovered from one pay; and
- b) A written warning and admonishment.

Right of Appeal

You may appeal this decision under Section J of the *ACT Public Service Administrative and Related Classifications Enterprise Agreement 2013-2017* (the Agreement) (attached) by submitting a written application to the Convenor of Appeal Panels within fourteen calendar days of receipt of this letter. Your application must be submitted via email or hand delivered to the Appeals Coordinator (details below).

Via email (preferred option) Attention: The Convenor of Appeal Panels
ACTPS_Appeals@act.gov.au

Hand delivery Appeals Coordinator (x78317)
 Level 5, Canberra Nara Centre
 1 Constitution Ave
 Canberra ACT 2601

Appeal Related Inquiries:

For any inquiries about lodging an appeal or for information on the appeals process, you may contact the Appeals Coordinator on (02) 6207 8317.




In accordance with the disposal schedules under the *Territory Records Act 2002*, records of investigations of misconduct allegations which are found proven must be retained for a minimum of five years.

Should you require support in relation to this matter, the Employee Assistance Program (EAP) is available to provide confidential and professional counselling to you and members of your family. These services can be sought by contacting any of the below providers:

Assure	1800 808 374
Converge Internations	1800 808 374
Davidson-Trahalre Corpsych	1300 360 364
Peoplesense	1300 307 912

If you have any queries please contact Casey Barrie, Senior Advisor Employee Relations on 6205 75766.

Yours sincerely



 Executive Director 
 City Services

02 February 2018



ACT
Government

Transport Canberra and
City Services



Dear Mr [REDACTED]

Written Warning for Misconduct

This notice constitutes a formal warning and admonishment under the discipline procedures set out in the *ACT Public Service Administrative and Related Classifications Enterprise Agreement 2013-2017*.

This warning is issued in relation to your conduct on 27 August 2017 where you demonstrated behaviour that is inconsistent with your obligations under Section 9 of the *Public Sector Management Act 1994 (PSM Act)* and the Transport Canberra and City Services (TCCS) Code of Conduct.

Specifically, you demonstrated a lack of integrity and engaged in behaviour that has the potential to adversely affect the reputation of the TCCS. Furthermore, you improperly used your position and Territory resources when you used a government vehicle to attend the soccer during your rostered shift.

A recurrence of the misconduct outlined above, or of a similar nature, may result in further discipline action against you up to and including termination of your employment.

You are directed to adhere to your obligations as a public servant under Section 9 of the *PSM Act*. Specifically, this includes behaving in accordance with the TCCS Code of Conduct.

Failure to comply with this direction may also constitute misconduct and result in further discipline action.

Yours sincerely



Executive Director [REDACTED]
City Services

02 February 2018

[REDACTED]

I have considered the Investigator's findings and I am satisfied based on the information provided there is sufficient evidence to substantiate the above allegations, with the exception of allegation four. Behaviour of this nature constitutes serious misconduct as defined in clause H6.6 of the Agreement and section 1.07 of the *Fair Work Regulations 2009*.

Specifically, your conduct breaches the following sections of Section 9 of the *Public Sector Management Act 1994* (PSM Act):

- (1) A public servant must –
- c. when acting in connection with the public servant's job –
 - ii. comply with any lawful and reasonable direction given by a person with the authority to give the direction; and
 - d. do the public servant's job with reasonable care and diligence, impartiality and honesty.
- (2) A public servant must not –
- a. behave in a way that –
 - i. is inconsistent with the public sector values; or
 - ii. undermines the integrity and reputation of the service; or
 - b. take improper advantage of the public servant's job or information gained through the public servant's job; or
 - c. improperly use a Territory resource, including information accessed through the public servant's job.

Furthermore, your behaviour is inconsistent with the:

- Transport Canberra and City Services (TCCS) Code of Conduct; and
- *Work Health and Safety Act 2011* (WHS Act).

Discipline Action

Given the nature and seriousness of the proven misconduct I propose to impose the following sanction in accordance with H10.1 of the Agreement:

1. Termination of your employment.

Right of Reply

You may provide a written response to me within fourteen calendar days of receiving this letter addressing my findings of misconduct and proposed disciplinary action. This will be considered before a final decision is made.

Any response should be addressed to:

[REDACTED]
 Executive Director [REDACTED]
 City Services
 Transport Canberra and City Services Directorate
 GPO Box 158
 CANBERRA ACT 2602

Or by email to [REDACTED]@act.gov.au

Section J of the Agreement also provides that you have the right to appeal any discipline action taken, with the exception of termination of employment. You will be further advised of these appeal rights if discipline action is taken.

In accordance with the disposal schedules under the *Territory Records Act 2002*, records of investigations of misconduct allegations which are found proven must be retained for a minimum of five years.

Should you require support in relation to this matter, the Employee Assistance Program is available to provide confidential and professional counselling to you and members of your family throughout this process. These services can be sought by contacting any of the below providers:

Assure	1800 808 374
Converge Internations	1800 808 374
Davidson-Trahaire Corpsych	1800 360 364
Peoplesense	1300 307 912

If you have any queries please contact Casey Barrie, Senior Advisor Employee Relations on 6207 5766.

Yours sincerely

[REDACTED]

[REDACTED]
 Executive Director [REDACTED]
 City Services

14 December 2017

- b. take improper advantage of the public servant's job or information gained through the public servant's job; or
- c. improperly use a Territory resource, including information accessed through the public servant's job.

Furthermore, your behaviour is inconsistent with the:

- Transport Canberra and City Services (TCCS) Code of Conduct; and
- Work Health and Safety Act 2011 (WHS Act).

Conclusion

In determining the appropriate discipline action, I have considered the following factors as required under Clause H10.3 of the Enterprise Agreement:

(a) The nature and seriousness of the misconduct;

I find your cumulative behaviour amounts to serious misconduct, as you have wilfully behaved in a way that is inconsistent with your obligations as ACT Public Service (ACTPS) employee under Section 9 of the PSM Act, TCCS Code of Conduct and WHS Act.

Specifically, I find your conduct with regards to [REDACTED] demonstrates behaviour that is dishonest, fraudulent and improperly uses your position and territory resources to obtain a personal benefit.

Further to the above, on 23 March 2017 you refused to follow a lawful and reasonable direction [REDACTED], and on 1 February 2017 you left the [REDACTED] open and sump uncovered. Your behaviour on both occasions had the potential to seriously compromise the health and safety of other employees.

