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# **Annual Report on the Australian Federal Police's handling of complaints against its appointees**

For the period 1 July 2023 to 30 June 2024

Report on the Commonwealth Ombudsman's activities  
under Part V of the *Australian Federal Police Act 1979*

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# Executive summary

This report, made under section 40XD of the *Australian Federal Police Act 1979* (the Act), summarises the work of the Office of the Commonwealth Ombudsman (the Office), during the period from 1 July 2023 to 30 June 2024, to review the Australian Federal Police's (AFP) administration of Part V of the Act. Part V of the Act sets out arrangements for the AFP's handling of issues and complaints about police conduct.

Government agencies must deliver high quality services to the Australian community in a way that is fair, transparent, timely, respectful and effective. At the same time, errors, misunderstandings, dissatisfaction and unexpected problems, such as misconduct, occur in all administrative systems and complaints may be made. The question is, how does the AFP respond? As our national policing organisation, the AFP's relationship with the general community is extremely important, and principles of good complaint handling, including fairness, transparency, accountability, accessibility and efficiency, are highly applicable to the AFP to build and maintain public trust.

This report contains the results of two reviews of the AFP's administration of complaints conducted by my Office. Our first review, in August 2023, focused on its administration of allegations of minor misconduct administered as Category 1 or Category 2 complaints. Our second review, in May 2024, focused on allegations of serious misconduct administered as Category 3 or 4 complaints.

We found across both reviews the AFP was not delivering a complaint handling system that was meeting the requirements of the Act, particularly in relation to how the AFP are exercising the discretion under section 40TF of the Act to take no further action in relation to complaints. My Office previously identified a systemic issue of the AFP not investigating complaints based on the perceived merits of incomplete information, often without sufficient attempt to obtain potential evidence from complainants and AFP appointees. I am concerned this issue has not been addressed and the AFP is continuing to decide to not investigate complaints before confirming the existence of relevant evidence.



This practice may be limiting the AFP's ability to effectively deal with conduct and practices, including with high-risk issues such as allegations of excessive use of force and corrupt conduct, and leaves the AFP open to criticism that it is disregarding matters that should be investigated. In my view, the extent of the use of section 40TF does not reflect responsible administration of the Act.

My Office made 2 recommendations to the AFP to improve its use of section 40TF of the Act following our August 2023 review (see **Finding 1.3**). The AFP advised my Office in July 2024 that it had not implemented our recommendations and advised that it would seek to work in consultation with our Office on the application of section 40TF of the Act. We again made findings related to the use of section 40TF of the Act at our May 2024 review (see **Findings 2.1, 2.2, and 2.3**), including 4 recommendations. I am encouraged that the AFP has accepted all the latest recommendations and has undertaken to initiate an external review of the AFP's complaint management system to address this issue.

I have concluded in my report that the findings of our reviews, combined with the failure to adequately address issues that have been the subject of previous recommendations by my Office, is indicative of a complaints management system that is not meeting the requirements of the Act. I made a total of 19 recommendations and 9 suggestions for the AFP to improve its administration of complaints. I welcome the fact that the AFP has initiated an external review with the view to having a best practice complaints management system, and I look forward to seeing improvements at future reviews by my Office.

**Iain Anderson**

Commonwealth Ombudsman



# Introduction and background

Part V of the *Australian Federal Police Act 1979* (the Act) prescribes the process for recording and dealing with complaints about conduct and practices issues relating to the AFP. An AFP conduct issue involves information that an AFP appointee may have engaged in conduct that contravenes the AFP professional standards or engaged in corrupt conduct. An AFP practices issue relates to concerns about the practices and procedures of the AFP.

Part V of the Act divides conduct issues into 4 categories, based on seriousness:

- Categories 1 and 2 reflect less serious conduct such as discourtesy, customer service issues and other matters that may be considered minor misconduct.
- Category 3 includes issues that represent more serious misconduct such as an AFP appointee being arrested, summonsed, or charged in relation to an alleged criminal offence.
- The highest, and most serious, is conduct giving rise to a corruption issue that relates to the engagement or potential engagement of an AFP appointee in corrupt conduct in the past, present or future (categorised in the AFP's complaint management system as a 'Category 4' issue).

The kinds of conduct that fall under each of these categories have been determined jointly by the AFP Commissioner and the Ombudsman, in accordance with section 40RM of the Act, in the *Australian Federal Police (Categories of Conduct) Determination 2023* (the Determination).

