

# Overview of serious misconduct

Quarter two FY 2022/23

5  
Indicator 2



94%

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## Summary

### Generally

- The number of reports received from the public and notifications by public authorities remain consistent with previous reporting levels.

### Reports from the public

- Reports received about alleged corrupt conduct by public officers (excluding police) mostly related to allegations about the manipulation of processes, third party influences and preferential treatment. Reports about alleged criminal conduct mostly related to the use of force (assaults), obstruction of justice, unauthorised access of information and unauthorised use of public assets.
- Around a third of all reports about WA Police related to officers failing to properly investigate or take appropriate action. Just under a fifth related to the breach of professional boundaries, where officers are alleged to have acted inappropriately with members of the public.

### Allegations relating to Public Authorities

- Three quarters of allegations assessed by the Commission (excluding allegations involving WA Police) met the threshold of serious misconduct. The alleged conduct related to:
  - misuse of resources (e.g. unauthorised access of computer systems, and/or unauthorised use of property and equipment);
  - force/abuse (e.g. inappropriate physical contact); and
  - fraud (e.g. claiming or falsely evidencing timesheets, expenses, travel, leave entitlements or medical certificates).

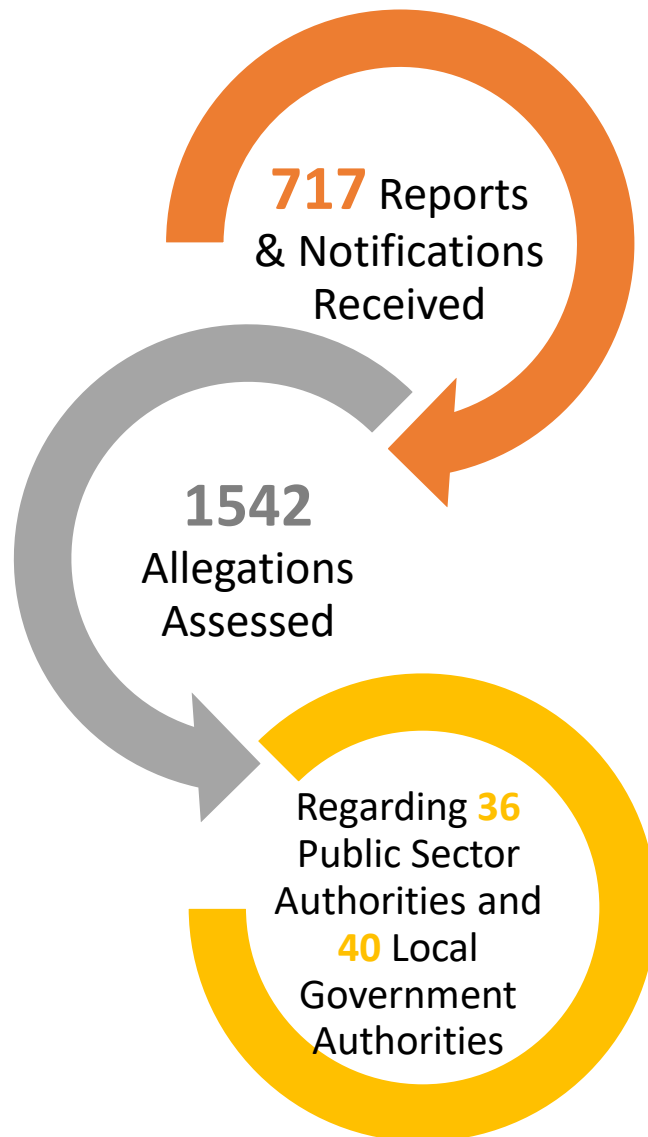
### Outcomes Reported by Public Authorities and WA Police Force

- Eighty-two allegations relating to the wider government sector were referred to respective authorities. Of those finalised, 14 were sustained with eight resulting in a formal warning letter and five were local management/improvement actions. One public officer was dismissed for accessing a restricted computer system when not authorised to do so.
- One hundred and eleven allegations were referred to WA Police to report back an outcome. Just over a quarter of these have been finalised by police which included 13 sustained allegation findings, resulting in local management of the officer and improvement action.

