



Annual review of Australian Federal Police conduct and practices issues

Commonwealth Ombudsman's 2024–25
annual review of the AFP's administration of
Part V of the *Australian Federal Police Act 1979*

August 2026

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Glossary

Term	Definition
AFP	Australian Federal Police
AFP Act	<i>Australian Federal Police Act 1979 (Cth)</i>
BWC	Body Worn Camera
CCTV	Closed-circuit Television
Conduct Issue	An issue of whether an AFP appointee has engaged in conduct that contravenes the AFP's professional standards or has engaged in corrupt conduct
Determination	<i>Australian Federal Police (Categories of Conduct) Determination 2023</i>
NACC	National Anti-Corruption Commission
NACC Act	<i>National Anti-Corruption Commission Act 2022 (Cth)</i>
Practices Issue	Issues about the practices or procedures of the AFP, including whether they are contrary to law, unreasonable or inadequate.
PRS	The AFP's Professional Standards unit, which handles serious complaints about the AFP
The Office	The Office of the Commonwealth Ombudsman
WICR	The AFP's Workplace Issues & Complaints Resolution team, which receives all complaints to the AFP and handles the less serious complaints

Executive summary

This report sets out the findings of the Commonwealth Ombudsman's annual review of the Australian Federal Police's (AFP) administration of AFP conduct and practices issues under Part V of the *Australian Federal Police Act 1979* (AFP Act), for the review period 1 March 2024 to 28 February 2025. This review examined a sample of AFP complaint records finalised during the reporting period, together with the AFP's handling of AFP practices issues. The purpose of this annual review is to assess whether the AFP's administration of Part V is adequate and comprehensive, including whether matters are recorded, assessed and categorised, investigated and resolved in a fair, reasonable and lawful manner.

Effective complaint handling is a significant contributor to integrity across the public service. An effective complaints framework helps identify and address individual wrongdoing and promotes organisational learning, public confidence and accountability. This review found that, while the AFP has taken some positive steps to strengthen aspects of its complaints management framework, there are continued concerns as to whether the current framework is consistently meeting the requirements and purposes of Part V of the AFP Act.

A key concern arising from this review is the AFP's practices in categorising conduct raised in complaints. The AFP Commissioner and the Ombudsman have jointly issued the *Australian Federal Police (Categories of Conduct) Determination 2023* (the Determination), which determines the types of conduct that fall within each category. We identified multiple examples of conduct issues being categorised by the AFP at a lower conduct level than the facts appeared to support, including matters that raised issues of potential serious breaches of law, recurring serious misconduct, and conduct capable of falling within one or more conduct categories.

In some instances, the AFP appears to have applied criteria other than those set out in the Determination when deciding whether conduct should be categorised, or recategorised, as Category 1, Category 2 or Category 3 conduct. This practice is inconsistent with the legislative scheme. These instances raise concern that some complaint outcomes may have been adversely affected as a result of an incorrect application of the Determination and of the legislative framework provided under Part V of the AFP Act.



Of notable concern is the AFP's continued reliance on the use of the discretion to take no further action in relation to complaints under section 40TF of the AFP Act. This discretion is an important option available to decision-makers where matters clearly fall within the section. Previous annual reviews have however identified the risks associated with the use of this discretion without adequate consideration of the circumstances and appropriate documentation of decision-making, particularly in high-risk matters. This review found that those concerns remain current.

We observed complaints that were finalised without relevant evidentiary material having been identified or reviewed, failures to appropriately document clear reasons for decision-making, and matters where further enquiries would have plainly assisted in appropriately assessing the merits of the complaint. Used appropriately, section 40TF of the AFP Act can support the efficiency of the AFP's complaints framework. However, using the discretion too readily risks denying procedural fairness and deprives the AFP of opportunities for improvement.

Such concerns were pronounced in the AFP's handling of complaints involving the use of force. In several matters reviewed during the inspections conducted by the Office, it was identified that some records did not demonstrate that the assigned investigators had undertaken an adequate and documented assessment of the reasonable, necessary and proportionate nature of the force in the circumstances. In one instance involving a person experiencing an acute mental health emergency, there were discrepancies between the available Body Worn Camera footage and the Use of Force Report that were not appropriately considered before a decision under section 40TF was made.

This review further identified deficiencies in the management of conflicts of interest involving AFP complaint investigators. In several matters reviewed, the Office identified that conflict of interest declarations were delayed, incomplete, inaccurately recorded or were not subject to appropriate management and/or oversight. In one case study highlighted in this report, investigators with declared or apparent conflicts continued to participate in an investigation in ways that did not appropriately manage the conflict risks. Such failures create a serious risk of perceived, potential or actual bias and may undermine the integrity and impartiality of AFP complaint investigations. The AFP complaints framework must not only be fair, but it must also be seen to be fair.

Broader issues pertaining to record keeping also emerged across this review. In several matters reviewed by the Office, the records created and maintained by the AFP were



insufficient to demonstrate what evidence had been assessed, what considerations had informed key decisions or the basis for using legislative powers conferred under Part V of the AFP Act.

Similarly, the AFP's internal timeliness benchmark standards do not currently provide adequate assurances that complaints are being progressed through each stage of the complaints process and then finalised within reasonable timeframes. This review identified instances of complaints that were not effectively captured by existing timeliness benchmarks. These failures reduce the transparency of complaint handling delays and compromise the ability to actively monitor and address issues arising in matters.

The Ombudsman acknowledges that the AFP have taken proactive steps during this review period. In response to our reviews in the 2023–24 period, the AFP commissioned an external review of its complaints management process by Lander & Rogers in early 2025 (the Lander & Rogers Review). The Office received a copy of the Lander & Rogers Review on 25 March 2026 and looks forward to engaging further with the AFP on the findings and recommendations.

Additionally, the AFP also commenced internal work in relation to conflict of interest compliance, and implementing a matrix to assist decision-making in matters involving family and domestic violence. However, the findings of this review demonstrate that further reform is necessary for the AFP to meet the standards of transparency, accountability and fairness expected under Part V of the AFP Act.

This review makes **10 recommendations in relation to 11 findings**. Collectively, the recommendations and suggestions made in this review are intended to support an AFP complaints framework that is lawful, procedurally fair, transparent and that promotes public confidence in the AFP's administration of its professional standards and practices.



Summary of findings

Finding 1

The AFP is not consistently identifying and categorising conduct issues in accordance with the *Australian Federal Police (Categories of Conduct) Determination 2023* and section 40RK(6) of the *Australian Federal Police Act 1979* (Cth).

Finding 2

The AFP is categorising conduct according to criteria other than those contained within the Determination, which is not compliant with the *Australian Federal Police Act 1979* (Cth).

Finding 3

Oversight and review mechanisms for Conflict of Interest management strategies have not been adhered to sufficiently. This jeopardises the integrity and impartiality of complaint investigations and may erode confidence in the AFP Complaints Framework.

Finding 4

The AFP is proactively undertaking efforts to enhance compliance with Conflict of Interest requirements, including through internal audit and external review processes.

Finding 5

The AFP's complaint handling system is not adequately capturing issues raised by civil and criminal legal matters.



Finding 6

The AFP finalised some investigations without reviewing relevant evidence, leading to outcomes based on incomplete information and an overreliance on the accounts of subject appointees.

Finding 7

The AFP's handling of use of force complaints raises concerns of inadequacy and lack of comprehensiveness, including critical discrepancies between Body Worn Camera footage and official reports. These investigative deficiencies led to the dismissal of serious allegations under section 40TF without appropriate consideration of whether the application of force used was reasonable, necessary, and proportionate in the circumstances.

Finding 8

The AFP is not consistently creating and maintaining records to show that its use of the section 40TF discretion is reasonable and compliant with relevant legislative requirements.

Finding 9

The failure to apply end-to-end timeliness benchmarks gives rise to a lack of comprehensive complaint performance monitoring, fails to address significant delays, and compromises the integrity and transparency of the AFP complaints framework.

Finding 10

The AFP is not fully compliant with their obligation to ensure that adequate records are kept for the purposes of Part V of the AFP Act.

Finding 11

While the AFP has made noticeable improvements in the identification of practices issues in comparison to the previous review period, it is not consistently addressing the identified practices issues within a reasonable timeframe.

Summary of recommendations



Recommendation 1

The AFP ensure all conduct issues raised by complaints are accurately identified in accordance with the *Australian Federal Police (Categories of Conduct) Determination 2023*. Where conduct qualifies for multiple categories, the matter must be recorded under the highest applicable category.

AFP Response:

The AFP advised our Office that it **accepts** this recommendation.