A member of the public or an AFP appointee may, under section 40SA of the Act, give information to the Commissioner or an AFP appointee that raises an AFP conduct or practices issue. The AFP treats the provision of this information as a complaint.

From March 2023, the AFP replaced geographically dispersed Complaint Management Teams (CMTs) with the centralised Workplace Issues and Complaints Resolution (WICR) team to administer Category 1 and 2 complaints. AFP Professional Standards



(PRS) is the unit constituted to undertake investigations of Category 3 conduct and corruption issues<sup>1</sup> involving AFP appointees, as required by section 40RD of the Act.

AFP Commissioner's Order on Professional Standards (CO2) states that an AFP appointee who becomes aware of a potential breach of AFP professional standards or practices has mandatory reporting obligations that must adhere to the National Guideline on Complaint Management. Section 10.3 of the AFP Commissioner's Order on Professional Standards (CO2) states that an AFP appointee may fulfill their mandatory requirement by reporting information regarding a contravention of the AFP professional standards related to sexual assault, sexual harassment, harassment and/or bullying to the Confidant Network and Safe Reporting team within AFP People Command, a confidential integrity peer support network providing information, options and support to AFP members faced with harmful, unethical or corrupt behaviour connected to the workplace.

## The Ombudsman's role

Under section 40XA of the Act, at least once every 12 months the Ombudsman must, for the purpose of reviewing the administration of Part V, inspect the records of the AFP conduct and practices issues dealt with under Divisions 3 and 4 of Part V of the Act, referred to as a records review. Under section 40XB of the Act, our Office may also conduct a review at any time, referred to as an *ad hoc* review.

The objective of each review is to assess the AFP's administration of Part V of the Act. In doing so, we also assess whether the AFP provides a fair and reasonable complaint management process to the public and AFP appointees (both as complainants and subject appointees). Further information about how we review the AFP is included at **Appendix A**.

Based on the results of our review, we may make recommendations, suggestions or comments in our annual report about the AFP's administrative practices. To ensure procedural fairness, the Ombudsman provides the AFP with a PDF copy of reports for comment on any perceived factual errors. Any comments made by the AFP are considered and, if appropriate, factual corrections are made to the annual report.

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<sup>1</sup> Corruption issues may also be investigated by the National Anti Corruption Commission.



The AFP were also afforded the opportunity to respond to the findings and suggestions made by the Ombudsman following each review. Those responses are noted throughout this report.

Section 40XD of the Act requires the Ombudsman to report to Parliament as soon as practicable after 30 June each year on the reviews and activities the Office conducted during the preceding 12 months. The report must include comments about the comprehensiveness and adequacy of the AFP's administration under Divisions 3 and 4 of Part V of the Act.

## This report

This report contains the results of two reviews of the AFP's administration of complaints.

Our first review, in August 2023, focused on its administration of allegations of minor misconduct administered as Category 1 or Category 2 complaints. The findings of our first review are included in **Part One**.

Our second review, in May 2024, focused on allegations of serious misconduct administered as Category 3 or 4 complaints. The findings of our second review are included in **Part Two**.

The report incorporates the AFP's response to our recommendations and suggestions stemming from both reviews. Additionally, the publication of the AFP's formal response to our report for our second review is at **Appendix B**. At the time we provided the AFP our report for our first review, we did not advise the AFP that we would publish a formal response in full, and we have elected not to publish it for that reason.



# Progress since previous reviews

At each review, we confirm the actions taken by the AFP in relation to previous recommendations and suggestions. Our last report<sup>2</sup> contained 3 recommendations and 5 suggestions. We were satisfied that the AFP had taken action to attempt to address these matters, however we observed a repeat in some issues.

Our previous report recommended that the AFP ensure that sufficient records are kept detailing the basis for the exercise of discretion under section 40TF of the Act. As outlined in **Findings 1.3, 2.1, 2.2, and 2.3** below, we consider the AFP needs to take further action to address concerns around the use of section 40TF.

Our previous report also recommended that the AFP ensure that views expressed by Judicial Officers on potential conduct and practices issues brought to their attention are consistently and completely categorised and investigated under the Act. **Finding 1.6** below outlines the further action we consider the AFP needs to take in relation to this issue.

Over the past 15 years, we have identified several similar themes across our reviews of the AFP's administration of complaints, with a particularly high repeat of issues over the last six years. The table below highlights where we have made previous findings and recommendations in relation to our top 6 issues of concern.