(b) the degree of relevance to the employee's duties or to the reputation of the Directorate or the ACTPS;

As an ACT Public Service employee you have an obligation to ensure your behaviour is consistent with Section 9 of the PSM Act. This includes behaving in accordance with the TCCS Code of Conduct and WHS Act.

I find your behaviour to be inconsistent with your obligations under section 9 of the PSM Act, as you have engaged in behaviour that is dishonest and fraudulent on more than one occasion to obtain a personal benefit. Behaviour of this nature has the potential to adversely affect the reputation of [REDACTED], and TCCS more broadly.

Furthermore, you have failed to follow a direction and engaged in behaviour that had the potential to adversely affect the health and safety of others. Based on your cumulative

behaviour I am proposing to terminate your employment, as I have lost confidence in your ability to perform your duties in accordance with the standard expected of all ACTPS employees.

(c) the circumstances of the misconduct;

Whilst I have had regard to your explanations contained in the investigation report and evidence gathered I do not consider there to be any mitigating factors that excuse your behaviour, as your explanations are inconsistent with the evidence.

Furthermore, you have been an ACTPS employee for almost [REDACTED], are the nominal occupant of an Administrative Service Officer 6 (ASO6) role and [REDACTED], It is a reasonable expectation that you are familiar with your obligations as an ACTPS employee and conduct yourself accordingly.

(d) any mitigating factors; including any full admission of guilt; and

I do not consider there to be any mitigating factors that excuse your behaviour. If there is information that you would like me to consider in mitigation of your actions, prior to making my final decision regarding appropriate disciplinary action, please provide the information in your response to the proposed disciplinary action.

(e) the previous employment history and the general conduct of the employee.

I have considered your previous employment history and note there are no previous findings of misconduct. In determining a sanction for this matter I have also formed the view that your responses to allegation 1 and 2 have not been entirely truthful. [REDACTED], is contrary to the direct evidence in the form of an invoice.



ACT
Government

Transport Canberra and
City Services

[Redacted]

Dear [Redacted]

Notice of Disciplinary Action

Further to my letter dated 14 December 2017 advising you of my findings in relation to allegations of misconduct against you and the proposed disciplinary action, I am writing to advise you of my final decision.

You were invited to provide a written submission to me in relation to my findings and the proposed discipline action.

I received your written submission dated 12 January 2018 and have considered it in reaching my final decision.

Having regard to your submission, I note that you maintain [Redacted] the veterinary bill for [Redacted] consultation was over \$800. [Redacted]. Despite my efforts I was unable to consider the pound log [Redacted] the period 1 January 2016 to 30 June 2016 cannot be located.

Based on the contemporaneous records available to me, I am satisfied there is sufficient evidence to support that you [Redacted]

[Redacted]

In relation to your conduct on 2 January 2017, [Redacted] at the DAS facilities to surrender your dog, as it had menaced your neighbour's stock. Furthermore, I accept that you may not have known that [Redacted]

[Redacted]

[REDACTED]

Decision

Having carefully considered all of the Information before me, I remain of the view that your actions constitute serious misconduct and are inconsistent with the continuation of your employment with the Transport Canberra and City Services Directorate. Therefore, I have determined that your employment will be terminated with effect 2 March 2018.

In accordance with Section 117 of the *Fair Work Act 2009*, you are entitled to four weeks payment in lieu of notice. Arrangements will be made for you to be paid this amount, in addition to any leave entitlements owing to you.

The *ACT Public Service Administrative and Related Classifications Enterprise Agreement 2013-2017* does not provide a right of appeal against a decision to terminate your employment. You may have a right to bring an action against the termination of your employment with the Fair Work Commission in accordance with the *Fair Work Act 2009* (www.fairwork.gov.au).

I also need to inform you that Section 138 of the *Public Sector Management Act 1994* specifies that where an Officer's employment is terminated on grounds for misconduct they cannot be reappointed to the ACT Public Service.

In accordance with the disposal schedules under the *Territory Records Act 2002*, records of investigations of misconduct allegations which are found proven must be retained for a minimum of five years.

Should you require support in relation to this matter, the Employee Assistance Program is available to provide confidential and professional counselling to you and members of your family throughout this process. These services can be sought by contacting any of the below providers:

Assure	1800 808 374
Converge Internations	1800 808 374
Davidson-Trahalre Corpsych	1300 360 364
Peoplesense	1300 307 912

If you have any queries please contact Casey Barrie, Senior Advisor Employee Relations on 6207 5766 or at casey.barrie@act.gov.au.

Yours sincerely

[REDACTED]

Executive Director [REDACTED]
City Services

28 February 2018



ACT
Government

Transport Canberra and
City Services

Dear [REDACTED]

Notice of Proposed Disciplinary Action

I am writing to inform you of the outcome into allegations of misconduct against you and the proposed discipline action to be taken. I have outlined my findings and proposed action below. The full reasons for my decisions are at Attachment A. You may provide a written response to me within fourteen calendar days of receiving this letter, addressing my findings of misconduct and proposed disciplinary action.

The process was conducted in accordance with the misconduct procedures set out in the Section H – Workplace Behaviours of the *ACT Public Service Administrative and Related Classifications Enterprise Agreement 2013-2017* (the Agreement).

Findings

You have admitted to the following allegations:

- [REDACTED]
- [REDACTED]

I have determined that these allegations are proven on the balance of probabilities and constitute misconduct under Clause H7.4 (admittance) of the Agreement.

The conduct breaches:

- Sections 9 of the *Public Sector Management Act 1994*, specifically:

- (1) A public servant must –
 - (c) when acting in connection with the public servant's job –

- (ii) comply with any lawful and reasonable direction given by a person with the authority to give the direction
- (d) do the public servant's job with reasonable care and diligence, impartiality and honesty.

Furthermore, your behaviour is inconsistent with territory policy, specifically:

- Transport and City Services Values and Code of Conduct; and
- Public Money Handling Guidelines for [REDACTED]

Discipline Action

In regard to the proven misconduct I propose to apply the following sanctions as prescribed in the Agreement:

- a) Written warning; and
- b) Fine of \$21.00 ([REDACTED]).

Right of Reply

You may provide a written response to me within fourteen calendar days of receiving this letter addressing my findings of misconduct and proposed disciplinary action. This will be considered before a final decision is made.

