

# Flowchart Four – Making a reportable conduct finding

The ACT Ombudsman has published a collection of flowcharts designed to assist designated entities with the process of responding to allegations of reportable conduct. The flowcharts are designed to be used in conjunction with the ACT Ombudsman Practice Guides.



If your designated entity has any questions about the Reportable Conduct Scheme or would like to discuss the details of a specific reportable conduct allegation or matter, please contact the ACT Ombudsman Reportable Conduct Team on (02) 5119 5520 or at [act@ombudsman.gov.au](mailto:act@ombudsman.gov.au)

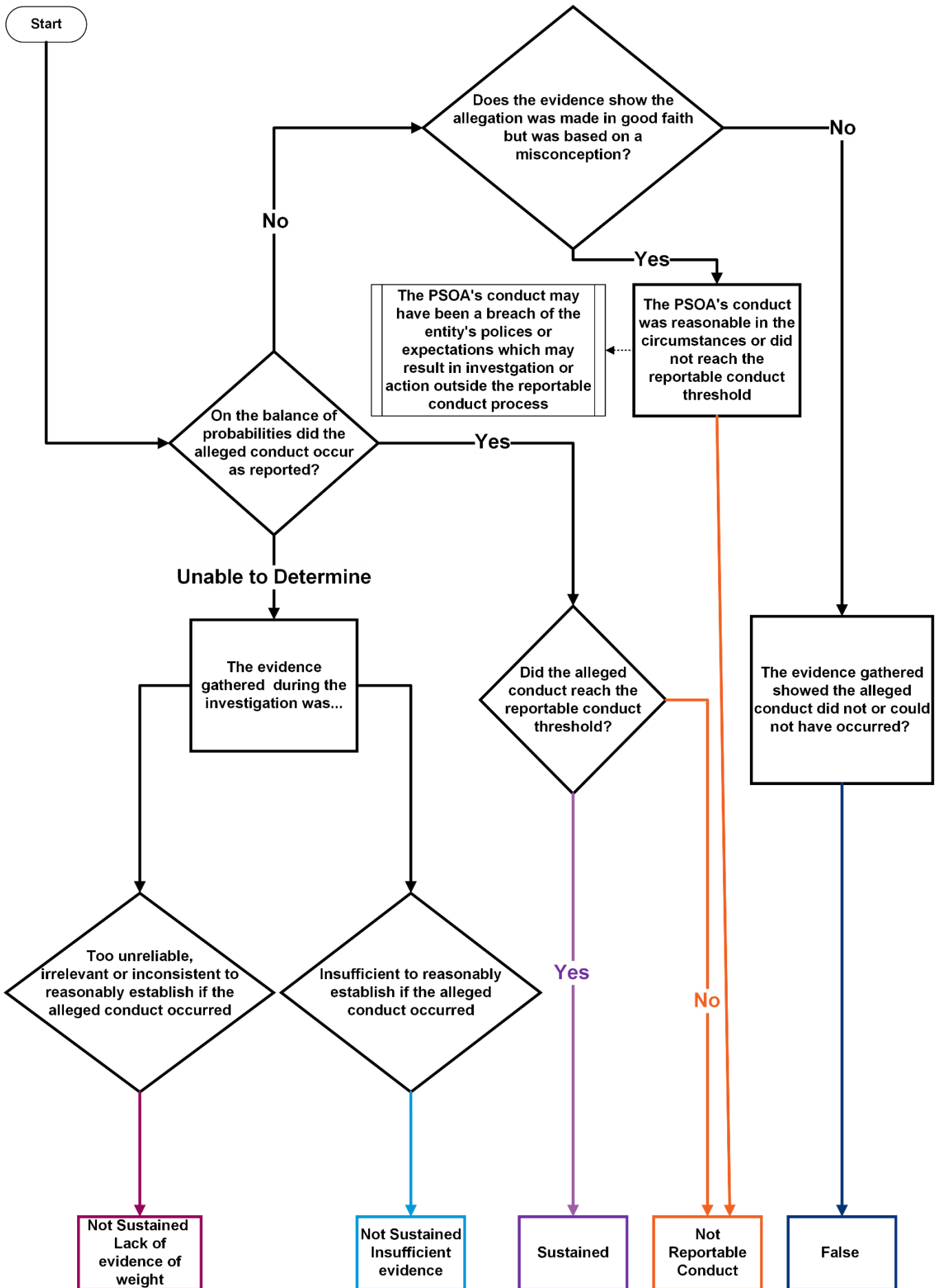
## Making a Reportable Conduct Finding

When investigating an allegation of reportable conduct entities are trying to determine if the conduct occurred 'On the balance of probabilities', this means based on the available evidence, is the alleged conduct more likely to have occurred than to not have occurred.

In making a reportable conduct finding entities need to use their analysis of the gathered information to determine:

- On the balance of probabilities, did the alleged conduct occur as reported?
- Did the alleged conduct rise to the reportable conduct threshold?

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## It is important to note:

- There are five possible reportable conduct findings:
  - Sustained
  - Not sustained – Lack of evidence of weight
  - Not sustained – Insufficient evidence
  - Not reportable conduct
  - False
- If the alleged conduct occurred as reported and rose to the reportable conduct threshold, the finding will be **sustained**.
- If it could not be determined on the balance of probabilities, if the alleged conduct occurred or not, the finding will be **not sustained**.
- **Not Sustained – Insufficient Evidence** refers to matters where there was not enough evidence available to determine if the alleged conduct occurred on the balance of probabilities.
- **Not Sustained – Lack of Evidence of Weight** refers to matters where the available evidence is too inconsistent, irrelevant, or unreliable to determine if the alleged conduct occurred on the balance of probabilities.
- If the alleged conduct occurred as reported but did not rise to the reportable conduct threshold, the finding will be **not reportable conduct**.
- If the alleged conduct did not occur as reported because the allegation was based on a misunderstanding of what occurred, the finding will also be **not reportable conduct**.
- If the gathered information indicated the alleged conduct did not or could not have occurred, the finding will be **false**.
- Further, information regarding making a reportable conduct finding can be found in the [ACT Ombudsman Practice Guide No.6](#).

Please note: This document is intended as a guide only. For this reason, the information should not be relied on as legal advice or regarded as a substitute for legal advice in individual cases. To the maximum extent permitted by the law, the Commonwealth Ombudsman is not liable to you for any loss or damage suffered as a result of reliance on this document. For the most up-to-date versions of cited Acts, please refer to the [Federal Register of Legislation](#).

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