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<sup>2</sup> Available online at

[https://www.ombudsman.gov.au/\\_data/assets/pdf\\_file/0017/304604/Report-on-Commonwealth-Ombudsmans-Activities-Under-Part-V-of-the-Australian-Federal-Police-Act-1979-1-July-2022-to-30-June-2023.pdf](https://www.ombudsman.gov.au/_data/assets/pdf_file/0017/304604/Report-on-Commonwealth-Ombudsmans-Activities-Under-Part-V-of-the-Australian-Federal-Police-Act-1979-1-July-2022-to-30-June-2023.pdf)



Table 1: Issues raised and recommendations made by the Ombudsman under Part V of the Act

	08-09	09-10	10-11	11-12	12-13	13-14	14-15	15-16	16-17	17-18	18-19	19-20	20-21	21-22	22-23	Aug 23	May 24
<b>Inaccurate identification &amp; categorisation of complaints</b>													R		R	R	R
<b>Delays in the response and investigation of complaints</b>		R		R							R		R	R		R	
<b>Poor communication with complainants &amp; subjects of complaints</b>		R		R							R		R	R	R	R	
<b>Insufficient or inadequate record-keeping</b>	R			R											R	R	R
<b>Deficient or poor quality of investigations and reports</b>				R							R		R	R	R	R	R
<b>Deficiencies in practice</b>	R								R							R	R

**Table 1 notes:**

<b>R</b>

Issue noted during the review

Recommendation made to remedy issues identified during the review

# What we found

## Part One: Review of complaints alleging minor misconduct

Compared with previous years, the AFP was exercising the discretion to take no further action in relation to complaints under s 40TF of the Act in a disproportionate manner.

We found that most of the instances we reviewed involving s 40TF of the Act were unreasonable, unfair and failed to meet the requirements of the Act.

We found systemic issues with how the AFP was communicating with complainants.

## Part Two: Review of complaints alleging serious misconduct

We found instances where the use of s 40TF of the Act was not reasonable having regard to all circumstances, including with complaints involving allegations of corrupt conduct and excessive use of force.

# Part One: Review of complaints alleging minor misconduct

In August 2023, our Office conducted a review of the AFP's administration of Category 1 and 2 complaints. We raised concerns with the AFP that it was not delivering a complaint handling system for complaints alleging minor misconduct that was compliant with the legislation or resolved ongoing compliance issues identified by our Office over the preceding 15 years of reviews.

We made 12 recommendations and 6 suggestions across 7 findings.<sup>3</sup> A report was provided to the AFP in April 2024, and the AFP submitted its response to our Office in July 2024, accepting our recommendations and suggestion. We will confirm the outcome of the AFP's implementation of recommendations and suggestions during reviews conducted in 2024–25.

## Finding 1.1: Complaints not included in timeliness benchmarks

Resolving complaints in a timely manner is part of an effective complaint management system, redressing conduct and practices issues, and building public trust. The internal benchmark for finalising a complaint following assignment to a manager is 42 days for a Category 1 complaint, and 66 days for a Category 2 complaint.

Of the 156 Category 1 and 2 complaints finalised between 1 March 2023 and 14 August 2023, the AFP did not record 101 of those complaints (65%) against the internal benchmark. The AFP advised that these complaints were matters that were resolved by

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<sup>3</sup> Not included in this report is 1 recommendation and suggestion we made related to the consideration of AFP practices issues. The AFP advised it fully implemented our recommendation and suggestion. We made a further recommendation to the AFP related to this issue following our review of complaints alleging serious misconduct, included in Part Two of this report (p 20).



exercising the discretion under section 40TF of the Act to take no further action in relation to the issues raised. The AFP were of the view that any initial review of the complaints did not constitute an investigation, and therefore the timeliness benchmarks did not apply.

We identified that the average time to finalise a complaint through an initial review was 52 days, with some decisions taking up to 158 days. In our view, the initial review activities undertaken should not have been exempt from reporting against timeliness benchmarks.



### **Recommendation 1.1**

The AFP apply existing internal timeliness benchmarks to all complaints received, including any 'Initial Review' of a complaint.

#### **AFP response:**

The AFP advised our Office that it had not implemented our recommendation.

The AFP advised that it considered action undertaken during an initial review, such as obtaining and reviewing video footage or use of force reports, did not constitute undertaking an investigation.

**Recommendation 2.7** below was later made to the AFP related to this issue following our review of complaints alleging serious misconduct, included in Part Two of this report. We are encouraged that the AFP advised our Office in March 2025 that it intends to address this issue through an external review of its complaints management system.

