



ACT
Government

Chief Minister, Treasury and
Economic Development

Freedom of Information Publication Coversheet

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

FOI Reference: CMTEDDFOI 2020-086

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)	17
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

From: [REDACTED]
To: [CMTEDD FOI](#)
Subject: RE: CMTEDDFOI2020-070
Date: Tuesday, 5 May 2020 10:04:31 PM
Attachments: [REDACTED]

Hi Kel,

Thanks very much for the documents provided.

After reviewing the information, I would like to register another subsequent Freedom of Information request.

For the below four investigations, please provide final investigation report and final discipline action determination letter for each of them without sensitive personal information.

Unauthorised access of information on Government database for a third party.	Reduction in Increment
Unauthorised access of information on a Government database for a third party.	Termination of Employment
Unauthorised and non-work-related access of information on a Government database.	Reduction in Increment
Unauthorised access of information on a Government database regarding a member of the public.	Termination of Employment

Please let me know if I need to register this request using the online form.

Kind regards

[REDACTED]



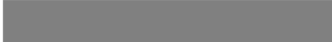


ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI2020-086



via email: 

Dear 

FREEDOM OF INFORMATION REQUEST

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 5 May 2020 in which you sought copies of “*the final investigation reports and final disciplinary action determination letters without sensitive personal information*”.

Specifically, you are seeking:

“...I would like to register another subsequent Freedom of Information request.

For the below four investigations, please provide final investigation report and final discipline action determination letter for each of them without sensitive personal information”

Summary	Sanction
Unauthorised access of information on Government database for a third party.	Reduction in Increment
Unauthorised access of information on a Government database for a third party.	Termination of Employment
Unauthorised and non-work-related access of information on a Government database.	Reduction in Increment
Unauthorised access of information on a Government database regarding a member of the public.	Termination of Employment

Authority

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.

Timeframes

In accordance of section 40 of the Act, CMTEDD is required to provide a decision on your access application by 3 June 2020.

Decision on access

Searches were completed for relevant documents and four documents were identified that fall within the scope of your request.

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.

I have decided to grant full access to all relevant documents. The documents released to you are provided as **Attachment B** to this letter.

Charges

Pursuant to *Freedom of Information (Fees) Determination 2017 (No 2)* processing charges are not applicable for this request because the total number of pages to be released to you is below the charging threshold of 50 pages.

Online publishing – Disclosure Log

Under section 28 of the Act, CMTEDD maintains an online record of access applications called a disclosure log. Your original access application, my decision and the documents released to you in response to your access application will be published in the CMTEDD disclosure log 3 days after the date of my decision. Your personal contact details will not be published. You may view the CMTEDD disclosure log at:

<https://www.cmtedd.act.gov.au/functions/foi/disclosure-log>.

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 CMTEDD disclosure log, or a longer period allowed by the Ombudsman.

We recommend using this form [Applying for an Ombudsman Review](#) to ensure you provide all of the required information. Alternatively, you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

Via email: actfoi@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 St
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740
<http://www.acat.act.gov.au/>

Should you have any queries in relation to your request please contact me by telephone on 6207 7754 or email CMTEDDFOI@act.gov.au.

Yours sincerely,

A handwritten signature in grey ink, appearing to read 'P. Dachs', is positioned above the typed name.

Philip Dachs
Information Officer
Information Access
Chief Minister, Treasury and Economic Development Directorate

28 May 2020



ACT
Government

Chief Minister, Treasury and
Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
Final investigation reports and final disciplinary action letters (excluding personal information).	CMTEDDFOI2020-086

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-14	Report 1	1 Dec 2017	Full release	N/A	Yes
2	15-23	Report 2	25 Feb 2016	Full release	N/A	Yes
3	24-29	Report 3	31 Mar 2020	Full release	N/A	Yes
4	30-40	Report 4	26 Feb 2016	Full release	N/A	Yes
Total No of Docs						
4						



ACT
Government

Chief Minister, Treasury and
Economic Development

Investigation Report

[REDACTED]

Vehicle Inspector Chief Minister, Treasury and Economic Development Directorate

Case Reference: 2017/61

Prepared by:

[REDACTED]
Professional Standards Unit

20 December 2017



ACT
Government

Chief Minister, Treasury and
Economic Development



Dear [REDACTED]

Investigation Report regarding allegations of possible misconduct by [REDACTED]

Background

On 21 September 2017, [REDACTED] was notified in writing by [REDACTED], Director, Community, Business and Transport Regulation of the investigation (Attachment 1). The preliminary allegation identified and notified to [REDACTED] was:

That you have engaged in inappropriate behaviour. I can advise that the allegations relate to the misuse of the Rego.ACT data base for non-work related purposes on Wednesday 20 September 2017.

Investigative process

On 22 September 2017, the matter was referred to the Professional Standards Unit for investigation (Attachment 2).

This investigation was conducted in accordance with the provisions of the *ACTPS Infrastructure Services Enterprise Agreement 2013-2017* under which [REDACTED] is employed.

On 27 September 2017 [REDACTED] responded to [REDACTED] notice of disciplinary investigation via email (Attachment 3) [REDACTED] responded to [REDACTED] on 5 October 2017, and while considering [REDACTED] response, decided [REDACTED] was to remain suspended with pay for the duration of the investigation (Attachment 4).

Information in relation to this matter was provided by:

Person	Position	Relevance to Investigation	Information source	Attachment
[REDACTED]	[REDACTED]	Witness Supervisor	Statement dated: 31 October 2017	5
[REDACTED]	[REDACTED]	Witness	Statement dated: 23 November 2017	6
[REDACTED]	[REDACTED]	Witness	Email dated 17 October 2017 and Rego.ACT Audit Report dated 20	7

	September 2017	
	Email dated: 14 November 2017 and Quarterly Review of access dated: 13 October 2015	8
	Briefing Paper dated: 15 November 2017 and Rego.ACT audit report	9
	File Notes dated: 31 October 2017	10
	13 November 2017	11
	15 November 2017	12

Other Documents/Evidence

Description	Attachment
Notes of meeting conversation between [REDACTED] and [REDACTED] dated 20 September 2017.	13
All in Government email re Privacy Obligations dated 2 February 2016.	14
Acceptable Use Policy Version 2.5, 23 January 2017.	15
ACT RTA Standard Terms of Access to RTA Information and systems, including information for Delegates and users – Version 2.0 – January 2017.	16
Position Description – [REDACTED]	17

On 1 December 2017 [REDACTED] was informed via email of the procedure in providing an admission statement under Section H7.4 of the Enterprise Agreement (Attachment 18).

On 6 December 2017, [REDACTED] was notified in writing of the following final allegations, particularised with the relevant information obtained, and was offered an opportunity to respond at interview or provide an admission statement (Attachment 19).

Allegation 1.

On Wednesday 20 September 2017, at the Access Canberra Motor Vehicle Inspection Station, Hume, you accessed the drivers licence details and vehicle registration information belonging to [REDACTED] on the Rego.ACT system, which was outside your duties as a Vehicle Inspector.

Allegation 2.

On Wednesday 20 September 2017, after accessing the Rego.ACT system while at the Access Canberra Motor Vehicle Inspection Station, Hume, you disclosed to [REDACTED] information relating to his fines and demerit points, which was outside your duties as a Vehicle Inspector.

On 12 December 2017 [REDACTED] attended Nara Centre, 1 Consitution Avenue, Canberra City with a support person and provided a signed admission statement (Attachment 20).

Allegation 1:

On Wednesday 20 September 2017, at the Access Canberra Motor Vehicle Inspection Station, Hume, [REDACTED] accessed the drivers licence details and vehicle registration information belonging to [REDACTED] on the Rego.ACT system, which was outside his duties as a Vehicle Inspector.

Allegation 2:

On Wednesday 20 September 2017, after accessing the Rego.ACT system while at the Access Canberra Motor Vehicle Inspection Station, Hume, [REDACTED] disclosed to [REDACTED] information relating to his fines and demerit points, which was outside his duties as a Vehicle Inspector.

