



Reportable Conduct Scheme

Overview

The Director General of the Department of Biodiversity, Conservation and Attractions (DBCA) who is also the Chief Executive Officer (CEO) of the Botanical Gardens and Parks Authority (BGPA), Rottnest Island Authority (RIA), and Zoological Parks Authority (ZPA) are required to meet the obligations of the Reportable Conduct Scheme set out in the *Parliamentary Commissioner Act 1971* (the Act). The Reportable Conduct Scheme was a recommendation of the Royal Commission into Institutional Responses to Child Sexual Abuse and aims to make children safer by providing independent oversight of how organisations (relevant entities), prevent and respond to reportable conduct by 'employees', as broadly defined in the Act. The Reportable Conduct scheme commenced on 1 January 2023.

Rules

- The Reportable Conduct Scheme is overseen by the Ombudsman WA.
- All current DBCA (including Statutory Authority) officers and employees can be subject to a Reportable Conduct Report, regardless of whether or not their work is in connection to children.
- Volunteers and contractors who are engaged to provide services to children, and a person engaged by another person or body to provide services to children on behalf of DBCA, can be subject to a Reportable Conduct Report.
- Current DBCA officers and employees must report allegations of reportable conduct and reportable convictions.
- Any person, including DBCA employees, volunteers and contractors, and persons or bodies engaged by a person to provide services on behalf of DBCA, may report allegations of reportable conduct and reportable convictions.
- DBCA must notify the Ombudsman within 7 working days of receiving a report of a reportable allegation or a reportable conviction.
- DBCA must investigate a report of a reportable allegation or reportable conviction and provide an investigation outcome to the Ombudsman WA, as soon as practicable.

The Reportable Conduct Scheme operates alongside, but separate from, existing DBCA processes for reporting and responding to concerns for allegations involving employees, volunteers and contractors.

The [Employee Relations team](#) of the People and Culture Branch at DBCA is available for consultation on reportable matters.

Information and Instructions

Definitions

Reportable Allegation

A reportable allegation is any information that leads a person to form the belief, on reasonable grounds, that a relevant employee of DBCA has engaged in reportable conduct, or conduct that may involve reportable conduct, whether or not the conduct is alleged to have occurred in the course of the employee's employment.

Reportable Conduct

Reportable conduct means:

- A sexual offence committed against, with or in the presence of a child.
- Sexual misconduct against, with or in the presence of a child that is not a sexual offence. This can include grooming behaviour, sharing pornographic material and inappropriate discussion of sexual behaviour.
- Physical assault (the intentional or reckless application of physical force without justification or any act that causes another person to apprehend immediate violence) against, with or in the presence of a child. This includes the use of actual physical force as well as threatening to physically harm a child through words and/or gestures.
- Other prescribed offences.
- Significant neglect of a child.
- Any behaviour that causes significant emotional or psychological harm to a child.

Reportable conduct does not include:

- Conduct that is reasonable for the discipline, management or care of a child, or a person in the presence of a child, having regard to the child's age, health and developmental stage and relevant professional standards.
- Conduct that is trivial or negligible that is investigated and recorded as part of another workplace procedure.
- Conduct that the Ombudsman WA may exempt.

Reportable Conviction

A reportable conviction is a conviction for a sexual offence committed against, with, or in the presence of a child, or other prescribed offences. A conviction includes a spent conviction. A reportable conviction is a conviction in any Australian jurisdiction.

Period

The scheme captures reportable conduct whether or not it occurred before, on or after 1 January 2023.

Employees

An employee, as broadly defined in the Section 19D of the Act, is a person, 18 years or older, currently engaged by Communities as:

- An officer or employee, whether or not their work role is connected to children.
- A volunteer or contractor engaged to provide services to children.
- A person engaged by another person or body to provide services to children on behalf of the entity, including as a volunteer or contractor.

Reporting Reportable Conduct



All current DBCA employees, regardless of their role, **must** report reportable conduct if they become aware of information that leads them to form the belief, on reasonable grounds, that a current DBCA employee, as defined above, has engaged in reportable conduct, or conduct that may involve reportable conduct, whether or not the conduct is alleged to have occurred in the employee's employment.

All current DBCA employees, regardless of their role, if they become aware, must report a reportable conviction of an employee, as defined above, as soon as is practicable.

Reportable Conduct can be reported to DBCA by:

- Lodging an internal and external [Reportable Conduct Report](#) by emailing reportableconduct@dbca.wa.gov.au or
- Reporting directly to the Ombudsman using the [Ombudsman Notification Form](#) (where the matter relates to the head of a relevant entity or where the person is not satisfied with the response of the relevant entity).

