RESOLVING WORKPLACE ISSUES:
GLOSSARY
RESOLVING WORKPLACE ISSUES: GLOSSARY

**Alternative Process** – A non-disciplinary process used to resolve workplace issues locally, including the use of Restorative Processes and Resolution Techniques.

**Disciplinary Action/Sanction** – Action taken after an independent delegate determines that an alleged behaviour has occurred based upon the findings of an investigation.

**Delegates** – Certain legislation allows for powers to be delegated; the person upon whom an Act or collective agreement confers powers and functions may also be empowered to permit another person to exercise those powers and functions. The person who is authorised under a delegation to exercise the delegated powers and functions is known as the delegate.

**Discrimination** – Under the *Discrimination Act 1991*, a person discriminates against another person if they treat, or propose to treat, someone unfavourably, or imposes a condition or requirement upon a person that has, or is likely to have, the effect of disadvantaging a person on the basis of that person’s: sex; sexuality; gender identity; relationship status; status as a parent or carer; pregnancy; breastfeeding; race; religious or political conviction; disability; industrial activity; age; profession, trade, occupation or calling; association (whether as a relative or otherwise) with a person identified by reference to one of the aforementioned attributes; or spent conviction within the meaning of the *Spent Convictions Act 2000*. A single incident of discrimination based upon any of the above characteristics is unlawful.

**Inappropriate Behaviour** – A one-off event incident that is usually not serious in nature, or a repetitive pattern of actions, that disturbs the work environment and what a reasonable person, having regard to the circumstances, would find unacceptable and unreasonable in the workplace.

**Harassment** – A form of work bullying, involving unreasonable and repeated behaviour directed at an individual or group of people on the basis of their particular characteristics (e.g. sex, religion, ethnicity, disability, age, etc). It can be written or verbal and includes humiliation, abuse, spreading rumours or gossip.

**Investigation** – A procedure undertaken in accordance with the processes outlined in Section H (Workplace Values and Behaviours) of ACTPS Enterprise Agreements where an independent investigator investigates an allegation of misconduct and presents the findings in a report to an independent delegate who will decide, based upon the balance of probabilities, whether the alleged behaviour occurred.

**Locally** – Refers to issues that are resolved within the work area without the involvement of misconduct processes.

**Misconduct** – As outlined in ACTPS Enterprise Agreements, misconduct includes any of the following:

a) the employee fails to meet the obligations set out in section 9 of the PSM Act 1994 (this includes bullying and harassment or discrimination);

b) the employee engages in conduct that has brought, or is likely to bring, the Directorate or ACTPS into disrepute;

c) a period of unauthorised absence and the employee does not offer a satisfactory reason on return to work;

d) the employee is convicted of a criminal offence or where a court finds that an employee has committed an offence but a conviction is not recorded, taking into account the circumstances and seriousness of the offence, the duties of the employee and the interests of the ACTPS and/or of the Directorate;
e) the employee fails to notify the head of service of criminal charges in accordance with clause H11; or
f) the employee makes a vexatious or knowingly false allegation against another employee.

**Natural Justice** – Ensuring that fairness is provided to all parties involved in the management and resolution of inappropriate behaviour and/or misconduct, including that: allegations are promptly managed/resolved; the person who has allegedly conducted the behaviour is giving the right to be heard and respond; there is an absence of bias in proceedings; and disciplinary actions are commensurate with the seriousness of the alleged behaviour.

**Performance Plans** – Compulsory performance and development plans for all ACTPS employees that outline the duties and behaviours that should be performed within a set period of time (usually over 12 months).

**Preliminary Assessment** – An assessment undertaken by a manager, supervisor, or local delegate to assess and evaluate an allegation of inappropriate behaviour or misconduct and its impact to determine whether further action is required.

**Procedural Fairness** – Requires following resolution processes in a fair and neutral way that is respectful of individual rights and follows proper procedures. The principles of procedural fairness include: the right to be heard; the right to be treated without prejudice; right to be informed of allegations being made; being given the opportunity to respond to allegations; and the right to enquire about the status of complaint/s made against you.

**Reasonable management actions** – Actions taken by management in a fair and equitable way and that relate to the direction and control of how work is done.

**Restorative Processes and Resolution Techniques (RPRT)** – Non-disciplinary processes where a third party helps to resolve issues between employees.

**Serious Misconduct** – As outlined in ACTPS Enterprise Agreements, serious misconduct means conduct that is so serious that it may be inconsistent with the continuation of the employee’s employment. Serious misconduct includes but is not limited to the kinds of serious misconduct defined within the Fair Work Regulations.

**Sexual Harassment** – Sexual harassment refers to any unwanted or unwelcome sexual behaviour where a reasonable person would have anticipated the possibility that the person harassed would feel offended, humiliated or intimidated. It has nothing to do with mutual attraction or consensual behaviour.

**Underperformance** – Underperformance amounts to a failure to perform the duties of the position to the required standard, includes non-compliance with workplace policies, rules or procedures and poor interaction with colleagues.

**Work Bullying** – Work bullying is unreasonable, undesirable behaviour at work that generally: is repeated; is unwelcome and unsolicited; occurs between workers of an organisation (i.e. it is not initiated by a client/s or a person/s outside the organisation); is considered offensive, intimidating, humiliating or threatening by a reasonable person; and has the potential to cause harm to those experiencing the behaviour.