Summary of Evidence

The following facts are drawn from information contained in signed statements, documents, and audit report obtained from relevant parties.

[REDACTED]

[REDACTED] is employed as [REDACTED] for the Motor Vehicle Inspection Station at Hume. He has held this position for the past [REDACTED]. His role includes the [REDACTED] in the workplace.

[REDACTED] stated on the morning of Wednesday 20 September 2017 about 9.15am he noticed [REDACTED] using the computer and saw the Rego.ACT database open. At this time there were no cars in the test station. [REDACTED] stood behind [REDACTED] and saw him retrieving information and talking on the phone. When [REDACTED] moved away from the computer [REDACTED] recorded licence, registration and personal details of [REDACTED] on a piece of paper. When [REDACTED] returned to the computer he was still talking on the phone. [REDACTED] stated that when he finished his phone call he saw [REDACTED] log out of the Rego.ACT database. [REDACTED] further stated he did not give [REDACTED] permission to look up the information.

[REDACTED] stated about 10.20am he spoke to [REDACTED] with [REDACTED] present. When questioned about access to the Rego.ACT database and reminding him of his Deed of Confidentiality, [REDACTED] admitted he had looked up a friend's details regarding demerit points. [REDACTED] stated, "You are not allowed to do that." [REDACTED] said something like, "Yes, I fucked up and I should not have done it. A lot of people have done it. It's another thing against me." [REDACTED] said, "The person I passed the details on to was a mate of mine and it was his details I looked up."

[REDACTED]

[REDACTED] is a member of the public and the owner of a [REDACTED]. He has known [REDACTED] since 1989 and considers him a close friend.

██████████ stated he had received a reminder notice for two parking fines that had been issued on his work van. He wanted to pay the fines but had lost the reminder notice. ██████████ stated he contacted Access Canberra who advised there were no outstanding fines. He further stated he was concerned the fines may affect the demerit points and his licence, and sometime in September or October 2017 he rang ██████████ to air his frustration. He said something like, "I've tried Access Canberra. Is it possible to check my points to see if the fines have affected my points?"

██████████ further stated,

I do not know if it was the same day or the next day, but within that week ██████████ rang me. I presumed ██████████ was at work because he said something like, "While I'm here I can check if you want?" I gave ██████████ my registration number, ██████████ and my licence number, ACT licence ██████████ ██████████ then said something like, "There is no fines, don't worry about it, you have got all your points."

Rego.ACT Audit Report titled 'Audit Report based on defect 20217'

On 17 October 2017 ██████████ provided 'Rego.ACT Audit Report' dated 20 September 2017 relating to an audit of ██████████ access to the Rego.ACT database on this date. This report was created by ██████████ Business Information Manager, Access Canberra.

██████████ is the Senior Manager, Transport Solutions & Enforcement, Access Canberra. She provided a copy of and information relating to the Rego.ACT Audit Report regarding ██████████ access to the Rego.ACT database on 20 September 2017.

In her email dated 17 October 2017 ██████████ advised that ██████████ Rego.ACT system user identity was ██████████ and that he logged onto the Rego.ACT system on 20 September 2017 at 08:48:44 on machine name 336320L located at the Motor Vehicle Inspection Station at Hume. ██████████ stated user, ██████████ conducted a registration check on ██████████ at 9:41:16 on 20 September 2017 for legitimate work purposes.

██████████ further advised,

Rego.ACT is the ACT Government's database containing highly confidential licence and registration information which, when accessed, facilitates the issuing of licences and establishments of motor vehicle registrations and to establish Infringement Notice Management Plans. Access to this information is confidential and client's privacy are protected. A client's record holds personal information which includes infringements, licence history and licence and registration details, address, contact details etc.

In her email dated 14 November 2017 ██████████ provided a copy of a letter headed 'Review of User Access to Rego.ACT Information – 1st Quarter 2015/16'. ██████████ advised the contents of this letter are raised at team meetings to remind staff they are accountable for every access recorded against their user ID. This letter was provided to ██████████ from the test station Manager in November 2015 as proof that staff members received the information.

[REDACTED]

[REDACTED] is employed as the Business Auditor, Road Transport Authority, CMTEDD and she provided an interpretation of 'Audit Report based on defect 20217' dated 20 September 2017 produced by [REDACTED] Business Information Manager.

[REDACTED] stated,

At 9:15:33 [REDACTED] searched ACT Licence [REDACTED].

[REDACTED] would have seen the clients name, licence expiry date, licence number, type of licence, address, visual acuity and medical condition. There are a further 2 tabs on the bottom of this screen, they are:

- History tab which shows the history of licence transactions such as licence issue dates, licence renewal dates, infringements paid where demerit points applied and licence suspensions or cancellations.
- Demerit Points tab shows the total demerit points currently accrued on the licence

The client record associated with this licence is [REDACTED]

At 9:21:28am [REDACTED] searched ACT registered vehicle [REDACTED]

[REDACTED] would have seen the vehicle details such as plate number, VRN, VIN, engine number, make, model, body type, colour and manufacture month/year.

There are a further 7 tabs at the bottom of the screen, they are:

- Specification tab shows motive power, cylinders, vehicle mass, engine capacity, seating, tare weight, usage e.g. business or private use, compliance plate and transmission.
- Conditions tab shows any code or condition.
- Profile tab shows registration period, third party insurance (TPI) provider and the registration status.
- Inspection tab shows inspection certificate information.
- History tab shows the history of transactions for this vehicle such as establish registration, periods of registration, dishonour and dishonour payments, suspensions and change of garaging address.
- Operator tab shows the nominated operator, client name, suburb and client concessions. There is also a view tab in this screen if he clicked on this view tab [REDACTED] would have seen the organisation name, CAN, CRN and physical address. At the bottom of this screen there are 4 tabs, if [REDACTED] clicked on these screens he would have seen telephone number, in the history tab he would have seen note for files, dishonour payments, change of address and establish client. The client associated with this registration is [REDACTED]

[REDACTED]

In her capacity as Manager Operations, Transport Licencing, Access Canberra [REDACTED] provided the following information regarding the use of the Rego.ACT database:

Staff undergo induction training which includes training around privacy of information and during this induction the staff member signs the declaration to abide by the PSM regarding the use of personal information. Apart from this there is no other training provided regarding responsibilities for use of database information. There is no refresher type training routinely provided. The only time additional training would occur would be if refresher training was requested.

explained she was the up until 2016 and no requests for refresher training had been made up until then. She further explained there is a quarterly letter sent to the which requires the section to confirm staff entitlement to have access to the database. This letter was not a reminder to staff about usage.

also advised:

Induction training for use of Rego.ACT database for would have occurred in 2004 (when commenced employment in and he would have signed a deed of confidentiality during that induction training. However, these records are generally kept for 7 years, so they would no longer have records of someone who completed the induction training in)

advised the search entry at 8:49:05 and 8:49:07am on the 'Audit Report based on defect 20217' dated 20 September 2017 was work related.

ACT RTA Standard Terms of Access to RTA Information and systems, including information for Delegates and users – Version 2.0 – January 2017.

This document outlines the current Standard Terms of Access under which employees using the Roads Transport Authority information and systems are bound when they sign their Deed of Confidentiality. The Standard Terms of Access that relate to deeds signed in 2004 were unable to be obtained.

Section 2.1 of the current document states,

By completing and signing a Deed of Confidentiality the User undertakes:

Not to access, use, modify, disclose or retain any RTA information of the Authority he or she has acquired through the performance of his/her duties of employment with the Recipient, except for the purpose of fulfilling those duties of employment.

Acceptable Use Policy – Version 2.5, 23 January 2017.

This policy applies to all permanent, temporary and casual ACT Government employees and non-government staff including contractors, consultants and work experience students.

The policy states under 'Access to ICT Resources',

Use ACT Government ICT resources only for the purpose for you are authorised. Do not attempt to access any ICT resource including data or programs that you do not have authorisation or explicit consent to access.

