



**CORRUPTION AND CRIME COMMISSION
OF WESTERN AUSTRALIA**

**DISCLOSURE OF MISCONDUCT REPORTS MADE
TO THE CORRUPTION AND CRIME COMMISSION**

GUIDELINES FOR PRINCIPAL OFFICERS OF PUBLIC AUTHORITIES

May 2006

Introduction:

The *Corruption and Crime Commission Act 2003* (CCC Act) contains provisions restricting the disclosure of information about misconduct matters referred to the Corruption and Crime Commission (the Commission). In some situations it is an offence to disclose information about a matter that is in the hands of the Commission.

In carrying out its functions under the CCC Act, the Commission will request information from agencies and individuals about a misconduct matter¹. The Commission may also provide information to agencies and individuals about a matter the Commission is considering.

In this interchange of information there is a general expectation that CEOs will have the necessary procedures and policies in place to ensure that the information about misconduct matters is managed lawfully and that all relevant staff are informed of their responsibilities.

The Commission recognises that there will be, in some exceptional circumstances, allegations of misconduct that a CEO considers to be particularly politically sensitive and/or potentially highly damaging to the Government, a Minister, a Department or an employee, or which is likely to be of special interest to the media or members of the public. The Commission understands that in these types of cases a CEO may wish to inform his or her Minister of the allegation that has been or is being notified to the Commission.

The advice contained herein addresses these exceptional, highly sensitive cases and not those misconduct allegations that are routinely dealt with in communications between the Department and the Commission.

¹ The Commission may request information informally by telephone, letter or voluntary interview, or formally through notices issued and hearings conducted under the CCC Act.



Key Points:

1. It is a legal requirement that the CEO notify the Commission, as soon as practicable, after a suspicion is formed that an officer may have committed misconduct.
2. In highly sensitive cases, as part of this initial notification and assessment process, the CEO should discuss with the Commission whether it is appropriate to disclose information to another party not directly involved in investigating the matter and the timing of that disclosure so as not to compromise the investigation in any way.
3. The circumstances of each case will vary and there are many factors to be considered in any given situation, such as: the nature of the allegation; the potential for damage to the reputation of any person if information is not handled confidentially; the type of investigation that may be required; and the range of parties that could be affected by the various processes that may be applied in dealing with the allegation.

In some cases a CEO may need to act quickly to remove a person from a position pending an investigation. In others the CEO will need to wait for advice from the Commission as to how it wishes to deal with the matter.

4. The CCC Act makes no specific provision for a CEO to advise their Minister that a matter has been notified to the CCC.
5. The CCC Act does not prevent a CEO from disclosing to another person, including the person who is the subject of a notification, that a matter has been referred to the Commission, unless the Commission expressly prohibits such disclosure².
6. A CEO may disclose notification details³. However any other information held by the CEO that was provided by the Commission is the Commission's 'official information' and should not be divulged. Other information developed as part of the investigation process may also be either 'restricted' or 'official' information under the CCC Act. Restricted and official information cannot be disclosed without the permission of the Commission.
7. There is provision in the CCC Act for the person who is the subject of a notification to be informed of the outcome. Where the agency has undertaken the investigation it will generally be asked to advise the person once the Commission has finalised the matter.

As disclosure options are not straight forward it is strongly advised that CEOs and their delegated officers who are dealing with these highly sensitive suspected misconduct cases contact the Commission's Investigations Review and Complaints Assessment Unit on (08) 9215 4888 in the first instance to discuss, on a case-by-case basis, the issues relevant to any contemplated disclosure to a third party.

² Through a notice or summons issued under the CCC Act or by an order made at a Commission hearing.

³ 'Notification details' are restricted to the fact that a notification has been made to the Commission, the name of the person/s involved and the allegation details.