

Who is the 'head of an organisation'?

The head of an organisation is the person who is primarily responsible for an organisation's compliance with the Reportable Conduct Scheme. This person may be a Chief Executive Officer (CEO), a principal officer or someone in a similar position or fulfilling a similar role.

Determining who is the head of an organisation depends on each organisation's structure, governance arrangements and legal obligations.

If the organisation does not have a CEO, principal officer or equivalent, they can nominate a person to be the head of the organisation under the Reportable Conduct Scheme, to be approved by the Ombudsman.

Heads of organisations are responsible for ensuring their organisations comply with the Reportable Conduct Scheme, however, the Ombudsman does not expect heads of organisations to carry out their responsibilities alone. Heads of organisations can rely on delegates to perform their obligations under the Reportable Conduct Scheme and seek assistance from other people within their organisation. This may include creating and developing systems, sending approved notifications to the Ombudsman and conducting investigations. Of course, the ultimate responsibility for meeting the obligations of the Reportable Conduct Scheme, including notifying the Ombudsman of any reportable allegation or reportable conviction, remains with the head of the organisation.

What does the head of an organisation need to have in place?

The Reportable Conduct Scheme requires the head of an organisation to ensure that the organisation has systems in place to:

<ul style="list-style-type: none"> • Prevent reportable conduct by employees in the course of their employment 	<p>This includes acknowledging children are vulnerable to abuse and taking steps to reduce this risk in their organisation.</p>
<ul style="list-style-type: none"> • Enable people to report reportable allegations and convictions involving an employee to the head of the organisation 	<p>This includes having clear and well communicated systems to facilitate and support the reporting of concerns by employees and other people.</p>
<ul style="list-style-type: none"> • Enable people to report reportable allegations and convictions involving the head of the organisation to the Ombudsman 	<p>As there may be instances in which the actions of concern are alleged to have been taken by the head of the organisation, organisations must have policies and systems that enable other people in the organisation to notify the Ombudsman of alleged reportable conduct involving the head of the organisation.</p>
<ul style="list-style-type: none"> • Notify the Ombudsman of reports received by the head of the organisation 	<p>This notification must be sent to the Ombudsman within 7 working days of the head of the organisation becoming aware of the matter.</p>

Information Sheet 4: Responsibilities of the head of an organisation

<ul style="list-style-type: none"> Investigate reportable allegations and convictions relating to employees, and take appropriate action in response to a finding of reportable conduct 	<p>Once a report has been made, organisations must have processes in place to investigate the matter and take appropriate action if a finding of reportable conduct is made.</p> <p>Organisations must also have in place appropriate risk management methodology for the handling of reportable conduct matters.</p>
<ul style="list-style-type: none"> Receive, handle and disclose investigation information 	<p>This includes proper record keeping and the appropriate and lawful disclosure of information.</p>

The head of the organisation must provide information to the Ombudsman about any of these systems described above, if the Ombudsman requests this in writing. The Ombudsman may make recommendations to the organisation to improve their practices and processes.

What the head of an organisation must provide to the Ombudsman

The head of the organisation must provide the following information at various milestones:

Notification of reportable allegation or reportable conviction	Details of investigator	Outcomes of investigation	Additional documents
<ul style="list-style-type: none"> Details of organisation Details of the employee who is the subject of the reportable allegation or conviction Details of the reportable allegation or reportable conviction Actions taken to protect children <p>Within 7 working days¹</p>	<ul style="list-style-type: none"> Name and contact details of the investigator² <p>As soon as practicable</p>	<p>Written report setting out:</p> <ul style="list-style-type: none"> Findings of investigation Reasons for findings Any submissions from the employee (see section on obligations to employee below) Disciplinary action taken, or the reason why no action taken Any action taken to prevent further reportable conduct Any other relevant information <p>As soon as practicable after investigation</p>	<ul style="list-style-type: none"> Notification of matters affecting investigation³ The Ombudsman may request further documents from the head of the organisation

¹ Unless an extension or exemption is approved by the Ombudsman.

² Under the Reportable Conduct Scheme, investigations are undertaken by the head of the organisation, an employee of the organisation or, a person or body engaged as an independent investigator. The head of the organisation must inform the Ombudsman of the name and contact details of the person or body, or position or unit in the organisation, responsible for conducting the investigation on behalf of the organisation.

³ The head of an organisation must, as soon as practicable, notify the Ombudsman if they form the view on reasonable grounds that: the matter does not constitute reportable conduct; the report of the matter to the organisation is frivolous or vexatious or not made in good faith; becomes aware that another appropriate person or body is dealing with or investigating the matter; is required by law to comply with the directions of another person or body in relation to the investigation of the matter; or, is requested or directed by another appropriate person or body to cease, or discontinue for a period, the investigation of the matter.

Obligations to employee

The Reportable Conduct Scheme provides for procedural fairness to be afforded to an employee who is the subject of an allegation by providing them with the opportunity to make submissions at three critical stages of an investigation by the head of the organisation. These are:

- Before any adverse finding is made, the head of the organisation must:
 - Inform the employee that they are the subject of an investigation and of the reportable allegation made, or reportable conviction being investigated, and give them the opportunity to make submissions; and
 - After considering any submission made by the employee, inform the employee of any proposed adverse finding and give them an opportunity to make submissions.
- Before any disciplinary or other action is taken in relation to the employee as the result of any adverse findings from the investigation, inform the employee of the action that is proposed to be taken, and give the employee an opportunity to make submissions.

These employee submissions must be included in the written report on the outcome of the investigation provided to the Ombudsman.

Other reporting obligations

There are a range of other reporting requirements that apply to organisations. Depending on the situation, the head of an organisation will still need to consider whether other reports should be made (both mandatory and non-mandatory) in addition to notifying the Ombudsman of reportable allegations and reportable convictions.

Where to get help

Organisations covered by the Reportable Conduct Scheme can contact the Ombudsman for clarification and guidance, and to talk through any issues of concern.

- Telephone: (08) 9220 7471
- Email: reportableconduct@ombudsman.wa.gov.au
- Website at www.ombudsman.wa.gov.au

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