The policy also states,

- *do not make improper use of the property of the Territory,*
- *do not disclose, without lawful authority, information acquired by or from any document to which you have access as a consequence of employment.*
- *use personal information only for the purpose for which it has been provided,*
- *Never disclose personal information to unauthorized recipients.*

All in Government email dated 2 February 2016: ACTPS Employee Privacy Obligations

On 2 February 2016 an 'All in Government' email was sent by [REDACTED] reminding all staff of their privacy obligations. The email specifically stated;

It is NOT acceptable to use ICT systems to satisfy your curiosity, to look up something for a friend or to find out information about friends or relatives for example. This also relates to accessing any information about yourself.

Position Description – [REDACTED]

In his role as Vehicle Inspector, [REDACTED] responsibilities include:

- *Conduct vehicle roadworthy inspections on the roadside, in car parks and the vehicle inspection station.*
- *Conduct vehicle identification checks to ensure that stolen and re-birthed vehicles are not registered in the ACT.*
- *Monitor heavy vehicle movements to ensure roadworthiness and compliance with the National Heavy Vehicle Law and Regulation.*
- *Issue certificates of inspection, defect and infringement notices in accordance with relevant road transport legislation.*
- *Collect evidence, prepare offence reports, formal statements and appear in court to give evidence as required.*
- *Work within the ACTPS Code of Conduct and ACTPS values of respect, integrity, collaboration and innovation, and model behaviour consistent with the ACTPS Respect Equity and Diversity framework.*

Email dated 27 September 2017 – [REDACTED]

On 27 September 2017 [REDACTED] provided a response to the initial allegations provided to him by [REDACTED] stating that he did receive a phone call from a friend of 25 years who asked him to check his demerit points as he was on hold for some time with Access Canberra. [REDACTED] explained as this was a routine of his job he complied with the request without a second thought. He also admitted that it didn't cross his mind that it was considered misuse of the database or that he was breaching the Privacy Act.

[REDACTED] further stated that he was up front and honest when questioned by his supervisor and only then realised how serious the matter was. [REDACTED] stated how deeply he regretted his actions and expressed his sincere apology for this error in judgement. He asked for forgiveness and stated it would never happen again. [REDACTED] advised he had never misused the Rego.ACT database in his [REDACTED] years. At the time he wasn't thinking straight and as the request came from a friend he proceeded to do the check.

█ – Admission Statement

█ is employed as a Vehicle Inspector at the Access Canberra Motor Vehicle Inspection Station, Hume. He has been in this role for nearly █ years.

In his admission statement █ stated on Tuesday 19 September 2017 he received a telephone call from █ who told him he had received a letter about a fine. █ asked █ if he could check to see how many points he had on his licence regarding this fine. █ replied, *"I'm not at work. I can see if I can check for you tomorrow."*

█ stated in the morning of Wednesday 20 September 2017 while at work he telephoned █ and asked for his registration details. While on the telephone, █ checked the history to see if there were any fines recorded to the vehicle. █ told █ *"There were no fines recorded, everything should be OK."* █ thought that he also checked █ drivers licence for his current status points and told him how many points he had and there was nothing there relating to the fine he was talking about.

█ stated he met with █ on 20 September 2017 at which time he admitted he had checked a friend's licence details as the friend had been unable to make contact with Access Canberra to check for himself.

█ stated he is authorised to use the Rego.ACT database to access vehicle registration, drivers licence information and similar information from other jurisdictions. He further stated that when doing his job he sometimes needs to cross reference drivers licence details with vehicle owners, which proves the identity of the person bringing the vehicle in. This mainly happens when he is intending to issue a defect notice or a fine if the vehicle is unregistered.

█ explained in █ when he commenced work in the Vehicle Inspection Station he remembered seeing a video about the Privacy Act and that he was not allowed to release or look up people's details if it was not work related. He stated he did not remember signing anything at that time. He recalls receiving an email reminding him about not giving out personal information to a third party.

█ agreed he had improperly used a Territory resource, including information when he accessed █ drivers licence and vehicle registration information and accepted that this was misconduct.

█ agreed he disclosed without authority confidential information to █ which he had obtained through his role as Vehicle Inspector and accepted that this was misconduct.

█ fully admitted that what he had done was wrong. He was remorseful and feels his action are an embarrassment to himself and his family. █ asked for forgiveness and ensured this will never happen again.

Analysis

█ made full admissions on three occasions that on the morning of Wednesday 20 September 2017 he accessed the drivers licence details and vehicle registration information of █ on the Rego.ACT database and disclosed to █ information relating to his fines and demerit points.

██████████ confirmed his driver's licence number was ██████████ and his registration details were ██████████. The access to the licence information and registration detail would have provided personal details relating to ██████████. Both the driver's licence number and the registration number were identified in the Rego.ACT database audit report as being accessed by user ██████████ on the morning of 20 September 2017. The user ██████████ was confirmed as ██████████ by ██████████.

Both the access and disclosure of this confidential information was outside the scope of ██████████ duties as a Vehicle Inspector as this access and disclosure was not work related. Although ██████████ had been informed and was reminded of his responsibilities regarding the access and disclosure of personal information, these were not in the forefront of his mind when engaging in this recent conduct.

As the Delegate you may wish to consider that ██████████ did admit to the conduct at the first opportunity, has expressed remorse, apologised for his actions and declared it would not happen again. ██████████ also accepts his actions were misconduct.

Conclusion - Allegation 1

On the basis of the information provided, there is sufficient evidence to conclude, on the balance of probabilities that on Wednesday 20 September 2017, at the Access Canberra Motor Vehicle Inspection Station, Hume, ██████████ accessed the drivers licence details and vehicle registration information belonging to ██████████ on the Rego.ACT system, which was outside his duties as a Vehicle Inspector.

This finding is based on an analysis by the investigator of the relevant evidence obtained and the admissions made by the respondent. It is not a determination that misconduct has or has not occurred, which is a decision for you, as the delegate, to make.

In determining whether this behaviour constitutes misconduct (as defined in clause H6.5 of the *ACT Public Sector Infrastructure Services Enterprise Agreement 2013-2017*), you may wish to consider whether ██████████ failed in his obligations under Section 9 of the *Public Sector Management Act 1994*, in particular:

(2) A public servant must not –

(c) improperly use a Territory resource, including information, accessed through the public servant's job.

Conclusion – Allegation 2

On the basis of the information provided, there is sufficient evidence to conclude, on the balance of probabilities that on Wednesday 20 September 2017, after accessing the Rego.ACT system while at the Access Canberra Motor Vehicle Inspection Station, Hume, ██████████ disclosed to ██████████ information relating to his fines and demerit points, which was outside his duties as a Vehicle Inspector.

This finding is based on an analysis by the investigator of the relevant evidence obtained and the admissions made by the respondent. It is not a determination that misconduct has or has not occurred, which is a decision for you, as the delegate, to make.

In determining whether this behaviour constitutes misconduct (as defined in clause H6.5 of the *ACT Public Sector Infrastructure Services Enterprise Agreement 2013-2017*), you may wish to consider whether [REDACTED] failed in his obligations under Section 9 of the *Public Sector Management Act 1994*, in particular:

(2) A public servant must not –

(d) without lawful authority -

(i) disclose confidential information gained through the public servant's job.

Other Considerations

The following information is not relevant to determine whether the alleged behaviour occurred and whether the behaviour amounts to misconduct, however it may assist you in determining an appropriate sanction if misconduct is found to have occurred.



Recommendations

It is recommended that, as the delegate, you:

- a) review this report, along with the accompanying evidence, to determine on the balance of probabilities whether misconduct has occurred;
- b) if misconduct is found, determine an appropriate sanction in accordance with the *ACT Public Sector Infrastructure Services Enterprise Agreement 2013-2017*; and
- c) notify [REDACTED] of the outcome.