Recommendation 2

The AFP must cease using criteria not contained in the *Australian Federal Police (Categories of Conduct) Determination 2023* to categorise or re-categorise conduct, with immediate effect.

AFP Response:

The AFP advised our Office that it **accepts this recommendation in principle**, that the issue had been identified in the Lander & Rogers Review, and that they will seek advice and consult with our Office.





Recommendation 3

The AFP must cease the practice of re-categorising firearm-related conduct issues from Category 3 to Category 2 and ensure strict adherence to the *Australian Federal Police (Categories of Conduct) Determination 2023* (Cth). To support compliance with the Determination, the AFP should further update its complaint management system descriptors to align directly with the terminology in the Determination.

AFP Response:

The AFP advised our Office that it **accepts the first part of this recommendation in principle** and will consult with our Office to ensure the Determination reflects legislative requirements and remains fit for purpose. The AFP advised that it **accepts the second part of this recommendation** and will undertake to update its complaint management system to align with the Determination.



Recommendation 4

The AFP should deliver mandatory conflict of interest training to all complaint investigators and implement robust quality assurance practices to verify that all disclosed conflicts are independently reviewed and mitigated through enforceable management strategies.

AFP Response:

The AFP advised our Office that it **accepts** this recommendation and undertakes to conduct training with all Part V investigators on an annual basis.



Recommendation 5

The AFP prepare and endorse a new Standard Operating Procedure to ensure it identifies all potential conduct and practices issues raised in civil and criminal matters involving the AFP in accordance with section 40SA of the *Australian Federal Police Act 1979* (Cth).

AFP Response:

The AFP advised our Office that it **accepts this recommendation in principle**. The AFP advised that it does not consider that all allegations raised in civil or criminal proceedings amount to reportable conduct issues, and that it will consider whether further guidance would support existing practices outlined in the National Guideline.



Recommendation 6

The AFP should implement a mandatory requirement that all matters in which use of force is the primary issue be assessed as to whether the force used was reasonable, necessary and proportionate. This assessment should be documented. It should also ensure that it is based on a correct chronology of events by reconciling the Use of Force Reports against Body Worn Camera footage. The AFP should not dismiss these matters using section 40TF without documented consideration of whether the force was proportionate.

AFP Response:

The AFP advised our Office that it accepts this **recommendation in principle**. The AFP advised that it does not believe a mandatory requirement should be applied to all matters as it should occur dependent on the circumstances of the matter. The AFP agreed that further guidance to support decision makers in the assessment of whether the use of force was reasonable, necessary and proportionate would ensure best practice decision making.



Recommendation 7

The AFP should ensure that PRS, when considering making a decision to take no further action under section 40TF of the *Australian Federal Police Act 1979* (Cth), creates and maintains comprehensive and adequate records of that decision.

AFP Response:

The AFP advised our Office that it **accepts** this recommendation, noting that use of this discretion formed part of the Lander & Rogers Review and that work is progressing in this regard.



Recommendation 8

The AFP should implement internal key performance indicators to ensure that all complaints, including corrupt conduct complaints, are subject to timeliness benchmarks.

AFP Response:

The AFP advised our Office that it **accepts** this recommendation and undertakes to consider the application of benchmarks for corruption matters.



Recommendation 9

The AFP should implement a mandatory documentation framework to ensure all complaint decisions comply with the record keeping requirements of section 40WA of the *Australian Federal Police Act 1979* (Cth).

AFP Response:

The AFP advised our Office that it **accepts** this recommendation.



Recommendation 10

The AFP should implement a practices issue remediation framework that introduces timeliness benchmarks and requires a mandatory reconciliation process between investigative findings and the Practices Issues Register. This framework must ensure that practices issues are registered, monitored and, particularly those in high-risk areas, promptly remediated.

AFP Response:

The AFP advised our Office that it **accepts** this recommendation.

Introduction

As our national policing organisation, exercising significant powers accompanied by significant discretions, the Australian Federal Police (AFP) is subject to the highest standards of conduct, integrity and accountability. If concerns arise about the conduct of individual officers, decision-making and organisational practices, those concerns need to be appropriately engaged with.

To maintain the confidence of the Australian people and of the Parliament, the AFP must ensure it administers an effective framework for receiving, assessing and dealing with complaints and other information that may raise AFP conduct or practices issues. Complaints can provide intelligence for the AFP about how its officers are acting or perceived to be acting and about possible training or systems gaps.

Sound complaint handling also promotes transparency and enhances the confidence of the Australian people in the AFP by demonstrating that complaints raised about the conduct of the AFP are taken seriously, considered independently from the officers involved, and addressed in accordance with the legislation. At the same time, some complaints may be without foundation, once considered. While all complaints must be treated appropriately, including properly considered in documented decisions, not all complaints require the same degree of investigation.

This report sets out the Commonwealth Ombudsman's annual review conducted under section 40XA of Part V of the AFP Act for the period 1 March 2024 to 28 February 2025 (the review period).



The Ombudsman's role

The Commonwealth Ombudsman has an independent statutory role in providing oversight of the administration of Part V of the AFP Act by the AFP. Under Division 7 of Part V, the Ombudsman must conduct annual reviews of the AFP's handling of AFP conduct issues and AFP practices issues dealt with under Divisions 3 and 4. The Ombudsman's function is to provide oversight and assurance by reviewing whether the AFP's administration of Part V is comprehensive and adequate, including whether matters are recorded, categorised, managed and finalised in a fair, reasonable and lawful manner. In carrying out this role, the Ombudsman provides independent assurance about the effectiveness and integrity of the AFP's complaint handling framework, rather than substituting the Ombudsman's view for that of the AFP decision-makers in individual matters.

The Ombudsman may make recommendations or suggestions to promote improved administrative practice and accountability within the AFP.



AFP complaints framework

Part V of the AFP Act establishes a legislative framework for the AFP's handling of information (also complaints or matters) that raises AFP conduct or practices issues. Part V provides for the categories of complaints, with the Determination defining the types of conduct that constitute each category.

Conduct issues are defined by the AFP Act as an issue of whether an AFP appointee has engaged in conduct that contravenes the AFP's professional standards or has engaged in corrupt conduct.¹ Separately, practices issues are defined as issues about the practices or procedures of the AFP, including whether they are contrary to law, unreasonable or inadequate.²

The Determination, made under section 40RM(1) of the AFP Act, was signed by both the AFP Commissioner and the Commonwealth Ombudsman on 8 September 2023. The purpose of the Determination is for the AFP Commissioner and the Commonwealth Ombudsman to jointly decide what constitutes more, or less, serious conduct and therefore how it should be dealt with under Part V of the AFP Act.

The Determination states that, for the purposes of section 40RM(1) of the AFP Act, conduct amounts to Category 1, Category 2 or Category 3 conduct if the type of conduct is described in the tables found in sections 7–9 of the Determination, respectively.

¹ Sections 40RH and 40RJ, AFP Act.

² Sections 40RI and 40RJ, AFP Act.

The **four categories** of conduct created by Part V of the AFP Act are:



Category 1

This category of conduct includes minor customer service, management and performance issues.



Category 2

This category of conduct includes minor misconduct and inappropriate behaviour.



Category 3

This category of conduct includes serious misconduct or criminal conduct.



Corrupt Conduct

(the AFP refers to this as *Category 4*)

This category of conduct includes conduct that would constitute corrupt conduct within the meaning of the *National Anti-Corruption Commission Act 2022* (Cth) (NACC Act).

Under the NACC Act, corrupt conduct is broadly defined as any conduct by a public official that involves a breach of public trust, an abuse of office, or the misuse of official information. It also encompasses any action by any person that adversely affects the honest or impartial exercise of a public official's powers or duties.

If the conduct of an AFP appointee would otherwise belong to more than one category, section 40RK(6) of the AFP Act states that the AFP **must** take the conduct to belong to the higher or highest of those categories.

All complaints received by the AFP are subject to an intake and triage process conducted by the Workplace Issues & Complaints Resolution (WICR) team. This team is also responsible for the management of Category 1 and Category 2 complaints. More serious complaints, such as those raising concerns of Category 3 and/or corrupt

conduct allegations are dealt with by a unit in the AFP referred to as Professional Standards (PRS).

Under section 40TM of the AFP Act, the AFP is required to notify the Ombudsman of all Category 3 matters. The AFP is required to refer matters involving corrupt conduct that are categorised as serious or systemic to the National Anti-Corruption Commission (NACC). Where a matter relates to alleged corrupt conduct (Category 4), the NACC has oversight over these matters and can choose how the matter is to be dealt with. The NACC may allocate the investigation of corrupt conduct matters to the AFP.