### WA Government Sector Spotlight

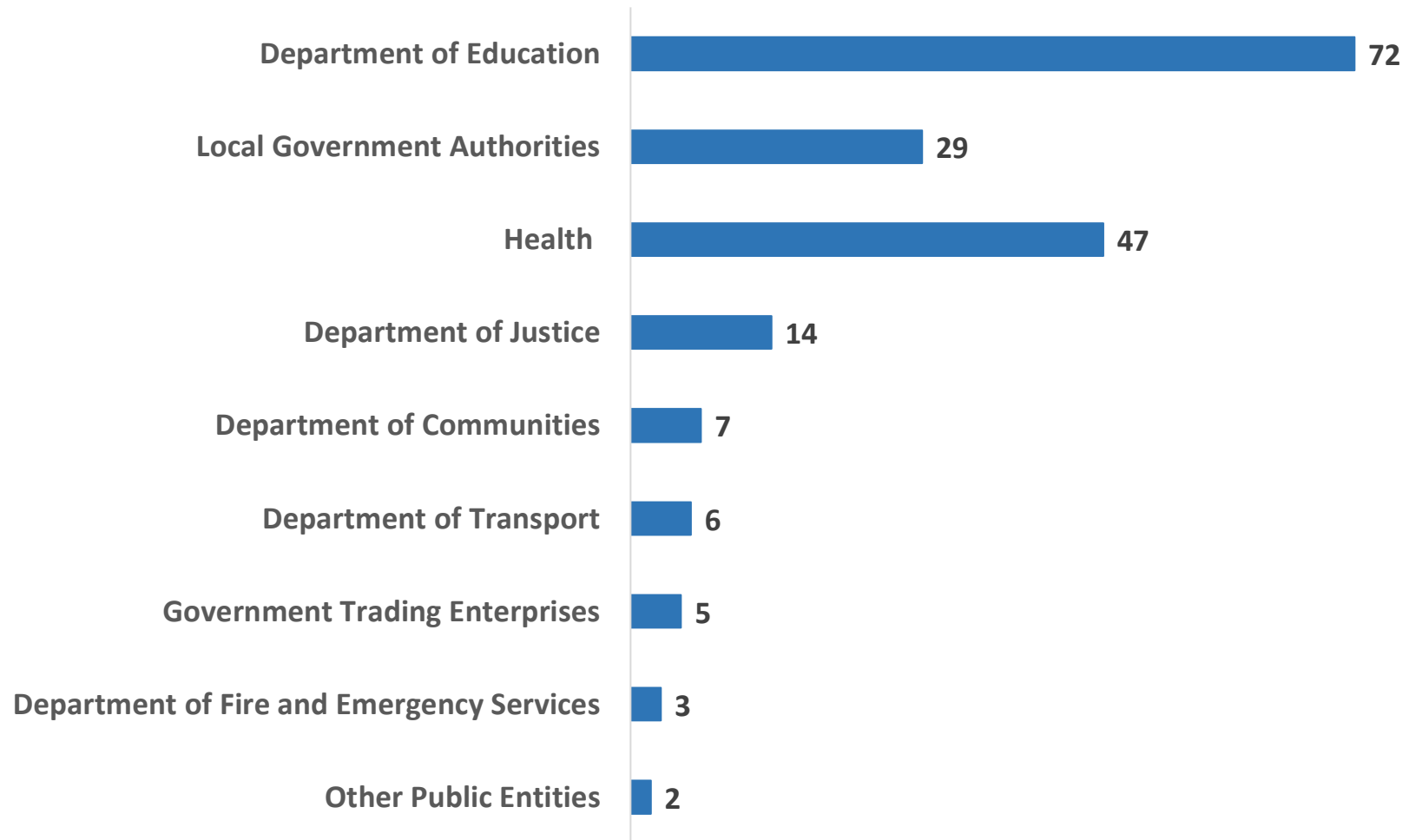
- The topic of this quarter's spotlight is the local government sector and the reporting of serious misconduct for the first half of the 2022/23 financial year.