Any response should be addressed to:

Director [REDACTED]
Transport Canberra and City Services Directorate
GPO Box 158
CANBERRA ACT 2601

Or by email to [REDACTED]@act.gov.au

Section J of the Agreement also provides that you have the right to appeal any discipline action taken, with the exception of termination of employment. You will be further advised of these appeal rights if discipline action is taken.

In accordance with the disposal schedules under the *Territory Records Act 2002*, records of investigations of misconduct allegations which are found proven must be retained for a minimum of five years.

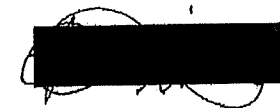
Should you require support in relation to this matter, the Employee Assistance Program (EAP) is available to provide confidential and professional counselling to you and members of your family. These services can be sought by contacting any of the below providers:

Assure	1800 808 374
Converge Internatlons	1300 687 327
Benestar	1300 360 364
Peoplesense	1300 307 912

Alternatively you can contact NewAccess on 6287 8066, NewAccess is a program run by Beyond Blue and services are free and confidential.

If you have any queries please contact Kim-marie Ivens Manager Employee Relations on 6205 2070.

Yours sincerely




Director 

☑ | February 2018

Attachment A

 Statement of Reasons – Proposed Disciplinary Action against Ms [REDACTED]

Allegations

- [REDACTED]
- [REDACTED]

Based on the statements provided and your admission, I am satisfied that the allegations are proven on the balance of probabilities.

Your actions amount to misconduct as a breach of:

- Sections 9 of the *Public Sector Management Act 1994*, specifically:
 - (1) A public servant must –
 - (c) when acting in connection with the public servant's job –
 - (ii) comply with any lawful and reasonable direction given by a person with the authority to give the direction
 - (d) do the public servant's job with reasonable care and diligence, impartiality and honesty.

Furthermore, your behaviour is inconsistent with territory policy, specifically:

- Transport and City Services Values and Code of Conduct; and
- Public Money Handling Guidelines for [REDACTED]

Conclusion

In determining the appropriate discipline action, I have considered the following factors as required under Clause H10.3 of the Enterprise Agreement:

- (a) *The nature and seriousness of the misconduct;*

As an ACT Public Service (ACTPS) employee you have an obligation to ensure your behaviour is consistent with Section 9 of the PSM. Based on the evidence available I am satisfied there is sufficient evidence to support your conduct has been inconsistent with your obligations.

Whilst I note you did admit to the allegations and acknowledged that on this occasion your conduct demonstrated poor judgement, your behaviour was inconsistent with your obligations and amounts to misconduct.

(b) the degree of relevance to the employee's duties or to the reputation of the Directorate or the ACTPS;

[REDACTED]

(c) the circumstances of the misconduct;

[REDACTED]

(d) any mitigating factors; including any full admission of guilt; and

I note that you have admitted to the alleged misconduct and waived the need for an investigation.

Additionally, I have had regard to your explanation [REDACTED]
[REDACTED] Whilst I am satisfied your behaviour constitutes misconduct I am limiting the sanction to a warning and a fine to the [REDACTED].

(e) the previous employment history and the general conduct of the employee.

You have a recorded matter from 2015 in respect of a RED complaint this was handled by counselling.



ACT
Government

Transport Canberra and
City Services

[Redacted]

Dear [Redacted]

Notice of Disciplinary Action

I wrote to you on 21 February 2018 and advised you of my findings in relation to allegations of misconduct against you. I also advised you that I proposed to take disciplinary action and the reasons for that decision.

You were invited to provide a written submission to me in relation to my findings and the proposed discipline actions.

I have received your written submission and considered it in reaching my final decision.

Whilst I acknowledge that your actions were [Redacted]
[Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted]
[Redacted]

Your response does not provide me with any further reasoning to alter my proposed action as your action in relation to the misuse of territory funds must be handled in a formal manner. You cannot make restitution for your action without a formal sanction being imposed.

[Redacted]
[Redacted]
[Redacted]

Consequently, I remain of the view that a written warning and a fine of \$21.00 are the appropriate sanctions in relation to the proven allegation and will be implemented effective from the date of this letter.

Right of Appeal

Section J, Appeals Mechanism of the *ACT Public Service Administrative and Related Classifications Enterprise Agreement 2013-2017* provides you with information on your right for appeal. You have the right to appeal any decision to take disciplinary action within fourteen calendar days of being notified of the decision, except a decision to terminate your employment (if concerning only underperformance and disciplinary action). I have attached a copy of Section J for your information.

To lodge an application for appeal

Via Email

Attention: The Convenor of Appeal Panels
ACTPS_Appeals@act.gov.au (preferred)

Hand Delivery

Appeals Coordinator (x78317)
 Level 5, Canberra Nara Centre
 1 Constitution Ave
 Canberra ACT 2601

Appeal Related Inquiries:

For any inquiries about lodging an appeal or for information on the appeals process, you may contact the Appeals Coordinator on (02) 6207 8317.

In accordance with the disposal schedules under the *Territory Records Act 2002*, records of investigations of misconduct allegations which are found proven must be retained for a minimum of five years.

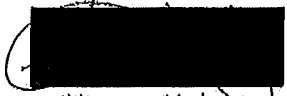
Should you require support in relation to this matter, the Employee Assistance Program (EAP) is available to provide confidential and professional counselling to you and members of your family. These services can be sought by contacting any of the below providers:


Assure	1800 808 874
Converge Internations	1300 687 827
Benestar	1800 360 864
Peoplesense	1300 307 912

Alternatively you can contact NewAccess on 6287 8066. NewAccess is a program run by Beyond Blue and services are free and confidential.

If you have any queries please contact Kim-marie Ivens Manager Employee Relations on 6205 2070.

Yours sincerely

A large black rectangular redaction box covering the signature of the sender.

Director 

11 May 2018



ACT
Government

Transport Canberra and
City Services

[Redacted]

Dear [Redacted]

Written Warning for Misconduct

This notice constitutes a formal warning and admonishment under the discipline procedures set out in the *ACT Public Service Administrative and Related Classifications Enterprise Agreement 2013-2017*.

This warning is issued in relation to your actions in:

- [Redacted]

A recurrence of the misconduct outlined above, or of a similar nature, may result in further discipline action against you up to and including termination of your employment.