The following are examples of the types of conduct that could fall within each of the four conduct categories under Part V of the AFP Act:³

Category 1 Conduct

An AFP appointee speaking about a colleague in an unreasonable or disrespectful manner.

Category 2 Conduct

An AFP appointee using inappropriate and offensive language towards a young person during a policing incident.

Category 3 Conduct

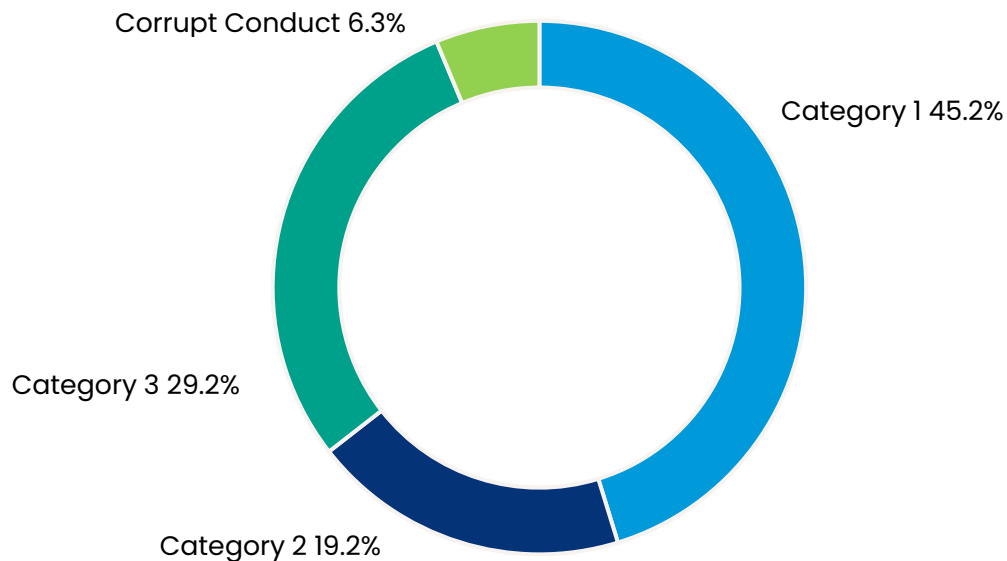
An AFP appointee being arrested and charged with domestic violence offences following an incident in which they seriously endangered the health and welfare of their partner.

Corrupt Conduct (Category 4 Conduct)

An AFP appointee utilising their position to obtain free travel on public transport when not entitled to do so.

³ These examples are based on cases published by the AFP; see Australian Federal Police, [Australian Federal Police annual report 2024–25](#) (2025) 121; Australian Federal Police, [Australian Federal Police annual report 2022–23](#) (2024) 128.

The following graph reflects the proportion of conduct complaints finalised by the AFP in this review period based on the information reported to our Office by the AFP:



Graph 1: AFP conduct complaints finalised in this review period by complaint category.

Timeliness benchmarks mitigate the risk of unnecessary delay in complaint handling. Benchmarks should be efficient but allow sufficient time for complaints to be handled properly without placing undue pressure on the complaint case officer or investigator. The AFP's internal timeliness benchmarks to conduct a complaint investigation are as follows:

- Category 1 – 42 days
- Category 2 – 66 days
- Category 3 – 256 days.

The AFP does not use timeliness benchmarks for corrupt conduct (Category 4) complaint investigations.⁴

⁴ See section on 'Timeliness benchmarks' in this report.

Our review process

This annual review was conducted in two phases. The first phase occurred between 17 March 2025 and 21 March 2025 and focused on the AFP's administration of allegations of Category 1 and Category 2 conduct.

The second phase took place between 12 May 2025 and 23 May 2025. This phase focussed on allegations of Category 3 conduct and corrupt conduct.

Both phases reviewed AFP complaint records finalised during the period 1 March 2024 to 28 February 2025.

This review was informed by a sample of the agency's conduct issues, discussions with relevant agency staff and a review of the AFP's policies and processes. We observed progress against previous recommendations and findings.

With respect to the AFP's administration by WICR of Category 1 and Category 2 conduct issues under Part V of the AFP Act, we notified the agency prior to our review that we would focus on the following areas during this review:

- complaints not categorised in a manner consistent with the Determination
- complaints involving the use of the discretion to not proceed with an investigation under section 40TF
- issues affecting basic complaint handling principles.



With respect to the AFP's administration by Professional Standards (PRS) of Category 3 and corrupt conduct issues, we notified the AFP of our focus on the following areas:

- complaints involving the use of force
- complaints involving sexual harassment or assault
- identification and administration of practices issues.

In addition to the provisions under Part V, section 39 of the AFP Act requires AFP appointees to adhere to any orders made by the Commissioner of the AFP under section 38 of the Act. For this reason, in developing our review criteria, we also consider:

- the AFP Commissioner's Order on Governance (CO1)
- the AFP Commissioner's Order on Professional Standards (CO2)
- the AFP Commissioner's Order on Operational Safety (CO3)
- the Determination
- relevant AFP internal governance and frameworks.

We further consider the AFP's National Guideline on complaint management and resolution of grievances, and the Ombudsman's Better Practice Complaint Handling Guide.

During the review, we selected an inspection sample of 153 records of the 473 records available to us. Using a sample size of approximately one third of the total available records allows us to identify any systemic trends or issues that may apply across the AFP's administration of Part V of the AFP Act.

The following records finalised during this review period, which fell within one or more of the review focus areas, were inspected as part of this review:

Complaint Category	Total Cases Available	Total Records Inspected
Category 1	214	25
Category 2	91	60
Category 3	138	57
Corrupt Conduct	30	11
TOTAL	473	153

Table 1: Comparison of Total Records Available to Total Records Reviewed by Conduct Category⁵

After conducting a review, our Office prepares a report on the findings arising from the review process, including the inspection of the records of matters dealt with under Part V of the AFP Act. We then seek a formal response from the AFP as to whether they accept or do not accept any recommendations and suggestions made by the Ombudsman.

⁵ In line with recent findings and recommendations, the Office has combined the total sum of Category 1 conduct complaints that are informally dealt with by the AFP with the total sum of formally managed Category 1 conduct complaints.



Complaint handling – what we found

Part V of the AFP Act prescribes the process for recording and dealing with complaints about conduct and practices issues relating to the AFP.

A member of the public may give information to the Commissioner or an AFP appointee that raises an AFP conduct or practices issue.⁶ The AFP treats the provision of this information as a complaint.

The WICR will triage and conduct preliminary enquiries and then all complaints are assessed and categorised.

Category 1 and Category 2 matters remain with WICR to progress, while matters with a preliminary categorisation of Category 3 or corrupt conduct are allocated to the PRS Operations Committee. There a matter will be confirmed as Category 3 or corrupt conduct, or referred back to WICR to manage as Category 1 or Category 2.

⁶ Section 40SA, AFP Act.

Adherence to the Determination

Our review found that several conduct issues were identified and categorised in contravention of the Determination. Of particular concern, we found a systemic issue relating to the categorisation of conduct issues involving firearms, which we focus on at the end of this section.

We accept that there is considerable crossover with the items listed in the Determination, and that conduct might be assessed differently by different people. However, we continue to see a pattern of conduct issues being categorised at a lower category than the facts would arguably deem appropriate. Section 40RK(6) of the AFP Act requires that conduct which could belong in more than one category must be taken as belonging to the highest of those categories.

Our concerns regarding improper categorisation of complaints are highlighted by several specific matters. For example, one matter involved allegations of unauthorised entry to a premises and of the intimidation of the complainant's children. Entry to premises is a significant interference with the rights of the occupier, which is why Parliament has legislated specific regimes for the authorisation of entry.

Despite the serious nature of an alleged unauthorised and therefore unlawful entry into a private premises, the matter was categorised as Category 1 customer service issue based on a preliminary review of Body Worn Camera (BWC) footage, rather than as a Category 3 serious breach of the law pending a full investigation.

Finding 1

The AFP is not consistently identifying and categorising conduct issues in accordance with the *Australian Federal Police (Categories of Conduct) Determination 2023* and section 40RK(6) of the *Australian Federal Police Act 1979* (Cth).

Defaulting to lower categories for serious allegations causes these matters to not receive the higher level of scrutiny mandated for Category 3 conduct issues. Furthermore, merging multiple, recurring incidents into a single lower category matter obscures the gravity of alleged repeated wrongdoing and may be inconsistent with section 40RK(6) of the AFP Act, which requires that conduct spanning multiple categories be assigned the higher or highest applicable classification.