## Reports and Notifications



Reports from members of the public	318
Notifications from WA Police	200
Notifications from public authorities	169
Notifications from local government authorities	15
Referrals from the Public Sector Commission	14
Notification from the Parliamentary Inspector	1

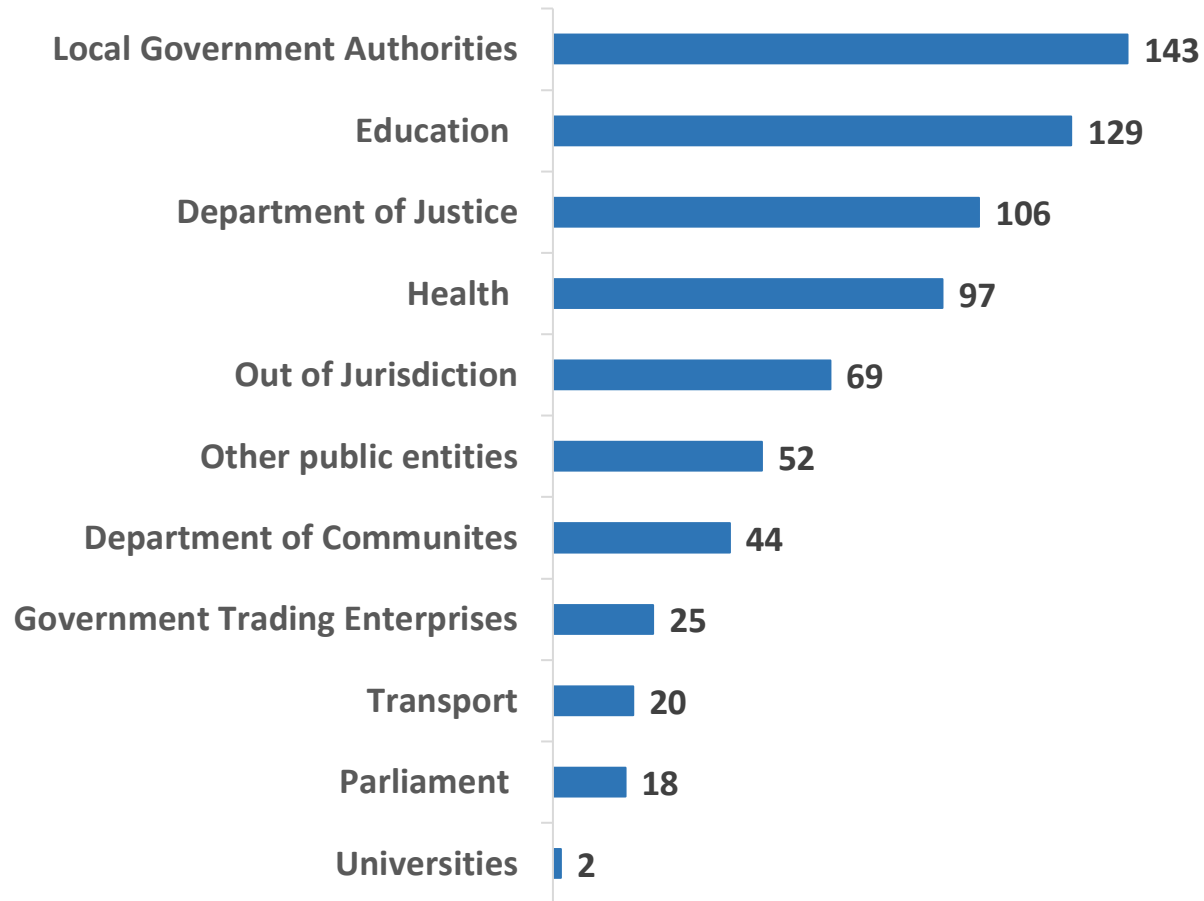
## Notifications Received from Public Authorities