You are directed to adhere to your obligations as a public servant under Section 9 of the *Public Sector Management Act 1994*.

Failure to comply with this direction may also constitute misconduct and result in further discipline action.

Yours sincerely

[Redacted Signature]

Director [Redacted]

11 May 2018



ACT
Government

Transport Canberra and
City Services



Dear Mr [REDACTED]

Notice of Proposed Disciplinary Action

I am writing to inform you of the outcome into allegations of misconduct against you and the proposed discipline action to be taken. I have outlined my findings and proposed action below. The full reasons for my decisions are at Attachment A. You may provide a written response to me within fourteen calendar days of receiving this letter, addressing my findings of misconduct and proposed disciplinary action.

The process was conducted in accordance with the misconduct procedures set out in the Section H – Workplace Behaviours of the *ACT Public Service Administrative and Related Classifications Enterprise Agreement 2013-2017* (the Agreement).

Findings

The following allegations in relation to incidents that occurred on Saturday, 19 August 2017 were investigated:

1. You attended for work after the nominated commencement time of 9:45am, this resulted in colleagues having to wait [REDACTED].
2. Despite arriving after 9:45am you noted this as the commencement time on the sign on – sign off attendance record.
3. You failed to sign off on the attendance record during the lunch period and [REDACTED].

- 4. [REDACTED], this is in breach of procedure, this also resulted in [REDACTED].
- 5. [REDACTED] where there is no provision for [REDACTED].
- 6. You advised a colleague not to [REDACTED].
- 7. You allowed a [REDACTED].

In considering your responses to the above allegations I note:

Allegation 1 and 2 - [REDACTED]

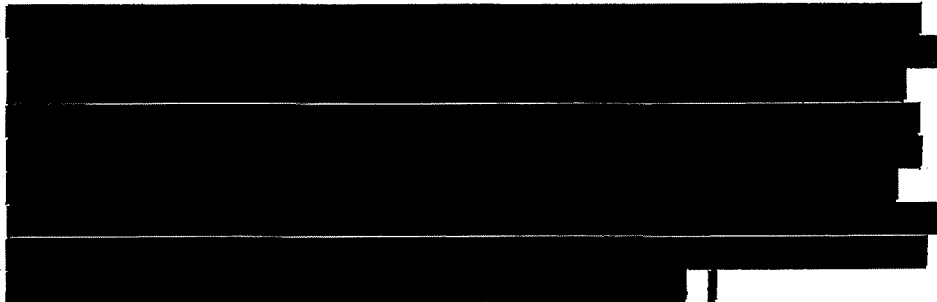
Allegation 3 - [REDACTED]

Allegation 4 - [REDACTED]

Allegation 5 - [REDACTED]

Allegation 6 - [REDACTED]

Allegation 7 - [REDACTED]



I have considered your responses and am satisfied based on the information provided there is sufficient evidence to substantiate the above allegations. I have determined that these allegations are proven on the balance of probabilities and constitute misconduct under Clause H6.5 of the Agreement.

The conduct breaches:

- Sections 9 of the *Public Sector Management Act 1994*, specifically:
 - (1) A public servant must –
 - (c) when acting in connection with the public servant's job –
 - (ii) comply with any lawful and reasonable direction given by a person with the authority to give the direction
 - (d) do the public servant's job with reasonable care and diligence, impartiality and honesty.

Furthermore, your behaviour is inconsistent with territory policy, specifically:

- Transport and City Services Values and Code of Conduct; and
- Public Money Handling Guidelines for [REDACTED]

Discipline Action

In regard to the proven misconduct I propose to apply the following sanctions as prescribed in the Agreement:

- a) Written warning; and
- b) Fine of \$69,80 [REDACTED]

Right of Reply

You may provide a written response to me within fourteen calendar days of receiving this letter addressing my findings of misconduct and proposed disciplinary action. This will be considered before a final decision is made.

Any response should be addressed to:

Director [REDACTED]
 Transport Canberra and City Services Directorate
 GPO Box 158
 CANBERRA ACT 2601

Or by email to [REDACTED]@act.gov.au

Section J of the Agreement also provides that you have the right to appeal any discipline action taken, with the exception of termination of employment. You will be further advised of these appeal rights if discipline action is taken.

In accordance with the disposal schedules under the *Territory Records Act 2002*, records of investigations of misconduct allegations which are found proven must be retained for a minimum of five years.

Should you require support in relation to this matter, the Employee Assistance Program (EAP) is available to provide confidential and professional counselling to you and members of your family. These services can be sought by contacting any of the below providers:

Assure	1800 808 374
Converge Internations	1300 687 327
Benestar	1300 360 364
Peoplesense	1300 307 912

Alternatively you can contact NewAccess on 6287 8066. NewAccess is a program run by Beyond Blue and services are free and confidential.

If you have any queries please contact Kim-Marie Ivens Manager Employee Relations on 6205 2070.

Yours sincerely

[REDACTED]

[REDACTED]
 Director [REDACTED]

16 April 2018

Attachment A

Statement of Reasons – Proposed Disciplinary Action against [REDACTED]

Allegations

1. You attended for work after the nominated commencement time of 9:45am, this resulted in colleagues having to wait [REDACTED].
2. Despite arriving after 9:45am you noted this as the commencement time on the sign on – sign off attendance record.
3. You failed to sign off on the attendance record during the lunch period and [REDACTED]
4. [REDACTED]
5. [REDACTED]
6. [REDACTED]
7. [REDACTED]

Based on the response provided, I am satisfied that the allegations are proven on the balance of probabilities.

- Sections 9 of the *Public Sector Management Act 1994*, specifically:

(1) A public servant must –

(c) when acting in connection with the public servant's job –

(ii) comply with any lawful and reasonable direction given by a person with the authority to give the direction

(d) do the public servant's job with reasonable care and diligence, impartiality and honesty.

Furthermore, your behaviour is inconsistent with territory policy, specifically:

- Transport and City Services Values and Code of Conduct; and

- Public Money Handling Guidelines for [REDACTED]

Conclusion

In determining the appropriate discipline action, I have considered the following factors as required under Clause H10.3 of the Enterprise Agreement:

(a) The nature and seriousness of the misconduct;

As an ACT Public Service (ACTPS) employee you have an obligation to ensure your behaviour is consistent with Section 9 of the PSM. Based on the evidence available I am satisfied there is sufficient evidence to support your conduct has been inconsistent with your obligations.

