



**Australian Government**

**Department of Education, Employment and Workplace Relations**

# **PSPREG404C Investigate non-compliance**

**Revision Number: 1**

## **PSPREG404C Investigate non-compliance**

### **Modification History**

Not applicable.

### **Unit Descriptor**

#### **Unit descriptor**

This unit covers identification of possible non-compliance and recommendations for ensuing action. It includes initiating a preliminary investigation to confirm non-compliance, and planning, conducting and finalising the investigation.

In practice, investigating non-compliance may overlap with other generalist or specialist public sector work activities such as acting ethically, exercising regulatory powers, acting on non-compliance, conducting formal records of interview, gathering and managing evidence, etc.

This unit replaces and is equivalent to PSPREG404B Investigate non-compliance with legislation.

### **Application of the Unit**

Not applicable.

### **Licensing/Regulatory Information**

Not applicable.

### **Pre-Requisites**

Not applicable.

### **Employability Skills Information**

**Employability skills** This unit contains employability skills.

## Elements and Performance Criteria Pre-Content

Elements are the essential outcomes of the unit of competency. Together, performance criteria specify the requirements for competent performance. Text in *bold italics* is explained in the Range Statement following.

## Elements and Performance Criteria

ELEMENT	PERFORMANCE CRITERIA
<b>1. Initiate preliminary investigation to confirm non-compliance</b>	1.1 Information is assessed in terms of its accuracy and against legislative requirements to confirm likely non-compliance 1.2 Information is tested against the legislation to confirm whether the possible breach falls within jurisdiction 1.3 Importance/urgency of the matter is assessed and the priority is allocated to enable timely and effective action 1.4 Documentation to commence investigation of alleged breach is initiated and meets legislative and organisational requirements
<b>2. Plan investigation</b>	2.1 Objectives of the investigation are determined and <i>resources</i> to conduct the investigation are determined and obtained in accordance with organisational policy and procedures 2.2 Risks associated with the investigation are identified and planned for, including sensitivities that might affect the organisation 2.3 <i>Methods</i> to achieve the investigation's objectives are selected and authorised in accordance with <i>legislation, policies and guidelines</i> 2.4 Timelines are identified and tasks prioritised to inform the sequence of activities and provide for future review of the investigation process 2.5 Communication and case management requirements are confirmed and initiated in accordance with organisational policy and procedures 2.6 Investigation <i>planning</i> and recording is conducted in accordance with legislative requirements and organisational policy and procedures
<b>3. Conduct investigation</b>	3.1 Subjects and suspects involved in the possible breach are identified and details are recorded in accordance with legislative requirements and organisational policy and procedures 3.2 Information relevant to the investigation is collected and analysed in accordance with legislative requirements, rules of evidence and organisational policy and procedures 3.3 <i>Exhibits</i> are processed and managed in accordance with legislative requirements, rules of evidence and organisational policy and procedures 3.4 Likely defences are anticipated and evidence to counter them is included 3.5 The need for <i>expert assistance</i> is determined and arranged in accordance with organisational procedures
<b>4. Finalise</b>	4.1 If no breach has occurred or no action is to be taken, documentation includes reasons and justification, and is

**ELEMENT****investigation****PERFORMANCE CRITERIA**

- completed in accordance with organisational policy and procedures
- 4.2 If breach is confirmed, appropriate, timely *action* is *recommended* within the officer's discretion under the legislation and organisational policy and procedures
- 4.3 A record of the investigation and consequent recommendations for action are prepared and submitted in accordance with legislative and organisational requirements

## Required Skills and Knowledge

### REQUIRED SKILLS AND KNOWLEDGE

This section describes the essential skills and knowledge and their level, required for this unit.

#### Skill requirements

Look for evidence that confirms skills in:

- acting ethically
- applying legislation, regulations and codes of practice
- using process mapping
- undertaking research, analysis and problem solving in the context of investigating non-compliance
- reading and applying complex information from legislation
- communicating including questioning and negotiating meaning in sometimes difficult situations
- responding to diversity, including gender and disability
- using planning and time management in the context of investigations
- preparing written reports and recommendations requiring accuracy and formal structures and language
- using information technology for data analysis, recording and reporting
- applying public sector legislation such as occupational health and safety and environmental procedures in the context of investigation

#### Knowledge requirements

Look for evidence that confirms knowledge and understanding of:

- investigation methodology and techniques
- rules and types of evidence
- storage and continuity of evidence
- applicable legislation
- aspects of criminal, civil or administrative law
- jurisdiction, powers and restrictions to investigate
- organisational policy and procedures
- cultural awareness
- confidentiality and privacy issues
- procedures re lines of reporting
- report procedures which provide a written and/or electronic audit trail
- public sector legislation such as occupational health and safety and environment relating to investigations

## Evidence Guide

### EVIDENCE GUIDE

The Evidence Guide specifies the evidence required to demonstrate achievement in the unit of competency as a whole. It must be read in conjunction with the Unit descriptor, Performance Criteria, the Range Statement and the Assessment Guidelines for the Public Sector Training Package.