## Finding 1.2: Inaccurate identification or categorisation of conduct issues

We identified conduct issues were incorrectly identified and categorised in accordance with the Determination and the Act. This included:

- 2 instances where conduct issues were partially or incorrectly identified at the time of taking the complaint or during the management of those complaints, and
- 5 instances where allegations of use of force resulting in injury were administered as Category 2 complaints, rather than Category 3 serious misconduct issues. This included allegations of injury being sustained through excessive use of force against a child, as well as allegations of injuries being sustained through excessive use of force in front of a child. We identified that guidance materials used for the identification and categorisation of conduct issues were insufficient.



### Recommendation 1.2

All complaints to the AFP must:

- be handled in accordance with section 40SA of the Act
- be correctly identified under section 40RK of the Act, and
- be categorised under the Determination.

#### AFP response:

The AFP advised that it had fully implemented our recommendation.



### Recommendation 1.3

The AFP review all category 2 complaints involving any use of force received from 1 March 2023 to 14 August 2023 to ensure that conduct issues were identified and categorised according to the Determination and section 40RK of the Act. Any complaints miscategorised be corrected and reconsidered for investigation.

#### **AFP response:**

The AFP advised that it had partially implemented our recommendation by undertaking an internal review of all Category 2 use of force complaints. The AFP acknowledged that matters involving alleged injury should have been considered at Category 3.



### Recommendation 1.4

The AFP implement quality control to ensure the Determination is consistently applied to the initial categorisation of a complaint and any subsequent review of that complaint's category.

#### **AFP response:**

The AFP advised that it had fully implemented our recommendation. The AFP advised changes were made to both internal guidance materials and its complaints management system.



### Recommendation 1.5

The AFP amend its policies, procedures and guidance material to ensure all complaints are appropriately identified and categorised upon their receipt. This must include correctly itemising and categorising each conduct issue identified in the complaint.

#### AFP response:

The AFP advised that it had fully implemented our recommendation. The AFP advised changes were made to both internal guidance materials and its complaints management system.

## Finding 1.3: Unreasonable and inappropriate use of the discretion to not investigate a complaint under section 40TF of the Act

We noted a disproportionate increase in the use of the discretion under section 40TF of the Act to not investigate a complaint, with 85% of all complaints finalised by the WICR team by using the discretion. This compares with 32% of complaints finalised by CMTs across the preceding review period.

We advised the AFP that we considered the practices adopted in making these determinations were, in 9 out of the 11 instances we reviewed, unreasonable, unfair and failed to meet the requirements of the Act. We found that initial reviews of complaints informing these decisions did not always consider:

- if there were any other methods of investigation or sources of information available and what additional evidence that information would provide, such as witnesses or alternate records,



- the reliability of available evidence and the need for more evidence to determine the facts in issue, and
- the weighing of the evidence on reasonable grounds, particularly in relation to the need for higher levels of evidence in relation to the seriousness of the allegations made.



### **Recommendation 1.6**

The AFP cease use of the discretion under section 40TF of the Act without demonstrating they have fulfilled the requirements of section 40TH and the availability of evidence or information to support the investigation, further investigation or determination of the complaint.



### **Recommendation 1.7**

The AFP obtain an independent review of all decisions made by the WICR team under section 40TF to consider if procedural fairness was afforded to all parties of the complaint and if each decision was appropriate in all the circumstances. The AFP investigate any complaints where section 40TF has been applied unreasonably or where procedural fairness has not been afforded.

#### **AFP response:**

The AFP advised that it had not implemented our recommendations and would seek to work in consultation with our Office on the application of section 40TF of the Act.

We also suggested to the AFP that it undertake some reforms to its complaint management system to assist the implementation of our recommendations.



We made a further recommendation, **Recommendation 2.4**, to the AFP related to this issue following our review of complaints alleging serious misconduct, included in Part Two of this report. We are encouraged that the AFP advised our Office in March 2025 that it intends to address this issue through an external review of its complaints management system.

## Finding 1.4: Inadequate and inappropriate communication with complainants and subject appointees

Since 2009, our Office has made repeat findings in every review of poor or inadequate communication by the AFP with complainants or the subject appointee. This includes making recommendations across 6 reviews to improve the AFP's communication with complainants or those subjected to the complaint. The AFP accepted those recommendations and committed to improving its communication.