Ultimately, these deficiencies in initial assessment and the application of specific subcategories undermine the integrity of the AFP's complaints framework, risk trivialising significant conduct issues, and compromise the accuracy of transparent public reporting of AFP integrity.



Recommendation 1

The AFP ensure all conduct issues raised by complaints are accurately identified in accordance with the *Australian Federal Police (Categories of Conduct) Determination 2023*. Where conduct qualifies for multiple categories, the matter must be recorded under the highest applicable category.

AFP Response:

The AFP advised our Office that it **accepts** this recommendation.

We also identified a practice where, from time to time, conduct was incorrectly re-categorised based on the AFP's own interpretation of what conduct should fall within the parameters set out in the AFP Act,⁷ rather than what is set out in the Determination.

Section 40RK(7) provides the discretion to vary how the conduct is categorised. If, in the course of an investigation, it becomes apparent that the conduct is of a more, or less, serious nature, it can be escalated, or lowered, to the appropriate category.

⁷ Sections 40RN–40RP, AFP Act.

However, we found that the AFP was re-categorising the conduct based on the AFP's own interpretation of what amounts to conduct of each category, rather than on new information arising from the investigation.

The AFP was of the view that, when categorising or re-categorising a conduct issue, it is open to them to consider the conduct against other provisions in the AFP Act, including section 40K(3) where serious misconduct is defined for the purposes of termination of employment. The AFP also referred to likely harm resulting from types of conduct, although the relevant item in the Determination does not include a harm element.

Finding 2

The AFP is categorising conduct according to criteria other than those contained within the Determination, which is not compliant with the *Australian Federal Police Act 1979* (Cth).

The AFP is using their own interpretation of what is a Category 1, Category 2, or Category 3 conduct issue, rather than what the AFP Commissioner and the Commonwealth Ombudsman have jointly decided amounts to this conduct as outlined in the Determination.

In doing this, the AFP officers involved have been acting contrary to their own Commissioner's decision. Some conduct issues were re-categorised at a lower level than the AFP Commissioner and the Commonwealth Ombudsman have determined should apply.

The facts and circumstances of each conduct issue must be considered against the conduct described in the Determination, not by other factors or discretions for which the Determination does not allow.

We are concerned that if investigation reports have been based on an incorrect understanding of what amounts to conduct of each category, then the outcomes of complaint investigations may be impacted by jurisdictional errors.

For example, if irrelevant factors were taken into consideration when categorising a conduct issue, they may also have been considered when determining whether or not the conduct was established. This could have serious implications for the correctness of AFP disciplinary processes.



Recommendation 2

The AFP must cease using criteria not contained in the *Australian Federal Police (Categories of Conduct) Determination 2023* to categorise or re-categorise conduct, with immediate effect.

AFP Response:

The AFP advised our Office that it **accepts this recommendation in principle**, that the issue had been identified in the Lander & Rogers Review, and that they will seek advice and consult with our Office.

Categorisation of firearm-related matters

Firearms have the capacity to cause lethal harm, and the AFP has stringent guidelines to ensure their safe and responsible use. Failure to consistently follow the Commissioner's Order on Operational Safety can jeopardise the safety of both officers and the public and cause reputational damage to the AFP. We found several instances involving firearms where, after initially categorising the conduct as Category 3 upon intake, the PRS Operations Committee later determined the matters were better categorised as Category 2.⁸

The AFP advised us that they utilise an interpretation of the Determination, drawing on the parameters set out in section 40RP of the AFP Act (which talks about the conditions under which conduct can be determined by the Commissioner and the Ombudsman to be Category 3 conduct), when determining whether particular conduct constitutes Category 3 conduct. This includes whether the conduct raises the question of termination action, as well as whether the conduct was likely to result in any harm. The AFP accepted our position that all conduct issues involving a firearm should be assessed as Category 3 conduct because firearms are inherently serious. The AFP also advised us, however, that depending on the circumstances, such as the risk of harm and likelihood of termination, the PRS Operations Committee might refer the matter to WICR for investigation as a Category 2 issue.

The Determination states that a breach of the Commissioner's Order on Operational Safety which relates to a firearm **is** Category 3 conduct.⁹ It does not include an element of harm. Whilst other sub-items in section 9 that are not related to firearms are described with reference to circumstances which could result in harm or danger, each sub-item is distinct, as reflected by the use of the term 'or' following each sub-item. Similarly, even if it was permissible for the AFP to have regard to section 40RP rather than the Commissioner's Determination, s 40RP provides that termination is only one

⁸ The PRS Operations Committee is a formal meeting held by the AFP which considers all matters categorised on initial intake as category 3 and 4. The board discusses the categorisation and next steps with the handling of the matters.

⁹ Item 3(a), Section 9, *Australian Federal Police (Categories of Conduct) Determination 2023*

optional component for determining the conduct is Category 3 conduct, it is not a mandatory component. It is therefore not open to the PRS Operations Committee to re-categorise a firearm-related conduct issue to Category 2 due to their assessment that the conduct was not serious or was unlikely to result in any harm.

This interpretation is further supported by the drafting of item 2 in section 8 of the Determination, which states that a matter involving a weapon **cannot** be Category 2 if that weapon is a firearm. The conduct must be considered against the categories defined in the Determination, at the highest relevant category.

The Determination provides a non-exhaustive list of examples to assist in illustrating what type of conduct may fall within each category. It appears the Operations Committee is also relying too heavily on those examples when considering recategorising a matter, rather than the clear wording of the conduct specified in the Determination.

Several firearms-related conduct issues were incorrectly recategorised as Category 2 conduct, as outlined in Table 2 below:

Example	Finding	Description
Case 1	Established as Category 2	Case Log showed photo of opened case containing firearm (3 magazines and a red safety flag).
Case 2	Established as Category 2	Self-reported – AFP appointee failed to secure firearm at the end of his shift, left his weapon in his holster and hung up in armoury.
Case 3	Discretion Not to Proceed	Unloaded and locked in an AFP approved container within a weapons storage area or other area designated by AFP security as acceptable for storage of firearms.
Case 4	Not Established as Category 2	Related to incorrect storage of firearms, with a safety flag fitted and magazine not fitted.

Example	Finding	Description
Case 5	Not Established	Two firearms handed in for servicing in a large yellow envelope together and not stored as per Commissioner's Order. One was stored with slide locked back but had magazine fitted. Other Glock had red plug fitted but also had magazine fitted.
Case 6	Discretion Not to Proceed	Conduct issue identified as failure to secure firearm correctly. Firearm was stored in clothes locker unloaded. No notes on where the ammunition was located.
Case 7	Not Established as Category 2	Related to a firearm being racked in an armoury with no chamber flag inserted. Followed all procedures except inserting the safety pin.

Table 2: Firearms related conduct issues incorrectly re-categorised as Category 2 conduct.

We reviewed the facts and circumstances of each of the above records which indicated that firearms and a breach of the Commissioner's Order on Operational Safety were involved.

As such these matters should have been considered as involving Category 3 conduct. Instead, they refer to other Commissioner's Orders which would only amount to Category 2 conduct. We consider this to be a misapplication of the Determination.

The incorrect re-categorisation of matters may, in part, be due to the AFP's complaint management system using descriptors which do not accurately reflect the descriptions of conduct that are in the Determination. The matters in table 2 above are itemised against 'issue' and 'incident code', but the options available to the AFP when inputting a matter into their system do not refer to any provisions or conduct listed in the Determination.

For instance, an option available is the issue descriptor 'not relating to excessive use of force,' but this does not correlate with the terminology and descriptions provided in the Determination.

It may also reflect the nature of operational policing, where some matters encountered are inherently extremely serious, but others are not even if they both involve some

similar circumstances, and an officer is constantly exercising their discretion as to the appropriate response.

In the conduct and practices space, however, this discretion is not available when it comes to categorisation and the application of the Commissioner's Determination.

There is a discretion under section 40TF with respect to the appropriate response after categorisation has occurred, and we consider this discretion later in the report.



Recommendation 3

The AFP must cease the practice of re-categorising firearm-related conduct issues from Category 3 to Category 2 and ensure strict adherence to the *Australian Federal Police (Categories of Conduct) Determination 2023* (Cth). To support compliance with the Determination, the AFP should further update its complaint management system descriptors to align directly with the terminology in the Determination.

AFP Response:

The AFP advised our Office that it **accepts the first part of this recommendation in principle** and will consult with our Office to ensure the Determination reflects legislative requirements and remains fit for purpose. The AFP advised that it **accepts the second part of this recommendation** and will undertake to update its complaint management system to align with the Determination.