WA Police

207

## Allegations Identified from Notifications



## Allegations Assessed from Reports by Members of the Public

Government Sector (excl WA Police)			
Rank	Allegation Category	Count	%
1	Out of Jurisdiction	135	35.1%
2	Benefit / Detriment - 4(b)	113	29.4%
3	Corrupt Conduct - 4(a)	62	16.1%
4	Criminal Conduct	26	6.8%
5	Unlawful Disclosure	13	3.4%
6	Computer - Unlawful Use	12	3.1%
7	Fraud / Falsification	11	2.9%
8	Assault	5	1.3%
9	Judicial Corruption	3	0.8%
10	Other	2	0.5%
11	Failure to Declare	1	0.3%
12	Improper Association	1	0.3%
13	Neglect of Duty	1	0.3%
	<b>Grand Total</b>	<b>385</b>	<b>100.00%</b>

WA Police			
Rank	Allegation Category	Count	%
1	Neglect of Duty	120	30.2%
2	Benefit / Detriment - 4(b)	74	18.6%
3	Unprofessional Conduct	72	18.1%
4	Assault	34	8.5%
5	Corrupt Conduct - 4(a)	28	7.0%
6	Criminal Conduct	19	4.8%
7	Unlawful Arrest / Search	13	3.3%
8	Breach of Procedure or Policy	8	2.0%
9	Out of Jurisdiction	8	2.0%
10	Fraud / Falsification	7	1.8%
11	Other	7	1.8%
12	Unlawful Disclosure	4	1.0%
13	Computer - Unlawful Use	3	0.8%
14	Improper Association	1	0.3%
	<b>Grand Total</b>	<b>398</b>	<b>100.00%</b>

## Allegations Assessed from Notifications by Public Authorities

Government Sector (excl WA Police)			
Rank	Allegation Category	Count	%
1	Assault	54	16.9%
2	Benefit / Detriment - 4(b)	56	17.5%
3	Computer - Unlawful Use	37	11.6%
4	Corrupt Conduct - 4(a)	6	1.9%
5	Criminal Conduct	29	9.1%
6	Failure to Declare	9	2.8%
7	Failure to Lodge	20	6.3%
8	Fraud / Falsification	42	13.1%
9	Other	1	0.3%
10	Out of Jurisdiction	52	16.3%
11	Unlawful Disclosure	14	4.4%
Grand Total		320	100.0%

WA Police			
Rank	Allegation Category	Count	%
1	Neglect of Duty	105	23.9%
2	Unprofessional Conduct	72	16.4%
3	Assault	70	15.9%
4	Breach of Procedure or Policy	68	15.5%
5	Out of Jurisdiction	26	5.9%
6	Criminal Conduct	18	4.1%
7	Other	16	3.6%
8	Computer - Unlawful Use	13	3.0%
9	Unlawful Disclosure	12	2.7%
10	Benefit / Detriment - 4(b)	9	2.1%
11	Fraud / Falsification	8	1.8%
12	Drugs (Illicit)	7	1.6%
13	Improper Association	6	1.4%
14	Unlawful Arrest / Search	5	1.1%
15	Corrupt Conduct - 4(a)	4	0.9%
Grand Total		439	100.0%

## Allegations Referred to Public Authorities: Finalised with Outcomes

Government Sector (excl WA Police) Allegation Result		
Result	Count	%
<b>Sustained</b>	<b>14</b>	<b>17.1%</b>
Not sustained	5	6.0%
Administratively closed	1	1.0%
Pending return	62	75.6%
<b>Grand Total</b>	<b>82</b>	<b>100.0%</b>

Government Sector (excl WA Police) Sustained Allegations: Disciplinary Action	
Disciplinary Action	Count
Formal warning letter	8
Local management/improvement action	5
<b>Dismissal</b>	<b>1</b>
<b>Grand Total</b>	<b>14</b>

Government Sector (excl WA Police) Dismissal Misconduct	
Behaviour	Count
Accessing restricted computer system with no authorisation	1