20 December 2017



20 December 2017

Attachments to report:

1. Letter to [REDACTED] re notice of investigation, dated 21 September 2017.
2. Investigation referral, dated 22 September 2017.
3. Response email from [REDACTED] dated 27 September 2017.
4. Letter to [REDACTED] re Response to Notice of Disciplinary Investigation dated 5 October 2017.
5. Signed statement – [REDACTED] dated 31 October 2017.
6. Signed statement – [REDACTED] dated 23 November 2017.
7. Email from [REDACTED] attaching Rego.ACT database audit report dated 17 October 2017.
8. Email from [REDACTED] attaching Review of User Access to Rego.ACT Information dated 14 November 2017.
9. Briefing Paper re Rego.ACT Audit Report – [REDACTED] dated 15 November 2017.
10. File note – [REDACTED] dated 31 October 2017.
11. File note – [REDACTED] dated 13 November 2017.
12. File note – [REDACTED] dated 15 November 2017.
13. Notes of meeting conversation between [REDACTED] and [REDACTED] dated 20 September 2017.
14. All in Government email re Privacy Obligations dated 2 February 2016.
15. Acceptable Use Policy Version 2.5 dated 23 January 2017.
16. ACT RTA Standard Terms of Access to RTA Information and systems, including information for Delegates and users – Version 2.0 – January 2017.
17. Position Description – [REDACTED]
18. Email to [REDACTED] re procedure for admission statement dated 1 December 2017.
19. Letter to [REDACTED] re final allegations and opportunity to respond dated 6 December 2017.
20. Signed admission statement – [REDACTED] dated 12 December 2017.



ACT
Government

Chief Minister, Treasury and
Economic Development

UNCLASSIFIED
Sensitive: Personal





Dear 

Notice of Disciplinary Action

I wrote to you on 28 February 2018 and advised you of my findings in relation to allegations of misconduct against you. I also advised you of the proposed disciplinary action and the reasons for my decision in that regard.

You were invited to provide a written submission to me in relation to my findings and the proposed disciplinary action. I received a response from you on 6 March 2018 in which you accepted my proposed findings and sanction. As such, I will implement the proposed findings and sanction from my abovementioned letter.

As per Clause H10.1 (b) of the *ACT Public Sector Infrastructure Services Enterprise Agreement 2013-2017* (the Agreement), I am issuing you with a financial penalty. The penalty will be a reduction in your incremental level from a  for a twelve month period, effective from Wednesday 14 March 2018. Following the twelve month period, you will advance to the  increment and further increment advancement payments annually after that, noting any periods of leave taken that do not count towards service may defer payment date.

In addition to the above sanction, you will return to your role on 14 March 2018 and are to arrange with your manager, the undertaking of privacy and confidentiality training.

Right of Appeal

Section J of the Agreement provides you with information on your right for appeal. You have the right to appeal a decision to take disciplinary action. I have attached a copy of Section J for your information.

To lodge an application for appeal:

Via email to: ACTPS_Appeals@act.gov.au (preferred) OR

Hand Deliver to: Appeals Coordinator (ext. 78317)

Level 5, Canberra Nara Centre

Corner Constitution Avenue and London Circuit

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

Sensitive: Personal
UNCLASSIFIED

UNCLASSIFIED
Sensitive: Personal
Staff in Confidence

The Employee Assistance Program (EAP) 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 any of the below EAP providers;

- Assure – 1800 808 374
- Converge International – 1300 687 327
- Davidson-Trahaire Corpsych – 1300 360 364
- PeopleSense – 1300 307 912

If you require clarification or additional information in relation to this letter please contact [REDACTED] HR Advisor, CMTEDD People and Capability on [REDACTED].

Yours sincerely

[REDACTED]

Delegate

8 March 2018

Sensitive: Personal
UNCLASSIFIED



ACT
Government

Chief Minister, Treasury and
Economic Development

Investigation Report

Allegations of potential misconduct against [REDACTED]

25 February 2016

Case Reference: 2015/094

Investigator: [REDACTED]

Of: Professional Standards Unit



ACT
Government

Chief Minister, Treasury and
Economic Development

Dear [REDACTED],

Investigation Report regarding allegations of misconduct by [REDACTED]

Background

On 7 October 2015, a complaint was made by [REDACTED] relating to the accessing of customer information in a restricted data base. [REDACTED] alleged an [REDACTED]; [REDACTED] had inappropriately accessed records held in the Rego ACT database.

On 8 October 2015 the matter was referred to the HR Unit, Chief Minister, Treasury and Economic Development Directorate Hr who conducted a preliminary assessment and determined that the matter should be referred for investigation.

On 13 October 2015, [REDACTED] was notified in writing by you of the investigation. The preliminary allegation identified and notified to [REDACTED] were:

- [REDACTED] may have accessed the rego.act system inappropriately on the 24 April 2015

On 14 October 2015 the matter was referred to the Professional Standards Unit (formerly Employee Relations) for investigation.

Investigative process

On 14 October 2015 the matter was referred to the Professional Standards Unit (formerly Employee Relations) for investigation. This investigation was conducted in accordance with the provisions of the *Administrative and Related Classifications Enterprise Agreement 2013-2017* under which [REDACTED] is employed.

On 19 October 2015 an introduction meeting was held with the Delegate, and the following terms of reference were agreed on:

- Investigate the circumstances and collect evidence regarding [REDACTED] accessing the rego.act database on April 27, 2015 for information on registration [REDACTED]
- In accessing the information, determine whether [REDACTED] acted in accordance with her obligations as set out in Section 9 of the PSM Act and the ACTPS Code of Conduct.

Relevant witnesses were interviewed and the following information was obtained:

Description	Attachment
Notice of Disciplinary Investigation	1
Workplace Investigation Request	2
Statement of [REDACTED]	3
Copy of Privacy Training Power Point presentation provided to [REDACTED] Staff	4
Extracts of Compliance training provided to [REDACTED]	5
Email to respondent re notification of investigation by PSU	6
Registration procedure for [REDACTED] – email from [REDACTED]	7
IT logon security screen warning	8
Transcript of record of interview	9
Copies of texts and email provides provided by respondent	10

Allegation 1: The respondent accessed the Rego.act system inappropriately on the 27 April 2015

Summary of Evidence

The following facts are drawn from information contained in a signed statement and documents, obtained from relevant parties.

[REDACTED]

At the time these matters were referred [REDACTED]

[REDACTED] provided me with a signed statement (refer attachment 3). In summary he stated:

- [REDACTED] manages queries from the public in relation to ACT Government services. Staff have access to multiple business systems which contain sensitive information. All staff receive significant training during induction and ongoing throughout their employment.
- Training includes privacy training, the employee's obligations and responsibilities when accessing customer information and the consequences of accessing information without authority. Staff granted access to Rego ACT received additional training, including privacy, and must sign a privacy and confidentiality agreement. In his opinion, staff working [REDACTED] could not [REDACTED] without knowing the obligations and responsibilities when accessing sensitive customer data.
- The respondent, [REDACTED] started working [REDACTED] prior to his commencement in [REDACTED] described [REDACTED] is a very experienced operator and I have no doubt that she is fully aware of her obligations when accessing sensitive customer information.

- Around 9am on Wednesday 7th October 2015 [REDACTED] approached [REDACTED] at his work desk and asked if he could have a chat about something that had been bothering him for the past couple of months. The staff member informed [REDACTED] he had accessed a customer's vehicle registration details following requests by text from [REDACTED] but stated he did not disclose information to [REDACTED]. Copies of the text messages were provided to [REDACTED].
- An [REDACTED] worked [REDACTED] but left in 2014.
- [REDACTED] arranged for an audit from ACT Rego of registration [REDACTED] and it was received the same morning. On the audit he saw that [REDACTED] registration details had been accessed by two staff members [REDACTED] on the 24th and 27th April 2015.
- He saw the user name [REDACTED] which he knew to belong to [REDACTED] had accessed registration and client details at 8.19am on Monday 27th April 2015. Client records contained the registration details of [REDACTED] and its owner, a [REDACTED].
- [REDACTED] then obtained the phone logs which provided details of when [REDACTED] employee is logged into phones, when logged off and their status such as ready and not ready. The logs identified [REDACTED] had logged into the phones at 8.15.54am 27 April 2015 but was not ready until 8.30.51am. This meant no calls could be forwarded to her during those times nor was she on the phone.
- On 28th October 2015 [REDACTED] obtained the roster details and training records for [REDACTED]. The roster records [REDACTED] on 27 April 15 as being rostered to commence at 8.30am on that day [REDACTED] stated it was unusual for [REDACTED] to be logged into phones 15 minutes prior to her start time.
- [REDACTED] stated [REDACTED] had [REDACTED] since [REDACTED] and had received ongoing training relating to fraud, ethics and privacy training from [REDACTED] through 2015. He described her as an experienced employee and he had no doubt she is fully aware of her obligations and responsibilities when accessing customer data.