Notifications to the Ombudsman directly impacted

Section 40TM requires the head of PRS to notify the Commonwealth Ombudsman of all Category 3 AFP conduct issues. However, the practice of recategorising Category 3 matters to Category 2 in a manner inconsistent with the Determination following the initial intake process meant that the Ombudsman was not notified of the firearm-related issues listed above.



We are concerned that this recategorisation in a manner inconsistent with the Determination has the effect of our Office failing to be notified of serious misconduct in real time and as intended by the AFP Act.

Should the AFP subsequently re-categorise any firearm-related matters that had been incorrectly assessed at Category 2, the AFP should notify the Commonwealth Ombudsman of any matters that are re-categorised to Category 3 under the AFP Act.¹⁰

¹⁰ Section 40TM, AFP Act.



Management of conflicts of interest

During this review, we identified several instances where conflict of interest declarations were insufficiently reviewed and scrutinised or were inadequately managed. These failures raise concerns of a breach of provision 5.2 of the AFP's National Guideline on complaint management and resolution of grievances and the AFP's National Guideline on conflicts of interest.

Our review identified the following recurring deficiencies in relation to the management of conflicts of interest in matters that were dealt with under Part V of the AFP Act:

- delays in making conflict of interest declarations when assigned a case for investigation
- investigators remained involved in matters despite declaring direct conflicts of interest
- administrative errors and data integrity issues resulted in the incorrect recording of conflicts of interest where none existed. PRS confirmed that these entries were made in error
- compliance failures where declarations were either completed incorrectly or not done at all
- failures to sufficiently provide oversight of implemented management strategies, including required reviews and approvals from senior members.

The following case study details an investigation conducted by the AFP that involved multiple conflicts of interest that were not managed in accordance with AFP guidelines. These lapses resulted in both potential and perceived conflicts of interest that risked jeopardising the integrity and impartiality of the investigative process and any subsequent process.



A conflicted process

On 12 July 2022, an Acting Superintendent approved the categorisation of conduct issues via the PRS Operations Committee Evaluation Form. The Acting Superintendent was then assigned to lead this investigation following the approval. Two days later, the Acting Superintendent submitted a conflict of interest declaration disclosing a 20-year personal relationship with one of the subject appointees. In line with the National Guideline on conflicts of interest, a Coordinator subsequently determined the conflict of interest was unmitigable. Consequently, a Team Leader was assigned to assume carriage of the investigation.

On 26 August 2022, a Case Officer was assigned to the matter. The Case Officer identified a conflict due to a personal friendship with the psychologist of one of the subject appointees. The Case Officer submitted a conflict of interest declaration, which was reviewed by the Team Leader. The Team Leader decided to allow the Case Officer to remain on the case providing they did not participate in any interviews in the presence of the psychologist. Ordinarily, the National Guideline on conflicts of interest requires that a Superintendent review conflict of interest declarations and approve the management strategy. In this case, this review and approval was conducted by the Acting Superintendent, whom it had previously been determined had an unmitigable conflict of interest.

Lastly, a second Case Officer was assigned to this case, who had known one of the subject appointees for 17 years, and had known and worked with another subject appointee. This Case Officer undertook tasks related to the case but did not complete a conflict of interest declaration until 3 months later. After a review, the Coordinator determined that this second Case Officer could continue to work on the case provided that they were excluded from aspects of the investigation which involved one of the subject appointees. The second Case Officer continued to be copied in on emails to and from other team members involving all subject appointees in the investigation.

We hold significant concerns regarding the systemic failure to identify and manage conflict of interest issues throughout the above case study. Primarily, the Acting Superintendent failed to declare a conflict of interest during the initial categorisation of the matter, despite the subject appointee's identity being known to them. Under the AFP's National Guideline on conflicts of interest, the Acting Superintendent should have been immediately excluded from participation in the categorisation and investigation.

These concerns are further compounded by the decision of the second Case Officer, to perform investigative and Team Leader tasks for three months before submitting a conflict of interest declaration. From 9 February 2023, the Case Officer managed the matter, including reviewing Preliminary Findings Investigation Reports and considering information disclosure authorisations that explicitly named the subjects. It was not until May 2023 that the Case Officer disclosed that they had previously worked with two of the subject appointees (one for 17 years) and had served as an Acting Officer in Charge within the command where the conduct is alleged to have occurred.

Furthermore, it is our view that the subsequent management of the second Case Officer's conflict of interest was deficient. We did not find evidence to suggest that a Team Leader review was undertaken. We are also concerned that the decision to simply exclude the Case Officer from aspects involving a single subject appointee did not adequately manage the potential for bias or perceived bias to ensure the integrity of the investigation and ultimately did not occur.

The second Case Officer remained included in all internal correspondence regarding the excluded subject, rendering the management strategy ineffective. In accordance with the AFP's National Guideline of conflicts of interest, a conflict of interest declaration must be completed 'in the first instance' and management strategies enforced to maintain the integrity of the AFP's complaints system.

Finding 3

Oversight and review mechanisms for Conflict of Interest management strategies have not been adhered to sufficiently. This jeopardises the integrity and impartiality of complaint investigations and may erode confidence in the AFP Complaints Framework.

The failure to adequately manage these conflicts of interest creates a significant risk of perceived or actual investigative bias, which may ultimately prejudice the outcome of the investigation.

When AFP members with undisclosed personal or professional ties to subjects are permitted to endorse evaluations or review preliminary findings, the objectivity of the complaint management process is compromised.

Such procedural lapses can undermine the validity of the outcome and erode confidence in the AFP's ability to hold its members accountable through the fair and impartial complaints framework legislated by Parliament under Part V of the AFP Act.



Recommendation 4

The AFP should deliver mandatory conflict of interest training to all complaint investigators and implement robust quality assurance practices to verify that all disclosed conflicts are independently reviewed and mitigated through enforceable management strategies.

AFP Response:

The AFP advised our Office that it **accepts** this recommendation and undertakes to conduct training with all Part V investigators on an annual basis.

The AFP's internal conflict of interest audit

In May 2025, the AFP advised that they recognised that there existed agency-wide opportunities to enhance compliance with conflict of interest requirements. The AFP informed our Office that an internal audit was to be conducted and that the concerns related to conflicts of interest would be further considered as part of the Lander & Rogers Review.

The Ombudsman welcomes the AFP's proactive attention and approach to this issue and looks forward to reviewing the progress made during the next annual review conducted under Part V of the AFP Act.

Finding 4

The AFP is proactively undertaking efforts to enhance compliance with Conflict of Interest requirements, including through internal audit and external review processes.

Referral of civil and criminal matters

The AFP Act requires the Commissioner to deal with all information that may raise an AFP conduct or practices issue under Part V.

For the purposes of section 40SA of the AFP Act, this information can be received via the Integrated Complaints Management Model, judicial referral or through civil or criminal claims made against AFP members and/or the AFP as an entity before the law.

Through inquiries made by the Office, and discussions with AFP Legal, we became aware that not all conduct issues raised during civil litigation were referred to PRS as a complaint. This is not compliant with the requirements of the AFP Act.

Finding 5

The AFP's complaint handling system is not adequately capturing issues raised by civil and criminal legal matters.

We sought advice from the AFP on the current process and practice for referral of matters arising during litigation. We understand the National Guideline on complaint management and resolution of grievances provides guidance on when civil matters should be reported. We were also encouraged to hear that there is an established informal feedback loop between PRS and AFP Legal when conduct issue trends were identified.

While we note the current practice provides some mechanisms for referral of matters, we consider the introduction of a Standard Operating Procedure would be appropriate to ensure all relevant matters are referred to PRS, rather than relying on ad hoc referrals from AFP Legal.



Recommendation 5

The AFP prepare and endorse a new Standard Operating Procedure to ensure it identifies all potential conduct and practices issues raised in civil and criminal matters involving the AFP in accordance with section 40SA of the *Australian Federal Police Act 1979* (Cth).

AFP Response:

The AFP advised our Office that it **accepts this recommendation in principle**. The AFP advised that it does not consider that all allegations raised in civil or criminal proceedings amount to reportable conduct issues, and that it will consider whether further guidance would support existing practices outlined in the National Guideline.

Investigations – what we found

Consideration of evidence

We observed in some conduct issues that available additional evidence or avenues for further enquiry were not considered during the investigation. When additional evidence or matters directly relevant to assessing the complaint are not considered by the investigator, decisions are made without relevant information, which may impact the outcome of the complaint.

As discussed in the following section on discretionary decisions, we have seen matters dismissed based on incomplete information, prior to any investigation. This section is related, in that we have observed instances where there has been an investigation and relevant material is available but not considered as part of the investigation.