(b) the degree of relevance to the employee's duties or to the reputation of the Directorate or the ACTPS;

[REDACTED]

(c) the circumstances of the misconduct;

In your role within [REDACTED] you are responsible on a daily basis to handle monies paid by customers. You have been made aware of your responsibilities in relation to handling money and this is detailed in the Public Money Handling Guidelines for [REDACTED]. In taking the action to waive the cost of the printing you breached the financial delegation and failed to follow the directions as set out in the guideline.

(d) any mitigating factors; including any full admission of guilt; and

No mitigating factors to be considered.

(e) the previous employment history and the general conduct of the employee.

You have the following recorded matters:

[REDACTED]



ACT
Government

Transport Canberra and
City Services



Dear [REDACTED]

Notice of Disciplinary Action

I wrote to you on 16 April 2018 and advised you of my findings in relation to allegations of misconduct against you. I also advised you that I proposed to take disciplinary action and the reasons for that decision.

You were invited to provide a written submission to me in relation to my findings and the proposed discipline actions.

I have not received any response from you.

Consequently, I remain of the view that a written warning and a fine of \$69.80 are the appropriate sanctions in relation to the proven allegation and will be implemented effective from the date of this letter.

Right of Appeal

Section J, Appeals Mechanism of the *ACT Public Service Administrative and Related Classifications Enterprise Agreement 2013-2017* provides you with information on your right for appeal. You have the right to appeal any decision to take disciplinary action within fourteen calendar days of being notified of the decision, except a decision to terminate your employment (if concerning only underperformance and disciplinary action). I have attached a copy of Section J for your information.

To lodge an application for appeal

Via Email

Attention: The Convenor of Appeal Panels

ACTPS Appeals@act.gov.au (preferred)

Hand Delivery

Appeals Coordinator (x78317)
Level 5, Canberra Nara Centre
1 Constitution Ave
Canberra ACT 2601

Appeal Related Inquiries:

For any inquiries about lodging an appeal or for information on the appeals process, you may contact the Appeals Coordinator on (02) 6207 8317.

In accordance with the disposal schedules under the *Territory Records Act 2002*, records of investigations of misconduct allegations which are found proven must be retained for a minimum of five years.

Should you require support in relation to this matter, the Employee Assistance Program (EAP) is available to provide confidential and professional counselling to you and members of your family. These services can be sought by contacting any of the below providers:


Assure	1800 808 374
Converge Internations	1300 687 327
Benestar	1300 360 364
Peoplesense	1300 307 912

Alternatively you can contact NewAccess on 6287 8066. NewAccess is a program run by Beyond Blue and services are free and confidential.

If you have any queries please contact Kim-marie Ivens Manager Employee Relations on 6205 2070.

Yours sincerely



Director 

17 May 2018



ACT
Government

Transport Canberra and
City Services

[REDACTED]
[REDACTED]
[REDACTED]

Dear Mr [REDACTED]

Written Warning for Misconduct

This notice constitutes a formal warning and admonishment under the discipline procedures set out in the *ACT Public Service Administrative and Related Classifications Enterprise Agreement 2013-2017*.

This warning is issued in relation to your actions in:

- Attending for work outside of the nominated commencement time;
- Noting incorrect commencement time in attendance record;
- Failing to sign off during the lunch period;
- [REDACTED];
- [REDACTED];
- [REDACTED];
- [REDACTED].

A recurrence of the misconduct outlined above, or of a similar nature, may result in further discipline action against you up to and including termination of your employment.

You are directed to adhere to your obligations as a public servant under Section 9 of the *Public Sector Management Act 1994*.

Failure to comply with this direction may also constitute misconduct and result in further discipline action.

Yours sincerely,

[REDACTED]
[REDACTED]

Director [REDACTED]

17 May 2018



ACT
Government

Chief Minister, Treasury and
Economic Development

Interim Report



Transport Canberra and City Services

Case Reference: 2018/5

Jim Venn
Senior Manager (Strategic)
Professional Standards Unit

May 2018



Ms Emma Thomas
Director-General
Transport Canberra and City Services

Dear Ms Thomas

Interim Report regarding allegations of misconduct by [REDACTED]

On 19 January 2018, [REDACTED] was notified in writing by Mr Jim Corrigan, Deputy Director General, Transport Canberra and City Services (TCCS) of the investigation and the following preliminary allegations (Attachment 1).

1. Between 2017 and 2018, you represented that you could influence a tender process to one or more contractors to the Territory.
2. Between 2017 and 2018, you offered to influence a tender process in return for payment.
3. Between 2017 and 2018, you offered to provide additional work to one or more contractors to the Territory in return for payment.

Background

The following allegations were initially provided by [REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] head office is located at [REDACTED] [REDACTED] specialise in [REDACTED] projects including bridges, roads, rail, earthworks, dams and stormwater.

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Subsequent Events

[REDACTED]

Ms Scheul then called Mr Corrigan to inform him of these allegations after first consulting with the ACT Government Solicitor's Office (Mr Sky Sim). Ms Scheul then telephoned [REDACTED] to arrange a meeting at 4pm later that same day.

[REDACTED]

[REDACTED]

[REDACTED]

After this meeting Ms Scheul telephoned Mr Corrigan to provide an update, albeit [REDACTED] identity was still unknown at that time.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] now aware of the identities of [REDACTED] had been compelled to report the matter given the seriousness. [REDACTED]

[REDACTED]

At 1pm on 18 January 2018, a verbal briefing was provided to Mr Jim Venn of the Professional Standards Unit (PSU) regarding the allegations above. In turn Mr Venn advised that the matter should be reported to ACT Police immediately, given the criminality of the allegations.

Meeting at [REDACTED]

On Friday 19 January 2018 at 7:30am, [REDACTED]

[REDACTED] Ms Scheul provided an overview of ACTPS employee reporting responsibilities under the *Public Sector Management Act 1994*. [REDACTED]

Ms Scheul provided assurance regarding procurement processes and expressed appreciation to [REDACTED] for coming forward. She advised that TCCS was duty bound to report the

matter to ACT Police. Discussion took place concerning the possibility of suppressing [REDACTED] identities in subsequent processes.