[REDACTED] provided the following documentation which was verified true and correct and referenced:

- Confidentiality and privacy agreement in the name of [REDACTED] and signed 24 March 2009 and a Deed of Confidentiality for Accessing Rego ACT systems on 11 November 2012 – referenced [REDACTED] through [REDACTED].
- One page spreadsheet titled 'Audit Log Report for [REDACTED]' referenced [REDACTED]
- Electronic copy of the client records detailing vehicle and owner details of [REDACTED] referenced [REDACTED] and [REDACTED].
- Phone log for [REDACTED] referenced [REDACTED]
- One page document titled 'workforce management' detailing rostered hours for [REDACTED] and other staff on 27 April 2015 -referenced [REDACTED].

- One page document detailing training relating to fraud, ethics and privacy training from 2010 through 2015 for [REDACTED] receiving referenced [REDACTED]

On 28 October 2015 [REDACTED] forwarded examples of the training provided to [REDACTED]. These examples are contained in attachments 4 and 5.

[REDACTED]

At 9.39am, Monday, 16 November 2015, the respondent participated in a recorded interview conducted in the Derwent meeting room of Eclipse House.

[REDACTED]

- She admitted to accessing the records about 8.30am 27 April 2015
- She accessed registration and client (owner) details of [REDACTED]
- She accessed the records as her best friend, [REDACTED], had asked her to look up if a certain person owned a vehicle with that registration
- She answered with no and left it at that.
- She did not recall the name of the person she accessed
- [REDACTED] provided her the name [REDACTED] and registration [REDACTED]

During the interview the respondent provided a two page document of text screenshots and a six page document containing emails she stated were from [REDACTED]. She had known her for two years after meeting her through work. The texts read:



...Can you call me on your way to work? I need you to check a rego and see if [REDACTED] owns it, pretty please with a cherry on top. XX.
Yeah. No worries. Call you in 10. X.
Thanks, babe. It's just the rego on my desk and I am not at work just yet
Did you check, babe? Sorry to be a pain in the bottom. Laugh out loud.
Sorry, got distracted. No, it's not in her name. Putting my phone away.
Stick to emails. X.

[REDACTED] further stated in the interview:

- She thought at the time [REDACTED] was looking for a new car and she was making inquiries in relation to the buying of the vehicle.
- She did not think too much about it at the time as [REDACTED] with similar inquiries from the public.
- [REDACTED] agreed the IT logon warning screen advising ACT government employees of proper use of IT facilities had been in place since she started with [REDACTED].
- During the interview the respondent admitted she signed Confidentiality and privacy agreement in 2009 and 2012, respectively.
- [REDACTED] was shown her training records and she agreed she had received fraud and ethics training in 2010, 2012, 2013 and 2015 rego training in 2012, Privacy training in 2012 and 2014 and Code of Conduct 2014.

- When shown a PowerPoint presentation regarding privacy training she agreed she had seen it during training on privacy.
- [REDACTED] considered herself to be to be fully aware of your obligations and responsibilities when accessing data held in Rego ACT.

[REDACTED] provided copies of texts and emails from [REDACTED] (refer attachment 10).

[REDACTED]

Attempts were made to contact [REDACTED] to see if she was willing to assist the investigation. Calls went directly to voice mail. At 8.30am 23 November 2015 I called [REDACTED] mobile number [REDACTED] and left message asking her to return my call. No response was ever received.

Policy

On 11 November 2015 [REDACTED] supplied an extract from rego.act help section (email and extract is contained in attachment 7). Staff are instructed:

- If caller seeking personal information about another person or their vehicle without written consent from the owner, must in addition to the registration number, provide two of the following pieces of information to show that consent has been given by the owner:
 - The name of the registered operator
 - Engine number/VIN
 - Vehicle fee category code
 - GVM/GCM
 - Registration end date

Only yes or no confirmation may be given for some details. [REDACTED] stated, as part of the privacy training provided, staff were instructed to transfer any query from family and friends to another colleague or to the Road Transport Team.

Analysis

The respondent is an experienced [REDACTED] with [REDACTED] experience working [REDACTED]. Since [REDACTED] she has received ongoing training in relation to responsibilities regarding fraud, ethics and privacy training.

An audit history identified that [REDACTED] at 8.19am 27 April 2015 accessed registration and client details relating to [REDACTED]. The screens accessed provided full vehicle details and the owner's details including full name, date of birth and residential address.

When interviewed the respondent admitted to accessing the information after receiving texts and then a call from [REDACTED] who she described as her best friend. [REDACTED] provided only the first name of [REDACTED] and a registration number. The respondent stated she did not provide any information to [REDACTED] apart from stating 'no it is not in her name'.

The respondent admits what she had done was wrong as it was for a friend but thought the request was in relation to a buying a vehicle. Therefore she 'just didn't think anything into it' as she receives [REDACTED] from people buying vehicles.

[REDACTED] states information, limited to 'yes or no' can only be provided where a caller has provided a registration number and two other pieces of information relating to the vehicle.

[REDACTED] conducted the access based on a text and phonecall from her best friend with the only information provided being a first name and a registration number. When asked if she considered herself to be fully aware of her obligations and responsibilities when accessing data held in Rego ACT she replied 'yes'.

Conclusion

On the basis of the information provided, there is sufficient evidence to conclude, on the balance of probabilities, that [REDACTED] did access the Rego ACT system inappropriately on 27 April 2015.

Summary

If the delegate makes a determination that misconduct has occurred, [REDACTED], may have failed in her obligations under Section 9 of the *Public Sector Management Act 1994* to:

- (b) act with probity;
- (j) if the employee has an interest, pecuniary or otherwise, that could conflict, or appear to conflict with the proper performance of her duties:
 - (i) disclose the interest to her supervisor; and
 - (ii) take reasonable action to avoid the conflict;

Recommendations

It is recommended that:

1. The delegate reviews this report, along with the accompanying evidence to determine on the balance of probabilities whether misconduct has occurred
2. If misconduct is found, determine an appropriate sanction in accordance with the ACT Public Service Administrative and Related Classifications Enterprise Agreement 2013-2017, and
3. Notify [REDACTED] of the outcome.



1 March 2016



1 March 2016



ACT
Government

Chief Minister, Treasury and
Economic Development

UNCLASSIFIED
Sensitive: Personal



Dear 

Notice of Disciplinary Action

I wrote to you on 31 March 2016 and advised you of my findings in relation to allegations of misconduct against you. I also advised you of the proposed disciplinary action and the reasons for my decision in that regard.

You were invited to provide a written submission to me in relation to my findings and the proposed disciplinary action. I have not received a response from you and therefore deem that you accept my proposed findings and sanction. As such, I will implement the proposed findings and sanction from my abovementioned letter.



As per Clause H10.1 (a) of the *ACT Public Sector Administration and Related Classifications Enterprise Agreement 2013-2017* (the Agreement), your employment with the ACT Public Service is terminated with effect from the date of this letter

Right of Appeal

As per Clause H12.1 of the Agreement, you do not have the right under Section J to appeal against a decision to terminate your employment. As per clause H12.2 of the Agreement, an employee may have the entitlement to bring an action under the *Fair Work Act 2009* in respect of any decision to terminate employment.

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

The Employee Assistance Program (EAP) 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 Converge International on 1300 687 327.

If you require clarification or additional information in relation to this letter please contact , HR Advisor on (02) .

Yours sincerely



21 April 2016

COPY

Sensitive: Personal
UNCLASSIFIED

Please complete, tear off and lodge over the counter with your article.

Enquiries: please call 13 POST (13 7678).