For example, we saw in the investigation of some complaints that there was no consideration given as to whether the conduct could amount to a conduct issue other than the one it was initially allocated. By having a narrow view of the conduct and the categories it might fall within, serious issues may be missed. For instance, where the categorised conduct was not established but other categories might have been established had they been considered.

As an illustration, one complaint we reviewed pertained to an excessive use of force in which bystanders witnessed an arrest involving a person expressing visible distress. Despite being positioned at least 20 metres away from the arrest, the members of the public were ordered to move on and threatened with arrest for hindering police.

While the AFP initially categorised the complaint as a potential serious breach of the Commissioner's Orders on Operational Safety arising from the excessive use of force allegation, they did not consider whether the conduct raised further issues.

For instance, we were unable to locate any assessment of whether the officers' interactions with the bystanders was appropriate or if their conduct amounted to an abuse of power. Evaluating those specific factors should have become a key focus during the assessment or investigation of the conduct issues.

The AFP ultimately determined that the use of force was appropriate and made a decision to take no further action and closed the matter,¹¹ failing to address the other concerns that had arisen.

Finding 6

The AFP finalised some investigations without reviewing relevant evidence, leading to outcomes based on incomplete information and an overreliance on the accounts of subject appointees.

Investigating use of force complaints

Our review identified deficiencies in the management of use of force complaints, specifically concerning inadequate record keeping and a failure of investigations to evaluate the proportionality of the application of force. The following matters highlight the concerns held by our Office.

The investigation into a matter concerning the application of a wrist lock failed to assess whether the technique constituted excessive force. Furthermore, this instance of force was omitted from the required Use of Force Report.

Another matter involved the use of force on a young person. The investigation did not adequately consider the justification for using handcuffs when it appears the young person was not under arrest. We were unable to identify any inquiries conducted by WICR or PRS to establish the reasonableness of the force applied. Additionally, in a third matter, a routine use of force incident was not documented within the relevant case file, representing a direct breach of the requirements set out in the Commissioner's Order on Operational Safety.

¹¹ Under section 40TF(2)(k), AFP Act.

Use of force investigation in a mental health intervention

Initial Categorisation: Category 3 (Serious Misconduct)

Outcome: Section 40TF(2)(k) decision to take no further action.

AFP appointees attended a private residence in response to a high-risk welfare check involving an attempted suicide. The subsequent complaint alleged excessive use of force; specifically, questioning the necessity and manner of handcuffing an injured and distressed person.

Our review assessed whether the AFP's handling of this matter was adequate and comprehensive. We identified evidentiary gaps and procedural deficiencies that undermined the integrity of the investigation findings, including:

- that the investigation had failed to resolve critical operational questions. Specifically, the records do not explain why the BWC audio was muted during key tactical discussions or justify the decision-making to apply rear-facing handcuffs to an injured person without appropriate communication.
- the investigation failed to incorporate or account for the complainant's communication during the incident, leading to a one-sided record of the incident.
- there was no documented consideration of whether the force remained reasonable, necessary and proportionate, particularly regarding the duration of the restraint.
- that the investigation did not sufficiently consider that the Use of Force Report's timeline was inconsistent with BWC footage. Notably, the report claimed a weapon was presented although footage indicates this occurred after the use of force, which should have been made clear in the report.

In the above case study, our Office considers the decision to cease action under section 40TF was inadequate, given the unresolved allegations of excessive force and record keeping failures.

The absence of a more comprehensive investigation by PRS represents a missed opportunity for institutional learning. We question the reasonableness of discontinuing the investigation into this matter as doing so lost an opportunity to remedy practices and the AFP's engagement with individuals experiencing acute mental health crises.

Finding 7

The AFP's handling of use of force complaints raises concerns of inadequacy and lack of comprehensiveness, including critical discrepancies between Body Worn Camera footage and official reports. These investigative deficiencies led to the dismissal of serious allegations under section 40TF without appropriate consideration of whether the application of force used was reasonable, necessary, and proportionate in the circumstances.



Recommendation 6

The AFP should implement a mandatory requirement that all matters in which use of force is the primary issue be assessed as to whether the force used was reasonable, necessary, and proportionate. This assessment should be documented. It should also ensure that it is based on a correct chronology of events by reconciling the Use of Force Reports against Body Worn Camera footage. The AFP should not dismiss these matters using section 40TF without documented consideration of whether the force was proportionate.

AFP Response:

The AFP advised our Office that it **accepts this recommendation in principle**. The AFP advised that it does not believe a mandatory requirement should be applied to all matters as it should occur dependent on the circumstances of the matter. The AFP agreed that further guidance to support decision makers in the assessment of

whether the use of force was reasonable, necessary and proportionate would ensure best practice decision making.

Case study

Evidentiary material and transparency

Initial Categorisation: Category 2 (Minor Misconduct)

Outcome: Section 40TF(2)(k) decision to take no further action.

A complaint was lodged on behalf of a non-English speaking elderly male following his arrest, overnight detention, and subsequent court appearance for alleged assault and threats on public transport. The prosecution was discontinued at the first hearing due to no evidence being tendered. The complainant alleged the charges were based on false accusations and that the AFP failed to exercise due care and diligence. The AFP decided to cease dealing with the matter under section 40TF of the AFP Act.

Although the brief of evidence and relevant CCTV footage was available, the CCTV footage was not reviewed prior to the decision to take no further action. Noting that the complaint challenged the veracity of the allegations made against him, it is our view that this material was essential to assessing whether the actions by the AFP appointees were appropriate.

The AFP's outcome correspondence to the complainant stated that a detailed review of AFP records had confirmed the arrest and prosecution were legal and appropriate in the circumstances. However, without evidence that the core investigative material had been reviewed, it remains unclear as to how the AFP reached this conclusion, what was in fact reviewed, or how the AFP verified the grounds for the initial police action.

The above case study demonstrates how the decision to take no further action without appropriately considering all relevant and available material undermines the principles of an effective AFP complaints framework under Part V of the AFP Act.



Had key evidence, such as the CCTV footage, been reviewed, it is possible that a different outcome may have been determined. All determinations made by the AFP should provide assurance of the system's fairness, transparency, and accountability.

We were unable to locate records demonstrating that the following relevant materials were adequately considered during the complaint review:

- The brief of evidence, which is necessary to investigate the complaint of a false allegation.
- CCTV footage, which is required to verify the veracity of the claims, both by the complainant and the AFP appointees.
- BWC footage of the arrest, which is essential for assessing whether police acted with due diligence and care during the incident.

We specifically highlight the following issues:

- BWC footage from the attending AFP members appeared to show that some members were concerned that arrest was being considered instead of the available alternatives.
- There was a lack of documented reasoning regarding why alternatives to arrest were not pursued.

The complainant was not contacted to provide additional information or identify potential witnesses.



Based on our review of the initial assessment and the information available to the AFP, we are concerned that section 40TF was applied in a matter where a conduct issue may have been capable of being established.

By deciding to take no further action in the matter, the AFP lost the opportunity to learn from the incident and rectify any errors that may have been identified. The complainant was also denied investigation of their concerns.

Accurate record keeping, a requirement under section 40WA of the AFP Act, is integral to policing and to maintaining public confidence in policing, especially regarding assurance of AFP professional standards, the exercise of powers, and professional engagement with the public.

While the decision to take no further action may be reasonable, it is vital that records clearly outline the circumstances considered and the rationale for decisions to maintain best practice in complaint management.

It is the Office's view that decisions to take no further action in relation to a complaint should be clearly documented in contemporaneous records that:

- Identify all available evidentiary material relevant to the allegations the subject of the complaint;
- Document the review and analysis of that evidence by PRS or otherwise provide clear rationale as to why certain available evidence is unnecessary to review;
- Specifically address the necessity of arrests by documenting why alternatives to an arrest, such as proceedings by summons, were considered impractical in the circumstances;¹² and
- Outline the basis for making "no further action" decisions, to provide transparency and accountability and to demonstrate that the complaint was adequately considered.

¹² Section 3W, *Crimes Act 1914* (Cth).

Finding 8

The AFP is not consistently creating and maintaining records to show that its use of the section 40TF discretion is reasonable and compliant with relevant legislative requirements.



Recommendation 7

The AFP should ensure that WICR and PRS, when considering making a decision to take no further action under section 40TF of the *Australian Federal Police Act 1979* (Cth), create and maintain comprehensive and adequate records of that decision.

AFP Response:

The AFP advised our Office that it **accepts** this recommendation, noting that use of this discretion formed part of the Lander & Rogers Review and that work is progressing in this regard.