Suspension

At 2:30pm that same day a meeting took place between Mr Steve Wright, Director People and Capability, TCCS, and [REDACTED], with Ms Scheul and Mr McHugh present. [REDACTED] was suspended with pay and advised that the matter had been referred to the PSU for investigation. [REDACTED]

[REDACTED]

Mr Wright then cautioned [REDACTED] in that anything he said or did may be used in evidence at a later date and suggested he seek legal advice.

[REDACTED] then wanted to know the date of the allegation but Mr Wright advised that he was unable to provide any details. Further discussion then centred on welfare issues and the meeting concluded.

At 3pm that afternoon Ms Thomas submitted a request to the Head of Service for referral of the matter to ACT Police and referral to PSU for Misconduct Investigation.

[REDACTED]

[REDACTED]

[REDACTED]

Mr Wright advised [REDACTED] that if he resigned, any employment related investigation may continue however he could not be compelled to participate and we could not take disciplinary action against him.

[REDACTED] then asked about what effect this might have on a police investigation. Mr Wright advised that this was something on which [REDACTED] should seek advice from a solicitor. Mr Wright further advised that the matter had been referred to the Head of Service the previous Friday for referral to ACT Police.

[REDACTED] enquired whether the referral to the police might happen regardless of whether he resigned or not and Mr Wright informed him that was correct and that any police investigation would be at the discretion of the police, regardless of any resignation. The discussion regarding the referral to ACT Police continued for a few minutes with [REDACTED] focussed on the effect of a resignation in relation to the initial referral to the police and the subsequent police investigation.

[REDACTED] then returned to the same query regarding the misconduct investigation and Mr Wright iterated his earlier advice.

[REDACTED]
[REDACTED]

At 10:19am that same day Mr Wright received another call from [REDACTED] on his desk phone and provided confirmation that the matter had been reported to ACT Police. Mr Wright further cautioned [REDACTED] in relation to things he might say and again suggested he seek legal advice.

Subsequent Police Investigation

On Wednesday 24/01/18 at 5pm, a formal 'Investigation Request' (with attachments) was received by the PSU (Attachment 2). However, in light of the police referral Mr Venn was asked to liaise with ACT Police.

On 30 January 2018, Mr Venn met with Detective Sergeant [REDACTED] and Senior Constable [REDACTED] at the Winchester Police Centre, Belconnen. Discussion ensued as to the coordination of criminal and misconduct investigation processes, resulting in a request that the PSU misconduct investigation be paused to allow police initial access to complainants, witnesses and other avenues of enquiry. This was agreed, albeit on return to the office Mr Venn made a request to ICT Security for an audit of [REDACTED] email account for the relevant period.

On 9 February 2018, Mr Venn met with D/Sgt [REDACTED] and S/C [REDACTED] again at the Winchester Police Centre, and was advised that there was no evidence at that time to suggest other TCCS staff members or contractors were involved. This advice was communicated to TCCS.

On 9 March 2018, [REDACTED] provided email advice to Mr Venn indicating the PSU misconduct investigation could commence on 9 April 2018, subject to an update on the progress of the

police report. However, on 11 April 2018 at a third meeting held at the Winchester Centre, Mr Venn was requested to delay commencement of any misconduct process while police continued with their enquiries.

On 12 April 2018, Mr Venn sent a reminder to ICT security regarding his earlier request for an email audit.

Arrest and Court Appearance

On the afternoon of 2 May 2018, S/C [REDACTED] advised Mr Venn that [REDACTED] had been arrested and would be held in custody pending his court appearance scheduled for the following day.

On 3 May 2018, Mr Venn attended at the ACT Magistrates Court to witness [REDACTED] charged with bribery, the specific offence being a breach of Section 356 (1) (III) of the Criminal Code 2002, 'offers to provide, or promises to provide, a benefit to an agent or someone else.'

The maximum penalty for this offence is 1000 penalty units (\$210,000), imprisonment for 10 years or both.

[REDACTED] did not enter a plea and was granted bail, on conditions, to appear back at the ACT Magistrates Court on 24 May 2018. Conditions imposed included that he report to the Belconnen Police Station on Monday of each week, that he reside at [REDACTED], [REDACTED] and that he not assault, harass, intimidate or contact any of the [REDACTED] or other witnesses in this matter.

[REDACTED]

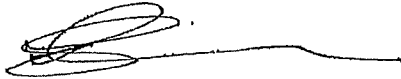
On 3 May 2018, ICT Security indicated that no inappropriate emails had been identified.

Recommendation

In light of the police arrest and court appearance it is now recommended that, as the delegate, you:

- a) review [REDACTED] suspension with pay;
- b) consider providing [REDACTED] with additional allegations regarding the breach of direction in relation to his suspension notice;

- c) consider summary termination as per clause H7.3 of the *Administrative and Related Classifications Enterprise Agreement 2013 - 2017*;
- d) notify [REDACTED] in writing accordingly, giving him an opportunity to respond to his alleged behaviours.



.....
J.D.VENN
Principal Investigator
Professional Standards Unit
5 May 2018

Attachment

- 1. Statement of Facts

On 1 August 2016, [REDACTED] the defendant now before the court, began employment at Transport Canberra and City Services (TCCS) in a project management role on a temporary contract working full time hours.

TCCS is a directorate of the Australian Capital Territory (ACT) Government and is responsible for managing roads, bridges, footpaths, traffic management, city amenity and the ACT public transport network. The defendant's most recent employment contract with TCCS was for the period 1 August 2017 to 31 July 2018.

As a project manager, the defendant's duties at TCCS involve facilitating tender processes for government funded construction works in the ACT and interacting with relevant contractors in relation to the undertaking of those works. At any one time in the period of his most recent contract, the defendant would be responsible for managing between five to ten projects. The value of these projects could range from \$15,000 to \$8 million.

[REDACTED] is the operations manager of [REDACTED] EFL's father, [REDACTED] is the company director, [REDACTED] in civil infrastructure projects including bridges, roads, rail, earthworks, dams and stormwater.

On Tuesday 9 January 2018, [REDACTED] received an e-mail from his brother and work colleague, [REDACTED] requesting he call telecommunications service [REDACTED] and speak with the defendant in relation to a potential contract.

Shortly after receiving the e-mail, [REDACTED] called the number and spoke to a male who identified himself as the defendant. [REDACTED] and the defendant made arrangements for [REDACTED] to pick the defendant up from the [REDACTED] Building on Northbourne Avenue, Dickson, ACT, that same afternoon.