During this review we again observed systemic failures in the AFP's communication across all complaints, particularly with complainants, including:

- adequately acknowledging receipt of the complaint
- outlining how the complaint would be managed
- providing the opportunity to be heard, and
- clarifying the frequency of contact to be expected.

We identified there was no internal guidance for WICR managers to update complainants in accordance with the requirements of section 40TA(2) of the Act, nor any instructions for engaging with complainants throughout the handling of their complaint.

We identified that outcome letters to complainants lacked sufficient details, particularly where the AFP determined not to investigate under section 40TF of the Act. We were particularly concerned with instances that demonstrated a misunderstanding of the



nature of the complaint, such as one outcome letter that did not refer to the conduct issue raised by the complainant, namely a use of force resulting in injury.

We also identified two outcome letters that used subjective and judgemental language to describe the complainant's behaviour, which failed to consider the information in an impartial manner and appeared to place blame on the complainants for the circumstances which gave rise to the alleged conduct. We consider such language undermines the integrity of the complaint management system.



### **Recommendation 1.8**

Upon receipt of a complaint, the AFP ensure the complainant is provided a written acknowledgement of their complaint. This should contain:

- the itemised conduct issues identified
- how each conduct issue will be managed
- when the complainant will be contacted next
- the reasoning behind the non-acceptance, investigation or management of any allegation or part thereof, and

contact details of a person the complainant can seek an update from in respect to their complaint.

#### **AFP response:**

The AFP advised that it had partially implemented our recommendation. The AFP advised that it did not agree with our view that there were systemic failures in the AFP's complaints management system and noted that system improvements had occurred following our review, and that others were being considered.



### **Recommendation 1.9**

The AFP ensure signed outcome letters provide the complainant and subject appointee with:

- an explanation of processes applied in reaching the outcome of a complaint
- the itemised conduct issues identified, and
- the outcomes for each conduct issue, and the reasoning behind each outcome.

**AFP response:**

The AFP advised that it had fully implemented our recommendation.



### **Recommendation 1.10**

The AFP ensure complainants are kept informed of the progress of their complaint in accordance with section 40TA (2) of the Act.

**AFP response:**

The AFP advised that it had partially implemented our recommendation.

We also made 3 further suggestions to the AFP around specific improvements it could make to improve communication with complainants. The AFP advised that it had fully implemented all 3 suggestions.

## Finding 1.5: Record keeping not compliant with section 40WA of the Act

We identified that the AFP's complaints management system it commenced using in March 2023 for Category 1 and 2 complaints may not be meeting the requirement for adequate records to be kept under section 40WA of the Act. For instance, the system was not separating out multiple conduct and practices issues contained in a complaint for management, making it difficult to ascertain how each issue was ultimately managed.



### Recommendation 1.11

The AFP ensure records are kept under 40WA of the Act that demonstrate that all conduct or practices issues arising from a complaint are identified, recorded and dealt with under sections 40TH and 40TK of the Act.

#### **AFP response:**

The AFP advised that it had fully implemented our recommendation.

We also suggested the AFP ensure its correspondence is recorded on its system in accordance with Standard Operating Procedures, including, but not limited to, original signed copies of all correspondence and any corresponding metadata. The AFP advised it had fully implemented our suggestion.

## Finding 1.6: Considering court transcripts in handling judicially referred complaints

Our previous report recommended that the AFP ensure that views expressed by Judicial Officers on potential conduct and practices issues that are brought to their attention are consistently and correctly categorised and investigated under the Act. The AFP accepted our recommendation.

We identified one instance where the AFP decided to take no further action in relation to a complaint before the receipt of the court transcript containing the Judicial Officer's views. The AFP agreed with our Office that the transcript would have been beneficial to consider.



### Recommendation 1.12

The AFP should ensure Judicial Officers' orders or court transcripts are reviewed prior to the PRS Operations Committee's assessment of any judicially referred complaint.

#### **AFP response:**

The AFP advised that it had partially implemented our recommendation.

# Part Two: Review of complaints alleging serious misconduct

In May 2024, our Office conducted a review of the AFP's administration of Category 3 and 4 complaints. We raised concerns with the AFP that it was not delivering a complaint handling system for complaints alleging serious misconduct that was meeting the requirements of the Act.

We made 7 recommendations and 3 suggestions across 6 findings.<sup>4</sup> Our report was provided to the AFP in January 2025, and the AFP submitted its response to our Office in March 2025, accepting our recommendations and suggestions. We will confirm the outcome of the AFP's implementation of those recommendations and suggestions during reviews we will conduct in 2024-25.