Optional services:

(Sender to selected services)

Extra Cover (Over \$100 up to \$5,000)

Amount required: \$ _____
Description of contents: _____

Delivery Confirmation

Person to Person

Additional fee is payable for each service.

Registered Post – Lodgement Receipt

Item addressed to:
Company name _____

For the attention of _____

PO Box number or street address _____

Suburb or town _____ State _____

I have read and agree to the information on the reverse side of this receipt.

Sender's name _____ Sender's signature _____

Date: 22-4-16

Affix SENDER TO KEEP tab here
REGISTERED POST - SENDER TO KEEP
507281993019



WARNING: This envelope is not suitable for sending jewellery or precious stones. Small rigid items such as keys or coins should be securely packed to avoid loss or damage.



ACT
Government

Chief Minister, Treasury and
Economic Development

SENSITIVE: PERSONAL



By Email: [REDACTED]

cc. [REDACTED]

Dear [REDACTED]

Final Discipline Action Determination

I refer to my letter to you dated 27 February 2020, in which I advised you of my preliminary determination concerning the allegations of misconduct made against you (refer Attachment A).

Based on the information available to me at that time, I determined that on the balance of probabilities, there was sufficient evidence to substantiate the allegations raised. I advised you that I was of the view that your actions amounted to serious misconduct as defined at clause H6.6 of the *ACT Public Sector Administrative and Related Classifications Enterprise Agreement 2018-2021* ('the Agreement') and Regulation 1.07 of the *Fair Work Regulations 2009*.

I advised you that following my consideration of your response dated 21 February 2020 and all matters raised therein, I had determined that you be suspended without pay. In addition, I advised you of my proposed discipline sanction, being summary termination of your employment in accordance with H7.7 of the Enterprise Agreement, and outlined my reasons therein for this sanction. I considered this proposed sanction to be appropriate and proportionate to the degree of serious misconduct.

Prior to making my final decision in relation to this matter, I provided you with seven calendar days from the date of my letter to submit a written response by cob 5 March 2020 to the proposed finding of misconduct and proposed discipline action.

You subsequently requested an extension of time to enable you to provide a written response. I agreed to your request and advised that you could submit a written response to me by cob 19 March 2020.

SENSITIVE: PERSONAL

On 19 March 2020, I received a written email response and two supporting documents from you (Attachment B).

Your Response of 19 March 2020

I have carefully considered your response of 19 March 2020, including the supporting attachments. While I have noted all of the matters you have raised therein, I would like to take this opportunity to address some of these which are outlined below.

Expressed Remorse and Accountability

I note in your response of 19 March 2020, you make several statements in which you express your remorse for your actions and a level of accountability – these include:

“I did not intend to mislead management regarding the circumstances around my access during the interview on 13 February 2020 and in my response dated 21 February 2020, and I sincerely apologise for any perception that I did so.¹”

“In searching for this individual’s information, I seriously compromised the integrity of my work, and the ability of my employer to put their trust in me. I had caused damage not only to my employment but also to the reputation of the ACT Public Service.²” [bold is my emphasis]

“My mistake was stupid and costly and has jeopardised not only my employment but the good reputation of the ACTPS. I can think of no persuasive or compelling reason to justify my misconduct, especially given how much I love my job...³”

However, these statements appear to be inconsistent with others made in your response where in the first instance you appear to accept accountability for your actions but then continue to assert that the misconduct was unintentional and/or provide various reasons to excuse the misconduct. In particular, I note the following statements:

“I cannot recall these two enquiries... however, I agree that the evidence shows that I was trying to search the registration numbers to match to the member of the public with whom I had an altercation the day prior. I admit that I would have intentionally searched these two registration numbers, as I feared at the time that she would return to my home and make further threats of harm. This fear overcame my desire to only ever engage in impeccable conduct in the workplace. Within a matter of seconds, I realised what I was doing was wrong and abandoned the action.⁴” [bold is my emphasis]

1 [redacted] response dated 19 March 2020, page 1
2 [redacted] response dated 19 March 2020, page 2
3 [redacted] response dated 19 March 2020, page 4
4 [redacted] response dated 19 March 2020, page 1-2

"I accept that I accessed this record intentionally, as I recognise the evidence indicates that I searched multiple registration numbers before finding the number of the member of the public I had an altercation the day prior... once I opened the profile, I immediately realised what I had done, and panicked, I tried to close the profile quickly without seeing any of the individual's personal information. However, my computer kept freezing to prevent me to exit from the system immediately... I was not my normal self on that day. I was ruminating extensively on what had occurred the day prior and felt a sense of fear and trauma..."⁵ [bold is my emphasis]

"On the above occasions my mind slipped and I thought it was unfair that this individual knew my address and that I did not know hers. To be honest, I do not remember her address. Even if I did, I would never plan to use this information. I sought this information to get some peace of mind and to calm my anxiety and fear."⁶ [bold is my emphasis]

I remain concerned at this late stage in the disciplinary process that you continue to provide explanations for your misconduct which are, in my view, simply not plausible.

In particular, I note your explanation has continued to change throughout each of your responses. Your claim that the system froze whilst you were viewing it is inconsistent with evidence that there was no system down time reported at the time, and the actions you took to access both registration and client records in the Rego ACT system. This required you to physically click through to another screen.

You also undertook this activity the day after the personal incident occurred, and you attempted multiple searches of the system looking for the information you were seeking.

As such, I consider these statements raise further concerns as to your credibility, honesty and integrity.

In reviewing the evidence at hand, I believe the explanations you have provided are highly questionable and I am not persuaded by the versions of events you have provided, including those made in your responses of 21 February and 19 March 2020. In addition, your statements of remorse do not appear to be genuinely sincere in light of the inconsistencies in your responses.

I remain of the view that you deliberately accessed sensitive personal information from a restricted government database for your own personal reasons.

⁵ [REDACTED] response dated 19 March 2020, page 2

⁶ [REDACTED] response dated 19 March 2020, page 2

Medical Issues

[REDACTED]

[REDACTED]

[REDACTED]

Performance History

In your response, you state:

*"I have worked for the ACTPS for [REDACTED] with an unblemished history. I have never had any disciplinary action against me, not even a warning. My actions on 12 February 2020 are entirely out of character for me, as I always endeavour to hold my workplace behaviours to the highest standards in line with what would be expected of an employee in the ACTPS."*⁷

On the information available to me, I have no reason to question the validity of this statement. On this basis, I accept and note your good employment record.

Having said that, it is unfortunate that in the circumstances this cannot be given a greater weight in my considerations of an appropriate sanction, given the misconduct was deliberate, repeated and of such a serious nature.

Performance Expectations

As per my letter of 27 February 2020, I had noted that you signed the 'ACT Road Transport Authority Deed of Confidentiality' on 12 July 2019. On 15 July 2019 you were also provided by email the 'Standard Terms of Access to Road Transport Authority Information and Systems, Including Information for Delegates and Users', which states at Clause 2.5 'the user acknowledges that failure to comply with the Deed of Confidentiality may lead to disciplinary action, **including dismissal**' [bold is my emphasis].

I consider that you were made fully aware of, and understood, your obligations as an ACT Government employee, including those pertaining to the protection of information.

⁷ [REDACTED] response dated 19 March 2020, page 4

I am satisfied that you were informed of your obligations under the *Deed of Confidentiality* and made fully aware of the potential serious repercussions should you not comply with this Deed – being disciplinary action, including dismissal.

Termination of your Employment Summarily for Serious Misconduct

Having carefully considered all of the information available to me, including your response of 19 March 2020 and matters raised by you therein, I remain of the view that:

1. The pattern of your unauthorised access is inconsistent with your claims that you inadvertently accessed the record.
2. Your claims that the system froze whilst you were viewing it is inconsistent with evidence that there was no system down time reported at the time, and the actions you took to access both registration and client records in the Rego ACT system. This required you to click through to another screen.
3. The evidence in this matter supports the conclusion that your actions were deliberate and wilful in accessing the relevant records. It follows that your actions were taken due to an earlier personal incident and had no connection whatsoever with your official duties.
4. Your written responses of 21 February 2020 and 19 March 2020 support a finding that you are continuing to deliberately mislead management in respect to the unauthorised access.