Telecommunications service [REDACTED] was connected on 14 May 2010 and is subscribed in the name of the defendant to an address in Western Australia.

About 12:00pm the same day, [REDACTED] picked the defendant up from the [REDACTED] building in Dickson, ACT and the two travelled to the [REDACTED] Primary School located on [REDACTED] Crescent, Gurrang, ACT. There, they measured up an area where bike racks were to be removed and concrete reinstated. [REDACTED] then quoted for [REDACTED] to complete the work.

[REDACTED] and the defendant agreed to a cost of the project and a contract was signed on the spot for [REDACTED] to complete the work. The value of this contract was \$23,580. [REDACTED] then drove the defendant back to the [REDACTED] building in Dickson, ACT. This meeting was the first time [REDACTED] had met the defendant.

About 7:10pm on Sunday 14 January 2018, [REDACTED] was at his parents' house for dinner when he received a phone call on his mobile phone from the defendant. During this call, the defendant requested the two meet the following morning at 9:00am to look at a job for the [REDACTED] Primary School in [REDACTED] ACT.

About 8:59pm that same night, the defendant called [REDACTED] again. During this conversation the defendant said: "How does [REDACTED] sound to you?" [REDACTED] know the defendant was referring to a tender bid he had submitted for [REDACTED] to undertake construction works on [REDACTED] ACT.

[REDACTED] advised he would like the job, before the defendant stated that if [REDACTED] keep their tender bid by \$50,000 they would be a "shot" at getting the job. The call ended and [REDACTED] had a conversation with his father. Both [REDACTED] and [REDACTED] became concerned at the nature of the defendant's comments. It was their understanding that it is not standard practice for government departments to discuss tenders openly in that manner.

About 9:17pm that same night, the defendant called [REDACTED] for a third time. During the conversation, the defendant spoke more about the [REDACTED] project and stated words to the effect of being able to swing the panel in favour of [REDACTED] if they put \$50,000 off their bid. [REDACTED] cut the conversation short because he felt uncomfortable and was unable to understand the defendant at times as his speech was slow and slurred.

Both [REDACTED] and [REDACTED] decided [REDACTED] should still meet with the defendant the following morning to keep up relations with TCCS.

About 8:39am on Monday 15 January 2018, [REDACTED] met with the defendant in a carpark on [REDACTED] Place, [REDACTED] ACT. The defendant asked [REDACTED] if last night's phone conversations made sense as 'he had a few beers'. [REDACTED] replied with words to the effect of, 'you want us to look at our price and see if I can get better value for the client?' to which the defendant responded "I'd had a few beers so just wanted to check it all made sense?"

The defendant and I walked to the Primary School, Avenida, Kaleson, ACT to measure for the reinstatement of bike racks. While walking back to their cars from the school, the defendant asked if mobile phone was completely turned off. The defendant waited for I to turn his mobile phone off.

The defendant then asked "Do you have access to cash?" This confused who thought the defendant may have meant cash security for a job. responded saying "Cash for what?" The defendant said: "Cash for me. One hundred K, I'll make sure you get the project and keep getting projects like this one, I am the man with the cheque book and you can get the work done, I work for the government on one hundred K per year, I have two kids, a family to support and I live in I need a bit extra."

said, "I'm not sure there is one hundred grand in the project, I will have to look at the numbers and get back to you."

The defendant said, "I don't want to do any little hand overs of money, we do it once and be done with it. I see it working like this, you hand me a bag of untraceable cash, meet me at a carpark like this and leave a bag that I'll pick up. Can you do it?"

said, "I'll have to talk to my partners and get their thoughts, how much are we talking about?" The defendant replied by saying, "I'd appreciate it if you kept this to yourself and didn't speak to them. Look, I have over \$3 million to spend in the next six months."

This made feel immediately sick in his stomach. He did not know what to say or do in response to what the defendant had said. He knew would never do anything like what the defendant was asking and that his offers were a clear breach of practices and probably illegal, but he did not want to upset or alarm the defendant as doing so could have had a negative effect of gaining future contracts through TCCS.

The defendant then held up the contract that had just been signed in relation to the bike racks and said, "I can get you a new one of these every three days". The value of this contract was \$54,300.

As soon as was away from the defendant he called his father, told him what had occurred before immediately returning to the office to tell him in person. That afternoon, and sought advice from their corporate lawyer, of Trinity Law, also contacted a long-time trusted associate and TCCS employee of 34 years, asking for advice on how to best handle the matter, and were concerned that if they reported the defendant to TCCS and/or the police, and the defendant did not lose his job, it would have a negative effect on obtaining further work through TCCS contracts.

Police have obtained statements from and

About 3:57pm on Tuesday 16 January 2018, the defendant called and attempted to arrange a meeting to discuss the relocation of bike racks in During the conversation, the defendant said, "About the other day, don't worry about it, we'll keep doing what we're doing."

About 10:15am on Wednesday 17 January 2018, met with the defendant in a carpark on Place, During the meeting, the defendant again requested I forget what he had said days prior.

About 2:30pm on Friday 19 January 2018, the defendant was required to attend a meeting with three executives from TCCS. At the meeting, the defendant was told of an allegation made against him, and he was subsequently stood down from work with pay.

Upon being advised he was stood down from his role with TCCS, the defendant queried if the allegation had come from TCCS executives did not answer this query and were surprised at the defendant's comments given the limited information he had been provided about the allegations.

After being given the opportunity to collect some personal belongings from his office, the defendant drove to the office of at Grant, ACT. Closed Circuit Television (CCTV) shows the defendant entering the reception of at 3:13pm.

entered the reception area of the office where he saw the defendant. The defendant asked if he could speak with him in private and gestured they walk outside. The defendant and walked outside to the front of the offices where the defendant asked if "phone was off. The defendant then said

words to the effect of: 'Have you said anything about what we were speaking about? You haven't said anything to your old man have you?', told the defendant he hadn't to which the defendant replied with words to the effect of: 'I've been stood down for collusion on projects'.

About 8:00am on Monday 22 January 2018, [redacted] was at a job site at the [redacted] School when he saw the defendant walking west along [redacted] Street. The defendant knew through prior conversations and dealings that [redacted] would have been at this job site at this time. The defendant signaled for [redacted] attention and walked over to him. The defendant again asked [redacted] if he "had said anything" to which [redacted] again advised he hadn't.