## Allegations Referred to WA Police Force: Finalised with Outcomes

WA Police Allegation Result		
Result	Count	%
Pending return	80	72.1%
<b>Sustained</b>	<b>12</b>	<b>10.8%</b>
Administratively closed	10	9.0%
Exonerated	4	3.6%
Unfounded	4	3.6%
Not sustained	1	0.9%
<b>Grand Total</b>	<b>111</b>	<b>100.0%</b>

WA Police Sustained Allegations: Disciplinary Action	
Disciplinary Action	Count
Local management/improvement action	6
Formal warning letter	5
Other sanction	1
<b>Grand Total</b>	<b>12</b>

## Local Government Sector

The topic of this quarter's spotlight is the local government sector and the reporting of serious misconduct and/or corruption by local government authorities (LGAs)

The Western Australian local government sector comprises 148 LGAs responsible for services and facilities state-wide to the value of almost five billion dollars.

Robust management of fraud and corruption risks by LGAs is crucial in ensuring accountability and integrity throughout the sector.

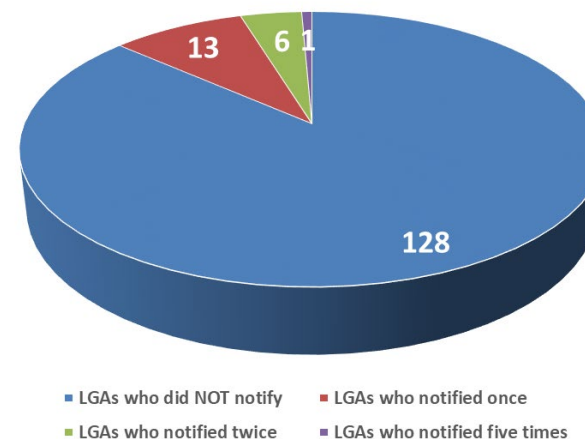
Recommendations and reports from government oversight bodies, such as the Office of the Auditor General (OAG), the Public Sector Commission (PSC) and the Commission, aim to improve the capacity of LGAs to appropriately identify, respond and mitigate fraud and corruption risks.

The application of robust controls and the identification of any integrity concerns by LGA's should result in a subsequent and timely notification to relevant oversight bodies.

Every LGA is a notifying authority, as defined in the *Corruption, Crime and Misconduct Act 2003* (CCM Act). LGA's are required to notify the Commission of any matters where there is a reasonable suspicion the matter may involve serious misconduct. Notifying the Commission is a compulsory duty of the Principal Officer of an LGA.

During Quarter 1 and 2 of the Financial Year 2022-23, twenty Principal Officers of LGAs notified the Commission. Thirteen of these notified the Commission once, six notified twice and one LGA notified five times. No notifications were received from the remaining 128 LGAs. Thus, notifications were received from approximately 14% of the total of LGAs. Conversely, no notifications were received from around 86% of LGAs.

LGA Notifications to the CCC FY 2022-23 Q1 and Q2

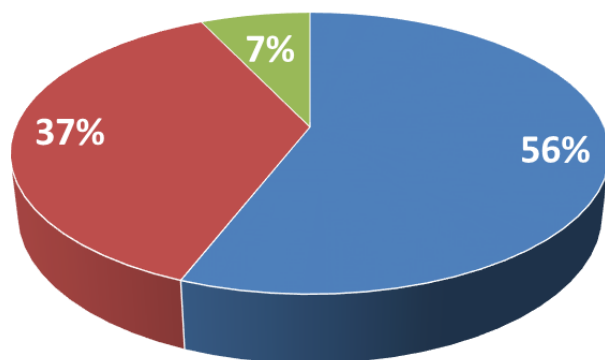


LGAs in Western Australia vary greatly in their characteristics due to demographic and geographic factors, with just over three-quarters of LGAs located in regional areas. The size of the entity, the scale of its operations and revenues may influence the number of notifications received by the Commission. However, the nature of services provided by LGAs are largely the same. Thus, it is reasonable to expect the nature of matters notified will be similar for the vast majority.

Analysis of the FY 2022-23, Q1 and Q2 complaint data for LGAs shows the following.