I consider that the repeated nature of your behaviour and the findings of misconduct in relation to the allegations has seriously eroded my trust and confidence in you to work as an ACT Government employee. This trust and confidence is an inherent requirement of your role and central to the employment relationship, as you correctly identified in your response of 19 March 2020. Given the very serious nature and repeated instances of misconduct by you, I remain of the view that continuation of your employment within the ACT Government is untenable.

To this end, I have determined that your employment be summarily terminated for serious misconduct.

Please note that I have considered the impacts of my decision and whether a lesser sanction, such as demotion, may be more appropriate. However, in light of the reasons outlined in this letter and also in my letter dated 27 February 2020, I remain of the view that your conduct amounts to serious misconduct and that termination of your employment is the most appropriate and proportionate disciplinary sanction.

As a result, your employment with the ACT Government will cease, with effect from the date of this letter.

Right of Review of Decision

In accordance with sub-clause H13.2 of the Enterprise Agreement, you may have an entitlement to bring an action under the FW Act in respect of this decision to terminate your employment. This is the sole right of review of such a decision.

In relation to future employment, I bring to your attention Section 138 of *Public Sector Management Act 1994* – being “*no reappointment of former officer in certain circumstances*”. In this regard, I inform you that the head of service must not reappoint a former officer if that officer’s employment ended in accordance with Section 126 – being “*end of employment for misconduct*”.

Employee Assistance Program (EAP)

I appreciate this is a difficult and challenging time for you and have arranged for the EAP to be available to you, to provide free confidential and professional counselling to you and members of your family, for a period of three months from the date of this letter. You may access this service by phoning any of the EAP providers listed below:

- Assure – 1800 808 374
- Converge International – 1300 687 327
- Benestar – 1300 360 364
- PeopleSense – 1300 307 912

If you have any questions regarding this matter, please contact [REDACTED], Senior Director, People and Capability via email at [REDACTED]

Yours sincerely

[REDACTED]

21 March 2020



ACT
Government

Chief Minister, Treasury and
Economic Development

Investigation Report

Allegations of potential misconduct [REDACTED]

26 February 2016

Case Reference: 2015/093

Investigator: [REDACTED]

Of: Professional Standards Unit



ACT
Government

Chief Minister, Treasury and
Economic Development

Dear [REDACTED],

Investigation Report regarding allegations of misconduct by [REDACTED]

Background

On 7 October 2015, a complaint was made by [REDACTED] relating to the accessing of customer information in a restricted data base. [REDACTED] alleged an [REDACTED], [REDACTED], had inappropriately accessed records held in the Rego ACT database.

On 8 October 2015 the matter was referred to the HR Unit, Chief Minister, Treasury and Economic Development Directorate Hr who conducted a preliminary assessment and determined that the matter should be referred for investigation.

On 13 October 2015, [REDACTED] was notified in writing by you of the investigation. The preliminary allegation identified and notified to [REDACTED] were:

- [REDACTED] may have accessed the rego.act system inappropriately on the 24 April 2015

On 14 October 2015 the matter was referred to the Professional Standards Unit for investigation.

Investigative process

On 14 October 2015 the matter was referred to the Professional Standards Unit (formerly Employee Relations) for investigation.

On 19 October 2015 an introduction meeting was held with the Delegate, and the following terms of reference were agreed on:

- Investigate the circumstances and collect evidence regarding [REDACTED] accessing the rego.act database on April 24 2015 for information on registration [REDACTED]
- In accessing the information, determine whether [REDACTED] acted in accordance with these obligations as set out in Section 9 of the PSM Act and the ACTPS Code of Conduct.

Relevant witnesses were interviewed and the following information was obtained:

Description	Attachment
Notice of Disciplinary Investigation	1
Workplace Investigation Request	2
Statement of [REDACTED]	3
Copy of Privacy Training Power Point presentation provided to [REDACTED]	4
Extracts of Compliance training provided to [REDACTED]	5
Copy of text screen shots supplied by the respondent	6
Email to respondent notifying them of investigation	7
Registration procedure for [REDACTED] – email from [REDACTED]	8
IT logon security screen warning	9
Transcript of record of interview	10

Allegation 1: The respondent accessed the rego.act system inappropriately on the 24 April 2015

Summary of Evidence

The following facts are drawn from information contained in signed statements and documents, obtained from relevant parties.

[REDACTED]

At the time these matters were referred [REDACTED]
[REDACTED] including the respondent. [REDACTED] provided me with a signed statement (refer attachment 3). In summary he stated:

- [REDACTED] manages queries from the public in relation to ACT Government services. Staff have access to multiple business systems which contain sensitive information. All staff receive significant training during induction and ongoing throughout their employment.
- Training includes privacy training, the employee's obligations and responsibilities when accessing customer information and the consequences of accessing information without authority. Staff granted access to Rego ACT received additional training, including privacy, and must sign a privacy and confidentiality agreement. In his opinion, staff working in the contact centre could not work in the centre without knowing the obligations and responsibilities when accessing sensitive customer data.
- [REDACTED] stated [REDACTED], worked in [REDACTED]. The respondent is a very experience [REDACTED] who was fully aware of his obligations when accessing sensitive customer information. The respondent signed a confidentiality agreement on

commencement of employment on [REDACTED] and a deed of confidentiality for accessing Rego ACT systems on [REDACTED]

- An [REDACTED] worked in [REDACTED] but left in 2014
- On 9am, Wednesday, 7 October 2015, [REDACTED] approached him and said:
A couple of months ago I was asked by an ex-staff member to look up some rego details.
[REDACTED] said: Can I ask which staff member?
[REDACTED]: [REDACTED] – I didn't give any information but I feel guilty after hearing about a privacy discussion from a road privacy mentor [REDACTED]
[REDACTED] said: Did you access the rego?
[REDACTED]: I opened up the screen but I did not pass on any rego.
- [REDACTED] saw in one message a comment by [REDACTED] that she stated "I'll find out another way". As [REDACTED] had worked at [REDACTED] and had made friends with current staff he suspected she may have contacted other staff.
- [REDACTED] arranged for an audit from ACT Rego of registration [REDACTED] and it was received the same morning. On the audit he saw that [REDACTED] registration details had been accessed by two staff members from the [REDACTED] on the 24th and 27th April 2015.
- He saw the user name [REDACTED] which he knew to belong to [REDACTED], had accessed registration and client details at 3.36pm on Friday 24 April 2015. Client records obtained detailed registration of [REDACTED] and its owner, a [REDACTED]
- [REDACTED] then obtained the phone logs which provided details of when [REDACTED] employee is logged into phones, when logged off and their status such as ready and not ready. The logs identified [REDACTED] was recorded as 'not ready' between 3.32.03pm to 3.47.25pm meaning no calls could be forwarded to him during those times nor was he on the phone.

Whilst obtaining a signed statement from [REDACTED] he verified and provided the following documents as true and correct:

- Confidentiality Agreement and Deed of Confidentiality referenced [REDACTED] through [REDACTED]
- Copy of screen shots provided by respondent referenced [REDACTED]
- Mobile phone screen shots referenced [REDACTED] through [REDACTED]
- Three pages of audit logs referenced [REDACTED] through [REDACTED]
- One page spreadsheet titled 'Audit Log Report for [REDACTED]' referenced [REDACTED]
- The client record detailed that the registration details of [REDACTED] referenced [REDACTED] and [REDACTED]
- Phones logs [REDACTED] referenced [REDACTED]
- Fraud, ethics and privacy training from 2013 through 2015 referenced [REDACTED]

The screen shots of text attached to [REDACTED] statement and also copied to one full page in attachment 6, detail a number of texts sent by [REDACTED] who [REDACTED] states is [REDACTED], a [REDACTED] and friend of the respondent. The relevant texts are:

Friday 24 April 2015

[REDACTED]: Omg can you check a rego for me??
[REDACTED]: Who's
[REDACTED]: [REDACTED] I just need to know who owns it
[REDACTED]: U got a name
[REDACTED]: Nope my ex is driving it I wanna know who his new gf is if its hers

And later on Sunday 26 April 2015;

[REDACTED]: Why is it so important.
[REDACTED]: Why does it matter? If you dont wanna give it to me its fine
[REDACTED]: I didn't look at it...I nearly did but you need it
[REDACTED]: I'll find out another way.