Managers across DBCA must ensure that any allegations received in relation to DBCA employees (including volunteers and contractors) are referred to the Reportable Conduct Team.

All reports are received and assessed by the Employee Relations Team will:

- Ensure any concerns for the child/ren have been reported to the People and Culture Branch and relevant Executive Director while respecting the high confidentiality and sensitivity needs.
- Lodge a notification with the Ombudsman within 7 working days.
- Advise the relevant line of management that a Reportable Conduct Notification has been lodged.
- Coordinate the response to any additional requests for information from the Ombudsman WA.
- Ensure the employee subject to the reportable allegation or reportable conviction, is advised in writing that a reportable allegation has been made in relation to their conduct or that a report has been made of a reportable conviction.
- Investigate the reportable allegation or reportable conviction and comply with the requirements under the Act.



The Ombudsman WA must be notified of all reportable conduct reports within 7 working days.

The Reportable Conduct team are responsible for notifying the Ombudsman and ensuring the requirements under the Reportable Conduct Scheme are met.

Protection for reporters

There are protections in place for notifiers of reportable allegations and reportable convictions under the Act including:

- Protection from liability for giving information in good faith;
- Protection from victimisation; and
- A penalty (2 years imprisonment or a fine of \$8,000) for publishing information, where not authorised, that identifies or is likely to identify a person who has made a report under the Scheme.

Investigation Process

The Act defines an investigation to include any preliminary or other inquiry into, or examination of, the matter.

The Reportable Conduct Scheme operates alongside DBCA's existing processes for responding to concerns for children, allegations of harm by employees and reports of potential staff misconduct.

The Employee Relations Team will ensure all reportable allegations have been referred to the appropriate investigators (appointed from internal or external to DBCA) for assessment and investigation. This includes ensuring that:

- Allegations of potential staff misconduct are referred in accordance with the DBCA Suspected Breaches of Discipline protocol
- Consultation occurs with the employees in relation to allegations of harm to children.

At the conclusion of DBCA's assessment and investigation processes the Employee Relations Team will prepare a Reportable Conduct Investigation Report for the Ombudsman.

Reportable Conduct Exemptions

The Ombudsman (WA) may exempt DBCA from starting or continuing an investigation if:

- The report is frivolous or vexatious or not made in good faith.
- The matter is already being dealt with or investigated by another appropriate body.
- The Director General and CEO are required by law to comply with the directions of another person or body in relation to the investigation of the matter.
- The Director General and CEO are requested or directed by another appropriate person or body to discontinue, for a time, or cease the investigation.

Procedural Fairness



If over 18 years of age, any current DBCA employee, whether or not they work in connection with children, can be subject to a reportable conduct report. If over 18 years of age, a volunteer and contractor engaged by DBCA that provides services to children, or a person engaged by another person or body to provide services on behalf of the entity, can be subject to a reportable conduct report.

The Reportable Conduct Scheme provides for procedural fairness to be afforded to persons the subject of a Reportable Conduct report and investigation. Procedural fairness is provided by offering an opportunity to respond to the reportable conduct allegations or reportable conviction before any adverse finding has been made.

Procedural fairness must be afforded at *three* stages of the investigation and decision-making process:

- An employee must be informed that they are the subject of an investigation and of the reportable allegation or reportable conviction being investigated, and given the opportunity to respond to the reportable allegations or reportable conviction being investigated by making a submission, preferably in writing.
- Inform the employee of any proposed adverse finding and give them an opportunity to make submissions about the proposed finding.
- If any disciplinary or other action is proposed in relation to the employee as the result of any adverse findings from the investigation, inform the employee in writing of the action that is proposed to be taken and give the employee an opportunity to make submissions in relation to the proposed action.

Support

Being subject to a reportable conduct report and investigation can be distressing. Employees, as defined under the Act to include DBCA employees, volunteers and contractors, should be provided with information on appropriate and available support services including from the DBCA Wellbeing Coordinator and Employee Assistance Program.

Resources

- **Legislation** *Parliamentary Commissioner Act 1971*
- **Suspected Breach of Discipline Protocol** (internal resource)
- **WA Ombudsman - Reportable Conduct Scheme**
Telephone: (08) 9220 7555
Email: reportableconduct@ombudsman.wa.gov.au
Website: www.ombudsman.wa.gov.au