[redacted] said: "What are they saying, am I in any trouble over this?"
The defendant said: "Look I really don't know. Apparently if I resign it all goes away. By the way, you are getting [redacted] project, your submission blew everyone else away. Your program was way better and sounded like you really understood the job."
[redacted] said he didn't know what was going on but would let him know if he heard anything.

On 22 January 2018 the Head Of Service for TCGS referred the matter to the ACT Chief Police Officer and an investigation commenced.

About 6:50am on Friday 9 February 2018, the defendant attended the offices of [redacted] at [redacted], ACT. [redacted] and the defendant had a conversation in the reception area during which the defendant asked [redacted] for a written character reference, [redacted] agreed, however a date and time to complete it was not planned.

Video of this meeting was captured by CCTV.

At 9:35am on Friday 23 February 2018, ACT Supreme Court Judge [redacted] Mossop granted a Surveillance Device Warrant under section 13 of the ACT Crimes (Surveillance Devices) Act 2010 authorising the use of listening and optical devices in relation to the conversations of the defendant. The warrant was granted for 60 days, with an expiry of Monday 23 April 2018.

About 7:00am on Thursday 5 April 2018, [redacted] met with the defendant at the [redacted] shops carpark, ACT and the two had a conversation. Protected Information (PI) reveals that during this conversation the defendant attempted to coach [redacted] on what to say to police.

The defendant told [redacted] to accept an invitation to speak with police and then say "nah nah no bribery, like this is the nature of the conversation I had with [redacted] in the interests of keeping their story consistent, the defendant told [redacted] what he had already told his supervisor, [redacted], in particular that he conceded that he has breached confidentiality by having conversation about clarification points, but the conversation wasn't about money.

The defendant went into the particulars of what parts of their conversation to leave in and what parts to leave out. The defendant said, "If you say that, I guarantee it's all gonna blow over," and "If any other part of the conversation got out, I'm in jail". The meeting concluded with the defendant saying to [redacted] "But those are the two points, don't forget them."

At 1:40pm on 20 April 2018, Judge [redacted] Neville of the Federal Circuit Court of Australia granted a Stored Communications Warrant under the Telecommunications (Interception and Access) Act 1979 in relation to the defendant and telecommunications service [redacted].

Lawfully Obtained Information shows that the defendant received a Short Message Service (SMS) from an unknown person utilising telecommunication service [redacted] at 7:04pm on 10 February 2018 as follows:

"Hey [redacted] cheers for the chat, I don't reckon you'll have any issues with the AFP, as long as it was out of hours and hungover, ... don't know the rest of the case. Any ways my brother is under investigation for market manipulation but nothing has happened to him so far, and he was bullshitting sober on hot copper for years."

Police have obtained statements from the defendant's supervisor, [redacted], the Director of People and Capability for TCGS, [redacted], and the panel members for the [redacted] and [redacted]. These statements detail the protocols required of the defendant as a Project Manager at TCGS.

When compared to the statements obtained from [redacted] and [redacted] and the PI obtained of the conversation between the defendant and [redacted] on 5 April 2018, these statements show that the

defendant was dishonest in offering a benefit and had the intention that would provide a favour.

About 12:10pm on Wednesday 2 May 2018, police attended the intersection of Coombs in the ACT after the defendant had agreed to meet with them. Once here, police called the defendant on his mobile phone and he attended their location.

About 12:14pm, police met with the defendant and immediately advised him he was under arrest for Bribery. The defendant stated that he understood, the defendant then provided ACT drivers licence numbered in his name. Police were satisfied that the image on the licence matched the defendant.

Police describe the defendant when they first saw him as a Caucasian male, about 185 centimetres tall, solid build with a beard. At the time he was wearing a fluoro orange vest with "BMW" logo on the back. Grey short sleeve hoodie - sleeves appeared to have been cut off with a logo on the front a black long sleeve shirt underneath hoodie, faded grey football shorts with Canberra Raiders logo and black coloured leather work boots with white socks.

Police observed the defendant matched the appearance of video footage of him attending the office on 19 January 2018, 9 February 2018 and footage obtained of him speaking with on 5 April 2018.

Police also observed the shorts the defendant was wearing when he was arrested match the shorts worn by the defendant in the footage on 9 February 2018.

The defendant was then conveyed to City Police Station where he was interviewed and later lodged at the ACT Watch House at 3:02pm.

EVIDENCE

POLICE WITNESSES

NAME	:	ACT-WINCHESTER CENTRE BELCONNEN
LOCATION	:	
UNAVAIL. DATES	:	
SUMMARY	:	Corroborator, Obtained statement from, Present during arrest of defendant, Corroborated interview with the defendant.

NAME	:	ACT-CRIMINAL INVESTIGATIONS
LOCATION	:	
UNAVAIL. DATES	:	
SUMMARY	:	Informant Obtained statements from, Swore and obtained Stored Communications Warrant and Surveillance Device Warrant, Arrested the defendant, Interviewed defendant.



[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

Notice of Termination of Employment for Serious and Willful Misconduct

You are currently employed as an [REDACTED]
[REDACTED], Transport Canberra and City Services.

On 3 May 2018 you appeared at the ACT Magistrates Court where you were charged with bribery, the specific offence being a breach of Section 356 (1) (III) of the *Criminal Code 2002*, "offers to provide, or promises to provide, a benefit to an agent or someone else."

Based on the information before me, I am satisfied that your conduct in relation to the above charges amounts to serious misconduct and is inconsistent with the continuation of your employment.

This notice is to inform you of my decision to summarily terminate your employment without notice for serious and willful misconduct under H7.9 of the *ACT Public Sector Technical and Other Professional Enterprise Agreement 2013-2017* (the Agreement). Therefore, your employment will be terminated with effect 7 May 2018.

You can access a copy of the Agreement from the ACT Government Jobs ACT website, <http://www.jobs.act.gov.au/about-the-actps/agreements>. If you cannot access this, and require a printed copy, please advise the Manager Employee Relations on 6205 2070.

The Enterprise Agreement does not provide a right of appeal against a decision to terminate your employment. You may have a right to bring an action against the termination of your employment with Fair Work Commission in accordance with the *Fair Work Act 2009* (www.fairwork.gov.au).

If you have any queries please contact Kim-marie Ivens Manager Employee Relations on
6205 2070.

Yours sincerely



Jim Corrigan
Deputy Director-General
City Services

7 May 2018

