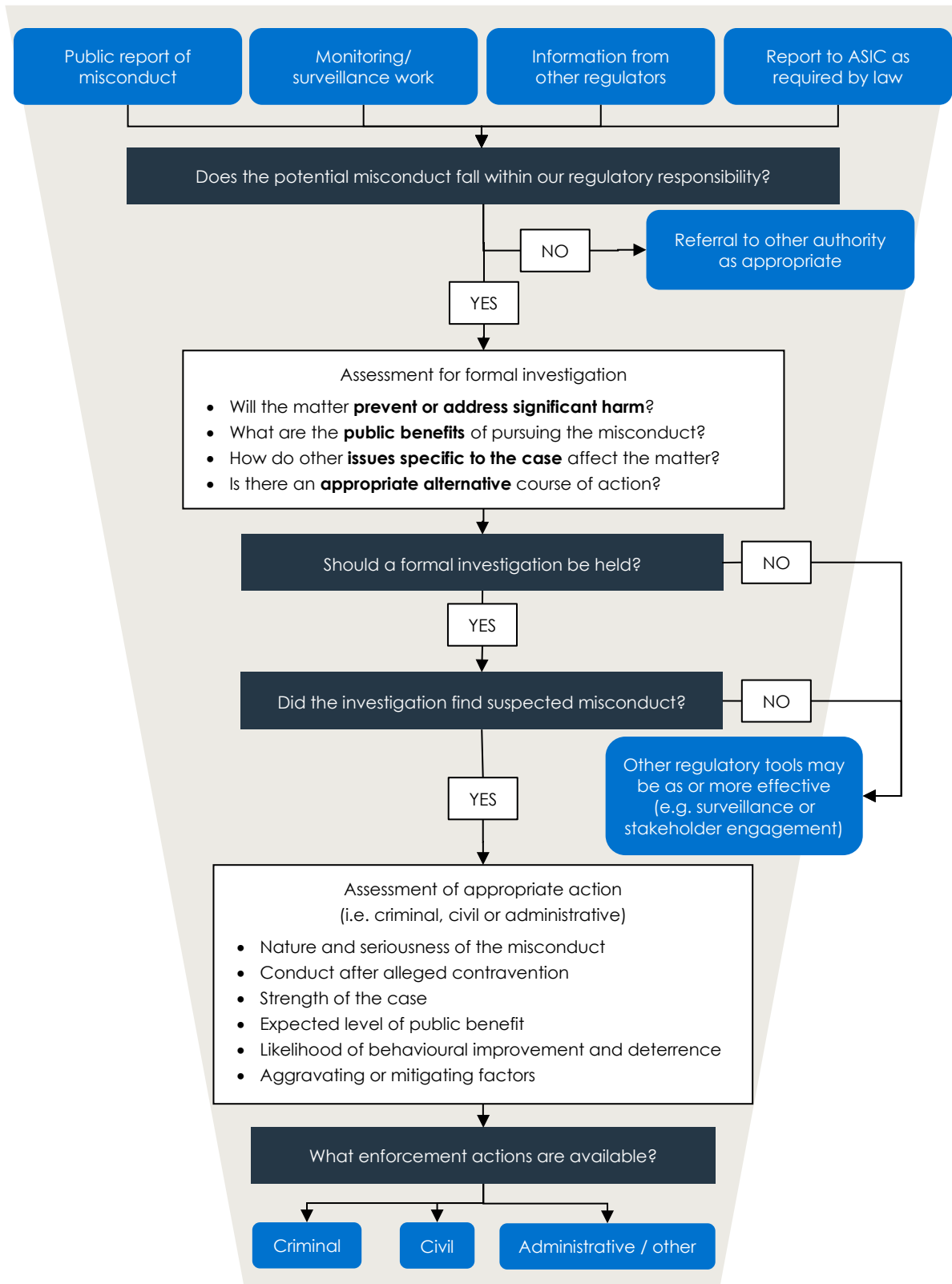




Attachment to Information Sheet 151

ASIC's approach to enforcement

November 2021



Note: See Table 1 for the information in this flowchart (accessible version).

Table 1: ASIC's approach to enforcement

Step	Explanation
1	Start of process: ASIC receives information through: <ul style="list-style-type: none"> • a public report of misconduct • monitoring or surveillance work • other regulators • a report to ASIC as required by law.
2	Decision: Does the potential misconduct fall within our regulatory responsibility? <ul style="list-style-type: none"> › <i>If no, go to Step 3.</i> › <i>If yes, go to Step 4.</i>
3	If the answer at Step 2 was no, ASIC refers the misconduct to another authority as appropriate. End of process.
4	If the answer at Step 2 was yes, ASIC assesses the matter for formal investigation: <ul style="list-style-type: none"> • Will the matter prevent or address significant harm? • What are the public benefits of pursuing the misconduct? • How do other issues specific to the case affect the matter? • Is there an appropriate alternative course of action?
5	Decision: Should a formal investigation be held? <ul style="list-style-type: none"> › <i>If yes, go to Step 6.</i> › <i>If no, go to Step 7.</i>
6	If the answer at Step 5 was yes, did the investigation find suspected misconduct? <ul style="list-style-type: none"> › <i>If no, go to Step 7.</i> › <i>If yes, go to Step 8.</i>
7	If the answer at Steps 5 or 6 was no, other regulatory tools may be as or more effective (e.g. surveillance or stakeholder engagement). End of process.
8	If the answer at Step 6 was yes, ASIC will assess the matter for the appropriate action (i.e. criminal, civil or administrative): <ul style="list-style-type: none"> • Nature and seriousness of the misconduct. • Conduct after alleged contravention. • Strength of the case. • Expected level of public benefit. • Likelihood of behavioural improvement and deterrence. • Aggravating or mitigating factors.
9	Decision: What enforcement actions are available? <ul style="list-style-type: none"> • Criminal. • Civil. • Administrative and/or other. End of process.