Decisions to take no further action

Section 40TF of the AFP Act permits the AFP Commissioner, or their delegates, to make discretionary decisions to take no further action in relation to an AFP conduct or practices issue. This statutory power may only be exercised under specific circumstances, such as when a matter is determined to be trivial, frivolous, or vexatious, when appropriate action has already been taken, or when further investigation is not warranted having regard to all the circumstances of the matter.¹³

Consistent with our 2022–23 and 2023–24 annual reviews, we continued to observe a practice where the AFP utilises section 40TF of the AFP Act to take no further action on complaints based on the perceived merits of clearly incomplete information.

This observation does not imply that every matter must proceed to an investigation or that the AFP must obtain every possible piece of evidence before making a decision to take no further action. However, for the AFP to satisfy the requirements of section 40TF, any decision not to take further action must be fair and reasonable and must demonstrate that appropriate consideration of the matter was given.

The current practice impedes the AFP's capacity to effectively address issues arising from complaints and identify areas for improvement across the AFP. Prematurely dismissing conduct complaints, rather than ensuring they are adequately considered, may contribute to the erosion of public trust in the AFP's ability to internally regulate its own professional standards.

During this review period, we identified that a significant number of complaints were finalised using a determination to take no further action under section 40TF. While section 40TF clearly has a role to play in appropriate cases, we are concerned that an overreliance on the use of section 40TF determinations can deny both complainants and AFP members a conclusive outcome and infringes upon their right to procedural fairness.

The use of discretionary powers under section 40TF must be underpinned by the principles of procedural fairness (and more broadly, natural justice).

¹³ Section 40TF(2)(k), AFP Act.

The Commonwealth Ombudsman's Better Practice Guide to Complaint Handling highlights that procedural fairness focuses on the integrity of the decision-making process.¹⁴ While administrative law sets out the minimum standards required of the AFP, the Ombudsman expects agencies to meet a higher standard of 'good administration' to ensure community expectations are met.

As part of a procedurally fair AFP complaints framework, decisions to take no further action under section 40TF of the AFP Act must be evidence-based and recorded, impartial and clearly communicated to the complainant. Complainants should be provided with the reasons for a decision, including the basis relied upon and given a meaningful opportunity to respond or provide further information before a matter is finalised under this provision. Alternatively, if a complainant will not be provided a further opportunity to provide information before a matter is finalised, that should be communicated to them at the onset. This practice would increase the likelihood of accurate decision-making in matters while concurrently fostering greater public confidence in AFP conduct issue outcomes, even when they are unfavourable to a complainant.

¹⁴ Commonwealth Ombudsman, [Better Practice Complaint Handling Guide](#) (2023) 40.

Timeliness benchmarks

In our 2023–24 annual review, we identified issues with the AFP’s management of the timeliness of complaint handling, in particular the failure to include all complaints when considering internal timeliness benchmarks. For example, 65% of Category 1 and Category 2 complaints in that review period were **not recorded** against the AFP’s performance under internal timeliness benchmarks.

The AFP’s practice is to exclude certain matters from its timeliness benchmarks, such as matters which do not proceed to investigation and those which are withdrawn. In addition, for the purposes of measuring complaints against its timeliness benchmarks, the AFP currently begins counting the time taken to resolve a complaint from when a complaint is assigned to an investigator. For example, the benchmark for a Category 3 complaint is 256 days from the day on which it is assigned to a PRS investigator. Action taken prior to that, such as triage and preliminary assessment, is not included in the benchmark.

Recording timeliness

We are of the view that an effective complaint timeliness benchmark should encompass the entirety of the lifecycle of a complaint within the control of an agency. This includes receipt of the complaint, initial triage, preliminary inquiries and assessments. Failure to include these initial stages in a timeliness benchmark paints an inaccurate picture of the efficiency of the complaints system in the AFP’s reporting, and of the actual experiences of complainants and subjects. The intention behind managing the efficiency of a complaints system, and therefore behind having these timeliness benchmarks, is to ensure the welfare of complainants and subjects by reducing the risk of unnecessary delays. The Office considers that the AFP’s current approach does not meet with this intention. The Office does not consider that the AFP’s current overall approach to the management of complaint timeliness is commensurate with best practice or the requirements of the AFP Act.

Length of Category 3 investigations

The Office holds concerns regarding the timeliness standards of Category 3 investigations finalised by PRS in this review period. While the median time to finalise these complaints was within benchmarked standards, there were a significant number of cases that exceeded the standards. In one instance, an investigation took in excess of 2065 days to finalise.¹⁵

The Office's Better Practice Complaint Handling Guide sets out that a timely system is essential for building trust, ensuring the efficient use of resources and delivering positive outcomes for parties to a complaint.¹⁶ Where it becomes apparent that the AFP will be unable to meet the respective timeliness benchmark standards in matters, the AFP should provide an update to the complainant.¹⁷

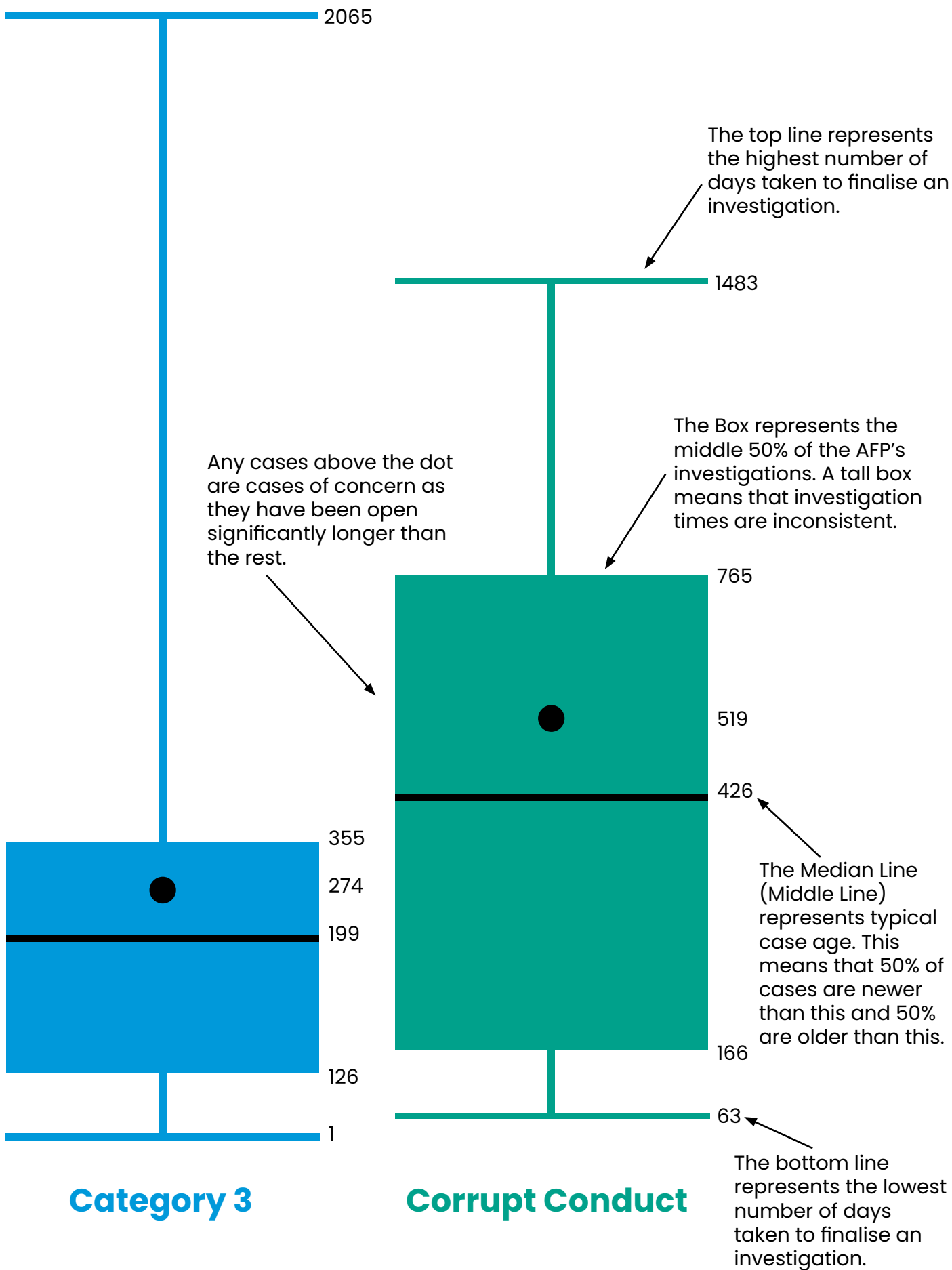
Best practice also requires that the time taken for the AFP to assess and investigate complaints should be proportionate to the conduct issues raised. The AFP should aim for the shortest timeframe possible to achieve an adequate and appropriate resolution of conduct issues. Furthermore, in pursuing better complaint practices, the AFP should prioritise timeliness by providing regular performance reports to senior leaders, such as the Commander PRS and the AFP Chief Operating Officer, and ensuring delays are managed before they undermine the integrity of, or erode the public's confidence in, the AFP complaints framework.