#### Units to be assessed together

- *Pre-requisite* units that must be achieved prior to this unit: *Nil*
- *Co-requisite* units that must be assessed with this unit: *Nil*
- *Co-assessed units* that may be assessed with this unit to increase the efficiency and realism of the assessment process include, but are not limited to:

PSPETHC401A Uphold and support the values and principles of public service

PSPGOV406B Gather and analyse information

PSPGOV408A Value diversity

PSPGOV422A Apply government processes

PSPLEGN401A Encourage compliance with legislation in the public sector

PSPREG401C Exercise regulatory powers

PSPREG407B Produce formal record of interview

PSPREG412A Gather and manage evidence

#### Overview of evidence requirements

In addition to integrated demonstration of the elements and their related performance criteria, look for evidence that confirms:

- the knowledge requirements of this unit
- the skill requirements of this unit
- application of the Employability Skills as they relate to this unit (see Employability Summaries in Qualifications Framework)
- investigation of non-compliance in a range of (3 or more) contexts (or occasions, over time)

#### Resources required to carry out assessment

These resources include:

- legislation, regulations, policy, guidelines and standards
- public sector values and codes of conduct
- case studies and workplace scenarios to capture the range of investigation situations likely to be encountered

#### Where and how to assess evidence

Valid assessment of this unit requires:

- a workplace environment or one that closely resembles normal work practice and replicates the range of conditions likely to be encountered when investigating non-compliance, including

## EVIDENCE GUIDE

coping with difficulties, irregularities and breakdowns in routine

- investigation of non-compliance in a range of (3 or more) contexts (or occasions, over time)

Assessment methods should reflect workplace demands, such as literacy, and the needs of particular groups, such as:

- people with disabilities
- people from culturally and linguistically diverse backgrounds
- Aboriginal and Torres Strait Islander people
- women
- young people
- older people
- people in rural and remote locations

Assessment methods suitable for valid and reliable assessment of this competency may include, but are not limited to, a combination of 2 or more of:

- case studies
- portfolios
- questioning
- scenarios
- authenticated evidence from the workplace and/or training courses

### **For consistency of assessment**

Evidence must be gathered over time in a range of contexts to ensure the person can achieve the unit outcome and apply the competency in different situations or environments



## Range Statement

### RANGE STATEMENT

The Range Statement provides information about the context in which the unit of competency is carried out. The variables cater for differences between States and Territories and the Commonwealth, and between organisations and workplaces. They allow for different work requirements, work practices and knowledge. The Range Statement also provides a focus for assessment. It relates to the unit as a whole. Text in *italics* in the Performance Criteria is explained here.

- Resources may include*
- human, physical and financial and may include other agencies, such as:
  - other police organisations
  - National Crime Authority
  - Criminal Justice Commission/s
  - other government departments/agencies
  - non-government agencies such as financial institutions and insurance companies
- Investigation methods may include*
- forensic examination/analysis
  - informants/informers
  - listening devices and other covert surveillance techniques
  - search and search warrants
  - computer interrogation/data retrieval
  - door knocks
  - using other sources of information, such as the media
- Legislation, policies and guidelines may include*
- enabling legislation
  - confidentiality
  - privacy
  - criminal, civil or administrative law
  - contract law
  - equal employment opportunity and anti-discrimination law
  - disciplinary procedures
  - government policy
  - organisational guidelines
  - regulatory standards
  - codes of practice
  - international treaties (equal employment opportunity, world heritage)
- Investigation planning may include*
- objectives
  - methods
  - risks
  - timelines
  - resources

- Exhibits may include*
- activities
  - communication
  - case management
  - evidentiary elements of the offence
  - the individual items of evidence that could be presented to a court and may be required for viewing by:
    - judicial officers
    - prosecutors
    - defence counsel
    - expert and non-expert witnesses
    - those required for audit purposes
- Expert assistance may include*
- advice on/assistance with evidentiary matters
  - audit matters
  - data analysis
  - document examination
  - execution of search warrants
  - fingerprinting
  - forensic
  - handwriting
  - legal advice - director of public prosecutions, government solicitor
  - photography
  - recovery issues
  - scientific or technical matters
  - surveillance
- Recommended action may include*
- measures to control/contain breach
  - warning
  - caution
  - notice
  - fine
  - arrest
  - criminal prosecution
  - civil action
  - debt recovery strategy
  - no action (must specify criteria for use of no action):
    - used where investigation identifies no offence or a relevant defence is raised
  - also used when exercising prosecutorial discretion

## **Unit Sector(s)**

Not applicable.

## **Competency field**

**Competency field**            Regulatory