[REDACTED]

[REDACTED] and has worked there for [REDACTED].

During the interview:

- [REDACTED] admitted to accessing the registration and client (owner) details of [REDACTED] about 3:36pm 24 April 2015.
- He had received texts from [REDACTED] requesting the registration check
- She provided a registration number only being [REDACTED].
- [REDACTED] asked if [REDACTED] had a name to try and work out what she wanted the information for.
- He stated she responded with 'nope my ex is driving it I wanna know who his new gf is if its hers'.
- Upon accessing the registration details he recalls seeing the name of the person but doesn't remember the name.
- He did not know the person who he had accessed.
- [REDACTED] states he got out of it as soon as he realised what I was doing and closed down the client account.
- When he accessed the record he realised he was doing the wrong thing and that is why he clicked out of it
- He had no work-related or lawful reason to access these records.
- He did not provide any information to [REDACTED]
- Six months later he reported the incident to his manager as he was just feeling bad and he thought the best thing to do was to bring it forward to someone and say he had done the wrong thing.
- He also reported the incident as he had concerns [REDACTED] was back working in the ACT Government with access to Rego.ACT.

- [REDACTED] agreed both the ACT mainframe and Rego.act are restricted to authorised users only.
- In relation to the IT logon warning screen he stated it had been there every day he worked at the complex.
- [REDACTED] further stated he had received on the job training in regarding privacy and his responsibilities when accessing ACT systems and customer information
- He stated his obligations were not to breach anyone's privacy by going into any records he shouldn't be going into.
- He considered himself to be fully aware of his obligations and responsibilities when accessing data held in Rego ACT
- Although he did not provide any information to [REDACTED] he could not explain why he went into the records.

Prior to the interview ending [REDACTED] added:

I never gave out any information to her at all. Um, I did attempt to ring her to sort of just go, you know, "You know you can't do this. Leave him alone. Move on," sort of thing, but she never answered any phone calls and I never gave her any information.

[REDACTED]

Attempts were made to contact [REDACTED] to see if she was willing to assist the investigation. Calls went directly to voice mail. At 8.30am 23 November 2015 I called [REDACTED] mobile number [REDACTED] and left message asking her to return my call. No response was ever received.

Policy

On 11 November 2015 [REDACTED] supplied an extract from rego.act help section (email and extract is contained in attachment 7). Staff are instructed:

- If caller seeking personal information about another person or their vehicle without written consent from the owner, must in addition to the registration number, provide two of the following pieces of information to show that consent has been given by the owner:
 - The name of the registered operator
 - Engine number/VIN
 - Vehicle fee category code
 - GVM/GCM
 - Registration end date

Only yes or no confirmation may be given for some details. [REDACTED] stated, as part of the privacy training provided, staff were instructed to transfer any query from family and friends to another colleague or to the Road Transport Team.

Analysis

The respondent is an experienced [REDACTED] [REDACTED] working in the [REDACTED]. Since [REDACTED] he has received ongoing training in relation to responsibilities regarding fraud, ethics and privacy training. He states he is fully aware of his obligations when accessing customer information.

An audit history identified that [REDACTED] at 3.36pm 24 April 2015 accessed registration and client details relating to [REDACTED]. The screens accessed provided full vehicle details and the owner's details including full name, date of birth and residential address.

The [REDACTED] [REDACTED] states information, limited to 'yes or no', can only be provided where a caller has provided a registration number and two other pieces of information relating to the vehicle.

[REDACTED] admits accessing the information as requested by his friend. It is clear from the content of his reply texts that he did not supply the information and attempted to persuade his friend to 'move on' from her ex-partner. The evidence of a second employee accessing the same records on Monday 27 April 2015 also supports [REDACTED] claim he did not provide any information to [REDACTED].

Conclusion

On the basis of the information provided, there is sufficient evidence to conclude, on the balance of probabilities, that [REDACTED] did access the Rego ACT system inappropriately on the 24 April 2015.

If the delegate makes a determination that misconduct has occurred, [REDACTED], may have failed in her obligations under Section 9 of the *Public Sector Management Act 1994* to:

- (b) act with probity;
- (j) if the employee has an interest, pecuniary or otherwise, that could conflict, or appear to conflict with the proper performance of her duties:
 - (i) disclose the interest to her supervisor; and
 - (ii) take reasonable action to avoid the conflict;

Other Considerations

Although it was several months after the alleged access, the respondent came forward and admitted to his manager what he had done. If he had not reported his actions it was highly probable that it would have gone undetected.

The respondent did so due to guilt and also due to concern that the person who requested the information had gained employment with the ACT Government and now had access to the information she had requested.

During several conversations with the respondent and during the record of interview it was clearly evident he was clearly remorseful about what he had done.

Recommendations

It is recommended that:

1. The delegate reviews this report, along with the accompanying evidence to determine on the balance of probabilities whether misconduct has occurred
2. If misconduct is found, determine an appropriate sanction in accordance with the ACT Public Service Administrative and Related Classifications Enterprise Agreement 2013-2017, and
3. Notify [REDACTED] of the outcome.



1 March 2016



1 March 2016



ACT
Government

Chief Minister, Treasury and
Economic Development

UNCLASSIFIED
Sensitive: Personal




Dear 

Notice of Disciplinary Action

I wrote to you on 31 March 2016 and advised you of my findings in relation to allegations of misconduct against you. I also advised you of the proposed disciplinary action and the reasons for my decision in that regard.

You were invited to provide a written submission to me in relation to my findings and the proposed disciplinary action. I have not received a response from you and therefore deem that you accept my proposed findings and sanction. As such, I will implement the proposed findings and sanction from my abovementioned letter.

As per Clause H10.1 (b) of the *ACT Public Sector Administration and Related Classifications Enterprise Agreement 2013-2017* (the Agreement), I am issuing you with a financial penalty. The penalty will be a reduction in your incremental level from an , effective from the date of this letter.

I note that you have already undertaken refresher training as stated in my letter of 31 March 2016.

Right of Appeal

As per Clause H12.1 of the Agreement, you have the right under Section J to appeal against any decision to take disciplinary action. Under Section J2.1(c) (attached) you may initiate an appeal under these procedures by making an application to the Convenor of Appeal Panels within fourteen days of receipt of this letter at the following address:

Attention: The Convenor of Appeal Panels
Professional Standards Unit
Level 4, Eclipse House, 197 London Circuit
Canberra City ACT 2601

Email: ProfessionalStandardsUnit@act.gov.au marked attention Employee Relations

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

The Employee Assistance Program (EAP) 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 Converge International on 1300 687 327.

Sensitive: Personal
UNCLASSIFIED

UNCLASSIFIED
Sensitive: Personal
Staff in Confidence

If you require clarification or additional information in relation to this letter please contact

[REDACTED] HR Advisor on [REDACTED].

Yours sincerely,



21 April 2016

COPY

Sensitive: Personal
UNCLASSIFIED

Please complete, tear off and lodge over the counter with your article.

Enquiries: please call 13 POST (13 7678).

Optional services:

(Sender to selected services)

Extra Cover (Over \$100 up to \$5,000)

Amount required:	\$
Description of contents:	

Delivery Confirmation

Person to Person

Additional fee is payable for each service.

Registered Post – Lodgement Receipt

Item addressed to:

Company name

For the attention of

PO Box number or street address

Suburb or town State

I have read and agree to the information on the reverse side of this receipt.

Sender's name

Sender's signature

Date 22.4.16

WARNING: This envelope is not suitable for sending jewellery or precious stones. Small rigid items such as keys or coins should be securely packed to avoid loss or damage.

REGISTERED POST - SENDER TO KEEP
507281987018