## Finding 2.1: Inadequate action taken on complaints involving allegations of corrupt conduct

We identified one Category 3 complaint involving alleged corrupt conduct by AFP appointees where we considered the exercise of the discretion to take no further action in relation to the complaint was not reasonable in the circumstances. The complaint, involving the personal use of AFP vehicles, was initially referred to the former Australian Commission for Law Enforcement Integrity (ACLEI) for review. The complaint was returned to the AFP for investigation on the basis that the AFP advise the ACLEI if any further relevant information was obtained in relation to corrupt conduct.

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<sup>4</sup> Not included in this report is 1 suggestion we made related to processes for responding to conduct issues arising out of legal proceedings. The AFP advised it accepted our suggestion to update its National Guideline on Complaint Management.



The AFP did not make any findings against individual appointees on the basis that the alleged conduct was a widespread issue and officers generally did not fully understand their relevant obligations. However, the investigation obtained admissions that may have established the alleged conduct, including instances of the appointees demonstrating an intent to obtain personal benefits. This information was not shared with the ACLEI.

The AFP exercised the discretion under section 40TF of the Act to take no further action on the complaint on the basis it had already taken appropriate action by informing AFP appointees of their obligations in its National Guidelines. The AFP determined to resolve the matter as a practices issue and took no further action as it considered the National Guidelines were already clear on obligations.

We considered the AFP's administration of this complaint was deficient and did not enable them to understand the widespread nature of the conduct by members. This created risks for the AFP, noting no further information was shared with the ACLEI after the initial referral, including that the conduct was widespread.



## Recommendation 2.1

The AFP refer the allegations of the systemic corrupt conduct in a complaint to the National Anti-Corruption Commission for further consideration and undertake a review to determine if the conduct has impacted upon AFP reporting obligations on the personal use of vehicles.

### **AFP response:**

The AFP advised it accepted our recommendation and would seek to implement it within 6 months of March 2025.

## Finding 2.2: Deficiencies in the investigation of complaints involving the use of force

We identified the following issues with complaints involving the use of force where the AFP exercised the discretion to take no further action on the basis that investigation, or further investigation, of the issues was not warranted having regard to all the circumstances:

- one complaint alleging excessive use of force resulting in injury to a young person where footage submitted by a complainant was not referenced in the AFP's decision, and
- one complaint where the discretion was exercised on the basis that an investigation would unlikely establish the complaint due to the identity of the appointee alleged to have been involved in the conduct being unknown, and the absence of any further relevant information such as body worn camera footage. However, we observed that use of force reports related to the incident identified the appointees involved and what force was used.

Both complaints represented an opportunity to investigate whether use of force by the appointees was lawful, reasonable, necessary and proportionate to the threat or resistance involved. The decision to take no further action also prevents opportunities to review whether AFP practices issues contributed to the complaints being made.



## Recommendation 2.2

The AFP review 2 complaints involving allegations of excessive use of force and complete investigations into Category 3 conduct and practices issues.

### **AFP response:**

The AFP advised that it accepted our recommendation in part. The AFP advised it will review the 2 identified matters within 6 months and will take appropriate action subject to the findings of the reviews.

We also suggested the AFP review an additional complaint involving the use of force and reconsider if their records support the decision to not investigate the complaint. The AFP accepted our suggestion.

## Finding 2.3: Unreasonable use of the discretion to take no further action in other complaints

In addition to the complaints in Findings 2.1 and 2.2 above, we also held concerns that the exercise of the discretion to take no further action was not reasonable in the circumstances in an additional 3 instances:

- one complaint where the discretion was exercised on the basis that body worn camera footage did not substantiate the allegations of sexual misconduct by an AFP appointee. However, the footage we reviewed did not include up to 90 minutes of the time the person spent in police custody, and we could see no record that either the AFP appointees alleged to have been involved in the complaint were contacted, and the youth worker contacted to discuss the complaint was not the same person who submitted the complaint.



- one complaint where an AFP appointee was found not guilty of criminal charges by a court, but there was no consideration of whether further investigation was warranted under the Act, where there is a lower standard of proof and wider scope to consider breaches of the AFP professional standards.<sup>5</sup>
- one complaint involving the inappropriate use of a firearm in the workplace where the discretion was exercised to take no further action the basis that the AFP appointee had already been counselled in relation to the incident. We are concerned this decision did not consider the seriousness of the allegations, the comments in the complaint that other AFP appointees felt unsafe in the workplace, nor seek to establish whether a service weapon or training aid was used in the incident.