¹⁵ The AFP advised that the delay in this particular case was affected by external proceedings, welfare/medical issues, and difficulties engaging the subject appointee.

¹⁶ Commonwealth Ombudsman, [Better Practice Complaint Handling Guide](#) (2023) 41.

¹⁷ Commonwealth Ombudsman, [Better Practice Complaint Handling Guide](#) (2023) 30.

Length of investigations



Graph 2: Time (days) taken to finalise Category 3 and corrupt conduct matters in this review period.

Finding 9

The failure to apply end-to-end timeliness benchmarks gives rise to a lack of comprehensive complaint performance monitoring, fails to address significant delays, and compromises the integrity and transparency of the AFP complaints framework.

Benchmarking corrupt conduct investigations

The AFP does not currently utilise timeliness benchmarks for corrupt conduct investigations. Corrupt conduct matters present the highest integrity risks for the AFP; however, the median time to finalisation exceeds a year, with one matter exceeding 1483 days, or 4 years. We are concerned that timeliness benchmarks are not applied to corrupt conduct matters.

Delays in finalising corrupt conduct matters may impact the AFP's ability to provide timely and accurate referrals to the NACC, which may increase integrity risks.

Furthermore, extended delays in finalising investigations create prolonged uncertainty and increase psychosocial risks for subject appointees, which can negatively impact AFP member welfare and organisation culture.

While the Office understands that a balance must be struck between adequate investigations and efficiency, and that this balance weighs more heavily in favour of the former for more serious issues, it is still appropriate to formulate a benchmark for such matters.

As an example, the NACC aims to assess 80% of referrals within 90 days and maintains a target benchmark to finalise 60% of investigations within 2 years.¹⁸ Implementing timeliness benchmarks for corrupt conduct complaints would be in line with best practice and better fulfill the AFP's obligations under the AFP Act.

¹⁸ National Anti-Corruption Commission, [National Anti-Corruption Commission Corporate Plan 2025–29](#) (2025) 26.



Recommendation 8

The AFP should implement internal key performance indicators to ensure that all complaints, including corrupt conduct complaints, are subject to timeliness benchmarks.

AFP Response:

The AFP advised our Office that it **accepts** this recommendation and undertakes to consider the application of benchmarks for corruption matters.

Other concerns

Record keeping

This review consistently identified deficiencies in record keeping which hindered our capacity to properly review AFP's complaint handling. The AFP Act requires the keeping of adequate records for the purposes of Part V.¹⁹ While general record keeping was not a focus area of our review, we nevertheless identified several record keeping issues.

Keeping accurate records, both of the facts relevant to a particular complaint and of the considerations of decision-makers when making decisions regarding a complaint, demonstrates the basis on which the decision rests. The maintenance of such records is important to be accountable and ensure that a review of the comprehensiveness and adequacy of the complaints system can be conducted. Records do not have to be lengthy, but they must adequately record the considerations of the decision-maker

The record keeping we observed during this review did not meet the standard required to achieve these aims. For example, our review of use of force complaints could not conclude that investigators gave adequate consideration to whether methods such as a wrist lock or handcuffs were adequately considered justified, because no such considerations were recorded on the relevant case files.

Furthermore, we are unable to conclude that the use of the section 40TF discretionary decisions is appropriate in complaint matters if neither the considerations made, nor the legislative basis relied upon, are adequately recorded in the relevant case file.

Finding 10

The AFP is not fully compliant with their obligation to ensure that adequate records are kept for the purposes of Part V of the AFP Act.

¹⁹ Section 40WA, AFP Act.

Without a clear record of the evidence considered or the legislative basis relied upon, the AFP cannot demonstrate that its decision-making is adequately justified.



Recommendation 9

The AFP should implement a mandatory documentation framework to ensure all complaint decisions comply with the record keeping requirements of section 40WA of the *Australian Federal Police Act 1979* (Cth).

AFP Response:

The AFP advised our Office that it **accepts** this recommendation.

AFP practices issues

Under Part V of the AFP Act, the AFP Commissioner must ensure that appropriate action is taken in relation to AFP practices issues identified during the administration of a complaint or the conduct of an investigation.²⁰

These issues are typically tabled with the Operations Committee and recorded on the Practices Issues Register, before being assigned to an appropriate business area for remediation.

During this review period, 20 practices issues were identified. This represents a notable increase from the 3 practices issues identified in the previous reporting period.

While the Office welcomes this improvement in identification, we continue to hold concerns regarding the AFP's responsiveness to these issues. Of the 20 practices issues identified, only one issue was finalised within three months.

There were also significant delays observed in the planning stages of these matters, with it taking up to ten months simply to finalise a plan for some issues.

We noted that the key unresolved practices issues related to high-risk areas, such as use of force protocols and cyber security measures.

Finding 11

While the AFP has made noticeable improvements in the identification of practices issues in comparison to the previous review period, it is not consistently addressing the identified practices issues within a reasonable timeframe.

Our inspections identified a potential process disconnect between investigative findings and the registration of practices issues.

²⁰ Section 40TX, AFP Act.

In two separate instances, we identified that the Operations Committee and a WICR investigator had both indicated that a practices issue would be raised; however, we were unable to find any corresponding entry on the AFP's Practices Issues Register.



Recommendation 10

The AFP should implement a practices issue remediation framework that introduces timeliness benchmarks and requires a mandatory reconciliation process between investigative findings and the Practices Issues Register. This framework must ensure that practices issues are registered, monitored and, particularly those in high-risk areas, promptly remediated.

AFP Response:

The AFP advised our Office that it **accepts** this recommendation.

OFFICIAL



Commissioner

GPO Box 401, Canberra ACT 2601 Australia

Our reference: [REDACTED]

3 July 2026

Mr Iain Anderson
Commonwealth and ACT Ombudsman

Via email: [REDACTED]

Dear Mr Anderson

Thank you for your letter dated 13 May 2026, providing the Australian Federal Police (AFP) with the opportunity to respond to the *Commonwealth Ombudsman's 2024-25 Annual Review of the AFP's administration of Part V of the Australian Federal Police Act 1979* (the draft report) as part of the procedural fairness process.

I would like to express my appreciation to you and your team for your contributions to the development of the draft report. Reviews conducted by your Office into AFP conduct and practices are a critical component in maintaining public and stakeholder confidence in our integrity and accountability.

The AFP acknowledges and values the important independent oversight role you perform. This not only identifies opportunities to strengthen practices across our organisation, but also reinforces our ongoing commitment to procedural fairness, transparency and sound administrative practice.

Please find attached the AFP's response to the 11 recommendations outlined in the draft report (**Attachment A**). I note that the draft report does not include any suggestions, and I confirm that it contains no errors of fact or operationally sensitive information.

The AFP accepts six recommendations and accepts a further four in-principle. Recommendation 3 contains two parts, with Part 1 accepted in-principle and Part 2 accepted. I note that the draft report identifies a range of contributing factors relevant to matters addressed by the recommendations. These broader considerations, where not reflected as formal recommendations, will be taken into account as part of ongoing efforts to implement practical improvements, as appropriate.

A detailed summary of the AFP's feedback on the report will be provided to your Office at the officer level, in accordance with usual practice. Please note that this detailed feedback is provided for the information of your Office only, as it contains sensitive material, including privacy considerations, and it must not be released to the public.

As acknowledged in your report, the AFP has taken positive steps in response to your previous reviews and has invested in a range of initiatives to strengthen our complaint handling processes. This includes the commissioning of an independent external review, which incorporated consultation with your Office. The AFP remains committed to

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addressing the recommendations arising from that review, and I am pleased to advise the implementation is well advanced.

In addition, the AFP has commenced work to enhance our conflict of interest compliance and is implementing a range of measures designed to attract and retain workplace investigators, with a view to improving complaint management timeframes.

The AFP is committed to continuous improvement across all aspects of complaint handling and we look forward to continuing to work collaboratively with your Office to support this objective.

If you require additional information, please contact [REDACTED]

Yours sincerely

[REDACTED]
Krissy Barrett APM
Commissioner

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