

# Definition of serious misconduct

Fact sheet No. 2

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## Definition of Serious Misconduct

Section 4 of the Corruption, Crime and Misconduct Act 2003 ("the CCM Act") defines misconduct. Misconduct generally occurs when a public officer abuses authority for personal gain, causes detriment to another person or acts contrary to the public interest.

Misconduct is characterised in the CCM Act as "serious misconduct" and "minor misconduct". Serious misconduct is dealt with by the Corruption and Crime Commission (CCC) and minor misconduct is dealt with by the Public Sector Commission (PSC).

### What is serious misconduct?

The CCM Act defines serious misconduct differently for WA Police than for other public officers.

For members of WA Police all types of misconduct described in section 4 of the CCM Act, and additional conduct described as "reviewable police action" are called "police misconduct". The CCM Act includes police misconduct in its definition of serious misconduct. The effect of this is that the CCC will deal with all allegations of misconduct relating to WA Police.

For other public officers serious misconduct refers only to corrupt or criminal conduct described in sections 4(a), (b) and (c) of the CCM Act, which occurs when a public officer:

- acts corruptly or corruptly fails to act in the course of their duties; or
- corruptly takes advantage of their position for the benefit or detriment of any person; or
- commits an offence which carries a penalty of 2 or more years imprisonment.

Corrupt conduct tends to show a deliberate intent for an improper purpose and motivation and may involve misconduct such as: the deliberate failure to perform the functions of office properly; the exercise of a power or duty for an improper purpose; or dishonesty.

Some examples of corrupt or criminal conduct which could be serious misconduct include:

- abuse of public office;
- blackmail;
- bribery, including bribery in relation to an election;
- deliberately releasing confidential information;
- extortion;
- obtaining or offering a secret commission;
- fraud or stealing;
- forgery;
- perverting the course of justice;
- an offence relating to an electoral donation;

- loss of revenue of the State by Tax evasion; and
- falsification of records.

### **What is minor misconduct?**

Minor misconduct for public officers other than WA Police is defined in section 4(d) of the CCM Act. Minor misconduct should be significant enough that it could reasonably lead to termination of a public officer's employment if proved.

Minor misconduct occurs if a public officer engages in conduct that:

- adversely affects the honest or impartial performance of the functions of a public authority or public officer, whether or not the public officer was acting in their public officer capacity at the time of engaging in the conduct;
- involves the performance of functions in a manner that is not honest or impartial;
- involves a breach of the trust placed in the public officer; or
- involves the misuse of information or material that is in connection with their functions as a public officer, whether the misuse is for the benefit of the public officer or the benefit or detriment of another person; and
- constitutes, or could constitute, a disciplinary offence providing reasonable grounds for termination of a person's office or employment.

### **What is not misconduct?**

Matters of general low-level discipline, misbehaviour or employee relations issues which may be managed by employing authorities are outside the definition of misconduct under the CCM Act.

Examples could include general human resources and performance management issues, grievances around employee relationships, and minor infractions of policies and procedures.

For more information contact the PSC.

### **Who deals with misconduct?**

The CCC and the PSC are responsible for preventing and dealing effectively and appropriately with misconduct in the Western Australian public sector.

The CCC deals with allegations concerning serious misconduct. Reports that involve minor misconduct are dealt with by the PSC. If a report contains information that alleges both serious and minor misconduct, the report should be made to the CCC.

For more information about reporting minor misconduct to the PSC, refer to the PSC Website or contact the PSC.

#### **Contact the Corruption and Crime Commission**

 Level 5, 45 Francis Street  
Northbridge WA 6003

 General Enquiries (08) 9215 4888  
Report Corruption 1800 803 186

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