During Q1 and Q2 of FY 2022-23, the Commission assessed 200 allegations of serious misconduct relating to LGAs. Of those, fifty-six per cent (117) were from reports by members of the public, thirty-seven per cent (70) arose from notifications directly from the respective LGA, and the remaining seven per cent (13) were referred by the PSC. Of note, around three quarters of notifications received directly from LGAs came from metropolitan LGAs.

## LGA Allegations Assessed - Reported Under



- s.25 - Any Person May Report Misconduct
- s.28 - Certain Officers Obligated To Notify Misconduct
- s.45M(d) - Public Sector Commission

The majority of allegations (112 out of 117) received by members of the public were assessed as not reaching the threshold for a reasonable suspicion of serious misconduct. They often related to general, non-specific allegations about LGA Councillor and/or employee decisions.

In total, just over a third (68) of the 200 allegations were assessed as meeting the Commission's threshold for a reasonable suspicion of serious misconduct. Sixty of these allegations were from LGA notifications to the Commission.

Of the sixty-eight allegations, thirty-four per cent related to the failure of submitting of a primary or annual return, an offence under the *Local Government Act 1995* and subject to a maximum penalty of \$10,000 or imprisonment for two years. This penalty enlivens the Commission's jurisdiction under section 4(c) of the CCM Act and thus requires notification to the Commission by the relevant authority. A further twelve per cent also related to elected officials and their failure to declare personal financial interest in matters before council.

Thirteen percent of the allegations assessed as serious misconduct related to the unlawful use of a restricted access computer, an offence under *The Criminal Code, s440A* and punishable by imprisonment for a period of 2 years or more. Unlawful use of a restricted access computer is where a LGA employee is either not authorised to access the system or has accessed it, not in accordance with their authorisation.

Many LGA employees act as Department of Transport (DoT) agents carrying out transactions which involve accessing the TRELIS licensing and registration database. TRELIS is used to facilitate licensing services for the State and contains sensitive personal data to facilitate vehicle and driver licensing and registration.

Around twenty-five per cent of the remaining allegations related to matters such as fraud, favouritism and collusion, entailing behaviours that include the falsification of timesheets, falsification of other records, manipulating/abusing a process, showing preferential treatment or failing to declare/manage conflicts of interest. The remaining twelve per cent of allegations related to matters that included theft of cash and other assets such as property.

Comparison of serious misconduct reporting and content across sectors of the government is inherently complex. The small numbers of allegations involved and specific contexts of allegations make it difficult to comment meaningfully on similarities and differences. However, some general observations of allegation data can be made in comparing the LGA sector with the wider government sector (excluding WA Police data).

Notifications from many LGA's appear to be low with many LGA's not reporting to the Commission. Where sector specific allegations are removed from the LGA datasets (primary/annual returns and TRELIS access), the remaining notification count is minimal.

Further, there are some disparities in the number and nature of allegations being notified by LGAs. The Commission receives relatively few notifications about matters such as fraud/falsification matters, unauthorised access of data and

information (non-TRELIS), unlawful disclosure of data and information and matters involving improper influence to gain access to data and information and assets.

Notifications relating to procurement matters also remain at low levels. Procurement functions in LGA carry high risks for serious misconduct and corruption. The range of goods, services and works, the associated revenue flows, discretionary decision-making and the public/private interface present greater opportunities for LGA employees to be exposed to corruption risks.

LGAs in Western Australia vary greatly in their characteristics due to demographic and geographic factors, with just over three-quarters of LGAs located in regional areas. However, as mentioned above, the nature of services provided by LGAs are more or less the same.

In a sector of 148 LGA entities with around 17,000 employees and a budget in excess of \$4bn, it is reasonable to expect notifications of suspected serious misconduct. While the specific numbers are likely influenced by the size of the LGA, the scale of its operations and revenues, the Commission is concerned in the low number of notifications made by LGAs.

The Commission continues to work with the Local Government sector and other oversight bodies to ensure that all respective notifying authorities are aware of their obligations and the circumstances under which they should notify the Commission.