

Reportable Conduct Scheme

Introduction

This policy is made in accordance with the reporting requirements of the Reportable Conduct Scheme (the Scheme), which was established under the *Parliamentary Commissioner Amendment (Reportable Conduct) Act 2022*, as a consequence of the *Royal Commission into Institutional Responses to Child Sexual Abuse* (the Royal Commission). The Scheme is intended to make Western Australian children safer by ensuring that child abuse in organisations will always be:

- Notified to an impartial and independent body;
- Investigated fully; and
- Dealt with to ensure children are protected from abuse.

Objective

The Chief Executive Officer (CEO) is compelled to notify the Ombudsman of reportable allegations and convictions of child abuse by Shire of Toodyay (the Shire) employees, investigate the allegations, report the outcome, and take appropriate action to prevent reportable conduct by employees.

Scope

The Scheme applies to the CEO who has reporting conduct responsibilities; and to any employee who exercises care, supervision or authority over children. The following Shire facilities have been identified as meeting this criterion:

- Community Resource Centre;
- Toodyay Library;
- Toodyay Recreation Centre;
- Toodyay Visitors Centre;
- Newcastle Gaol Museum; and
- Connor's Mill Museum.

Definitions

Term	Definition
Act	<i>Parliamentary Commissioner Amendment (Reportable Conduct) Act 2022.</i>
CEO	Chief Executive Officer.
Child	A person who is under 18 years of age.

Term	Definition
Council	The local government, responsible for making decisions in formal meetings held under the auspices of Part 5 of the <i>Local Government Act 1995</i> and under the <i>Shire's Standing Orders Local Law 2008</i> .
Employee	An employee includes the following persons over 18 years of age: <ul style="list-style-type: none"> • An individual employed by the Shire; • Contractors engaged by the Shire; and • Volunteers engaged by the Shire Under the Scheme, volunteers and contractors are only considered employees, if they have been engaged by the Shire to provide services to children.
Ombudsman	Ombudsman Western Australia.
Procedural Justice	There are four key principles of procedural justice: voice, neutrality, respect and trust. Adherence to these principles is linked to improved compliance and positive outcomes.
Reportable Allegation	Any information that leads a person to form the belief on reasonable grounds that an employee of an organisation covered by the Scheme, has engaged in reportable conduct, whether or not the conduct is alleged to have occurred in the employee's course of employment.
Reportable Conviction	A conviction (including a finding of guilt without the court proceeding to a conviction) in Western Australia or elsewhere, of an offence involving reportable conduct.
Shire	the Shire of Toodyay.

Policy Statement

This policy is limited to Shire employees who have engaged in conduct that may be reportable conduct or employees who are the subject of a conviction that is considered a reportable conviction.

Reportable Conduct:

Shire employees **must** report a 'reportable allegation' or 'reportable conviction' to the CEO as soon as they become aware. Reportable conduct under the Scheme includes:

- Sexual offences;
- Sexual misconduct; and
- Physical assault.

The CEO is compelled to notify the Ombudsman of allegations or convictions of child abuse by any employee within seven (7) days of becoming aware of the allegation. The CEO is also

required to investigate the allegation(s) and provide a report to the Ombudsman of the investigation and any action taken. The Ombudsman will monitor, oversee and review these allegations.

If the CEO suspects criminal conduct has occurred, then the reportable conduct will be referred to the Western Australia Police Force (WAPF) in the first instance.

In consultation with WAPF, the CEO may suspend the Shire's investigation, to ensure there is no compromise to the criminal investigation. Any perceived risk will be managed through consultation with WAPF.

The CEO will inform the Ombudsman of the suspension and any actions taken to manage the risk during the suspension period.

The Scheme also includes historical conduct of a current employee. Whilst the conduct may have occurred in the past, the Royal Commission determined that the nature of child abuse still requires reporting and investigation. This will ensure any risks presented by a current employee are considered and addressed appropriately.

Protections to Prevent Identification:

An employee who makes a report of a reportable allegation or reportable conviction, must not publish identifying information of a child who is the subject of reportable conduct; or the person who is making the reportable allegation.

The seriousness of publishing such information is reflected in the penalty of 2 years imprisonment or a fine of \$8,000.

Protections for Providing Information:

There are protections under the *Parliamentary Commissioner Act 1971* for providing information under the Scheme, which include:

- Protection from liability for giving information;
- Protection from victimisation; and
- A prohibition on publishing information that identifies or is likely to identify a person who has made a report under the Scheme.

The Investigation Process:

The Shire will ensure the principles of confidentiality, procedural fairness and natural justice apply to all investigations undertaken. In this regard:

- Employees who are the subject of reportable allegations will be informed of the nature of the allegations and afforded the opportunity to make submissions before any adverse finding is made;
- Only parties with a need to know about the reportable allegation should be informed of it;
- Records will be adequately secured and protected from unauthorised access;
- All such parties should be advised of the need for confidentiality during the investigation; and
- The Shire will have systems in place to deal with any breaches of confidentiality.

Reference Information

HRD.1 Employee Code of Conduct

Legislative Compliance

Legislation

Parliamentary Commissioner Amendment (Reportable Conduct) Act 2022

Criminal Procedure Act 2004

Parliamentary Commissioner Act 1971

Local Government Act 1995

Criminal Code Act Compilation Act 1913

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