### Recommendation 2.3

The AFP complete investigations of the conduct issues raised in 3 complaints

**AFP response:**

The AFP advised that it accepted our recommendation in part. The AFP advised it will review the 3 identified matters within 6 months and will take appropriate action subject to the findings of the reviews.

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<sup>5</sup> In our draft findings to the AFP, we incorrectly referred to this complaint as being subject to the discretion to take no further action under s 40TF of the AFP Act. The AFP confirmed that no further action was taken as the conduct was not established based on available evidence. We have retained the finding as our recommendation remains the same.





## Recommendation 2.4

The AFP ensure, when deciding to take no further action under section 40TF of the Act in relation to a complaint, that records are kept demonstrating that ‘all the circumstances’ of the complaint have been considered, including any reasons for not investigating complaints that may be in the public interest to investigate, such as complaints related to corruption, use of force, and sexual misconduct issues.

### AFP response:

The AFP advised that it accepted the recommendation and will address this through the external review of AFP’s complaint management.

# Finding 2.4: Practices and conduct issues were not identified or dealt with when administering complaints

## Practices issues

The AFP administered a total of 620 conduct issues across complaints finalised in 2023–24, from which only 3 practices issues were identified and actioned by the AFP at the time of our review. The AFP later advised of 4 other instances of practices issues that were being dealt with but were not recorded.

We are concerned that the use of the discretion to take no further action may be limiting the ability to identify and deal with practices issues. We identified the following examples:



- principles within the Commissioner's Orders on Operational Safety, such as de-escalation and negotiation, as well as proportionality, were not considered as practices issues in 4 complaints we reviewed involving allegations of excessive use of force.
- failure to deal with a practices issue on the basis that the conduct was a widespread misunderstanding of a National Guideline, rather than investigating why that misunderstanding was widespread.
- failure to identify a potential practices issue related to a lack of due care and diligence on the completion of a property and exhibits registry, resulting in over 100 unaccounted seized items.
- failure to identify whether there was a practices issue with the storage and handling of replica firearm devices, which were claimed to be used by the subject AFP appointee in the alleged conduct.

We also identified one complaint that was investigated where a practices issue was not dealt with after the appointee stated that their conduct of accessing a former colleagues account to access a payslip for them was common practice in their area.



## Recommendation 2.5

2.5.1 The AFP review three complaints, and reassess whether the application of section 40TF of the Act is appropriate, having regard to the investigation of practices issues arising from these complaints.

2.5.2 The AFP review one complaint where an investigation was completed and complete an investigation into the practices issue raised in the complaint.

### **AFP response:**

The AFP advised it accepted our recommendation and would seek to implement it within 6 months of March 2025.

Our May 2023 report to Parliament noted the AFP's progress toward implementing our suggestion that practices issues be identified, listed, monitored, and actioned in an effective and timely manner. We remain concerned that practices issues are not being identified as the AFP has not developed guidance on identifying practices issues beyond restating the broad definition of practices or procedures of the AFP as defined in section 40RI of the Act.

We are also concerned that there is no guidance available, including in the National Guideline, for how an AFP appointee identifies and reports a practices issue. We suggested that the AFP update the National Guideline to include guidance on the identification of practices issues, including providing examples across different types of conduct that may constitute a practices issue. The AFP accepted our suggestion.

## Conduct issues

We identified the following complaints where conduct issues were not appropriately identified:

- The AFP exercised the discretion to take no further action into a Category 3 complaint involving multiple conflict of interest incidents without identifying all conduct issues,
- An informally managed Category 1 complaint containing allegations of trespass and a failure to activate body worn camera footage, which should have been administered at a minimum as a Category 2 complaint.



## Recommendation 2.6

2.6.1 The AFP review one complaint and reassess whether the application of section 40TF of the Act is appropriate, having regard to the conduct issues that were not considered.

2.6.2 The AFP review one complaint and administer the complaint as Category 2.

### AFP response:

The AFP advised it accepted our recommendation and would seek to implement it within 6 months of March 2025.

## Finding 2.5: Unable to assess timeliness benchmarks

Our April 2024 report recommended the AFP apply internal timeframe benchmarks to all complaints received, including periods of any 'initial review' of a complaint.

The AFP has advised that it does not consider any preliminary enquiries undertaken as part of an initial review to be investigative activity under Part V of the Act.

As activities undertaken as preliminary enquiries, such as locating relevant evidence, may vary in necessity and duration across complaints, we do not think this is a reasonable and transparent approach to monitoring performance against benchmarks.

As a result of the 'initial review' practice, of the 334 records closed in the review period, 160 records (47.90%) were recorded as being open for 0 days and within timeliness benchmarks.

We were unable to assess the AFP's performance against timeliness benchmarks for all complaints during the reporting period due to a lack of transparency in the recording of data.



Timeliness benchmarks should be efficient but allow sufficient time for complaints to be handled properly. Noting the change recommended below, it would be open to the AFP to adjust its timeliness benchmarks if appropriate.



### **Recommendation 2.7**

The AFP ensure that all complaints administered are measured against a performance benchmark that commences when a complaint is received under the Act.

**AFP response:**

The AFP advised that it accepted the recommendation, and will address this through the external review of AFP's complaint management.

# Appendix A: How we review the AFP

We developed our review criteria based on legislative requirements and best practice standards in complaint handling.

In addition to the provisions under Part V, section 39 of the 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)*, which establishes the AFP's professional standards and Code of Conduct
- the *Australian Federal Police Categories of Conduct Determination 2023*, which is the legislative instrument jointly drafted by the Commissioner and the Ombudsman in accordance with section 40RM(1) of the Act to determine the Category of conduct, and
- relevant standard operating procedures.

We also consider the AFP's National Guideline on Complaint Management (the National Guideline) and the Office's Better Practice Complaint Handling Guide (Better Practice Guide).<sup>6</sup>

We focus our reviews on issues that may be systemic and have a significant impact on complainants. Our review activities include:

- conducting on-site inspections of physical and electronic records

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<sup>6</sup> Available online at

[https://www.ombudsman.gov.au/\\_data/assets/pdf\\_file/0025/290365/Better-Practice-Complaint-Handling-Guide-February-2023.pdf](https://www.ombudsman.gov.au/_data/assets/pdf_file/0025/290365/Better-Practice-Complaint-Handling-Guide-February-2023.pdf)



- reviewing internal guidance documents and other instructional material
- interviewing staff from PRS, Safe Place and/or complaint management teams, and observing their processes
- testing the veracity of records and processes, and
- monitoring improvement against our previous review findings and recommendations.

We encourage the AFP to continue to be transparent and to proactively disclose to our Office any issues it identifies with its activities under Part V and inform us of any remedial action it takes.

At the end of each review, we discuss our preliminary findings with the AFP so that, if necessary, the AFP can take immediate remedial action pending our final review report.



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# Appendix B: Letter from the AFP Commissioner

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**AFP**

COMMISSIONER

Our reference: [REDACTED]

30 May 2025

Mr Iain Anderson  
Commonwealth Ombudsman

Via email: [REDACTED]

Dear Mr Anderson

**AFP response to Report on the Commonwealth Ombudsman's activities under Part V of the Australian Federal Police Act 1979 (Cth)**

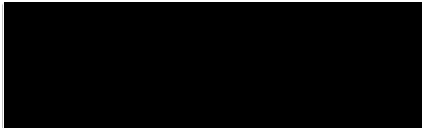
Thank you for your letter dated 14 May 2025, providing the Australian Federal Police (AFP) with the opportunity to review the embargoed Annual Report into the AFP's handling of complaints against its appointees for the period 1 July 2023 to 30 June 2024.

I would like to extend my appreciation for the opportunity to provide any corrections or sensitivities that should not be made public. The AFP has no concerns that would delay the tabling of this Report in Parliament. I also note your invitation for my staff to engage at a practitioner level with Julia Galluccio, Senior Assistant Ombudsman, Policy and Assurance Branch.

The AFP values the independent review and observations provided by your agency. As foreshadowed in my correspondence of 5 May and 27 May 2025, I have initiated an external review into the AFP's complaints management processes. In anticipation of the review, the AFP's Chief Operating Officer, Ms Katherine Van Gorp, has assumed oversight of all components of the AFP's integrity framework. We look forward to your engagement as the Terms of Reference are drafted and the review evolves.

Should you wish to discuss our response to this correspondence or the review of the AFP's complaints management processes, Ms Van Gorp is contactable at [Office-of-COO@afp.gov.au](mailto:Office-of-COO@afp.gov.au).

Yours sincerely



Reece P Kershaw APM  
Commissioner

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POLICING FOR A SAFER AUSTRALIA



A report on the Commonwealth Ombudsman's activities under  
Part V of the Australian Federal Police Act 1979