



Our reference: 03358/2019

31 October 2019

Public Sector Reform Unit  
Department of Premier and Cabinet  
Locked Bag 3001  
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Dear Public Sector Reform Unit

**Privacy and Responsible Information Sharing for the Western Australian Public Sector  
Response to Proposal**

The Corruption and Crime Commission (Commission) welcomes the move to develop WA State privacy legislation and a holistic and comprehensive privacy and data sharing governance framework. This is an essential and important step to ensure Western Australians can have confidence in the protection of their personal information and where appropriate personal information is managed, used and shared in a consistent, accountable and secure manner across government agencies.

Accessing information from other government systems is important for the Commission's activities as is the need to protect information holdings. There is much that has been established in the Commission through the *Corruption, Crime and Misconduct Act 2003* (CCM Act) and internal procedures to enable and control the integrity of information gathered by the Commission. We have also put in place individual MOUs between State and Commonwealth agencies to share information as part of the functions and activities of the Commission. We would be very supportive of broader Public Sector protocols and processes for the sharing of data and information which will enable the Commission to continue to carry out its functions.

The allegations we see concerning the use of information held by government agencies are pertinent to the issues raised in the discussion paper with respect to how information is protected and how organisations proactively ensure information is being appropriately used rather than relying on complaints.

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**Contact the Corruption and Crime Commission**

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The Commission acknowledges the reference in the discussion paper to unauthorised information disclosures, however we also would like to see some consideration and discussion regarding the criminality of unauthorised access (*Criminal Code s440a*). The Public Sector needs a much greater awareness of the criminality of unauthorised data access and of the reporting responsibilities of agencies to the Commission and to the WA Police Force. It would be good for this to be given sufficient weight in the conversation about information privacy and sharing.

The Commission also understands from the proposal that, as is the case in other Australian jurisdictions, the proposed privacy legislation will not impede the current operations of the Commission as we carry out our function of assessing, investigating and exposing serious misconduct in the Western Australian public sector, misconduct and reviewable police action in the WA Police Force and combating the incidence of organised crime.

For example Privacy legislation in force in other jurisdictions, such as Victoria, New South Wales, and Queensland, provide that certain law enforcement and investigative agencies are (in some circumstances) exempt from compliance with the relevant legislation. Exemptions have been extended to the Commission's interstate counterpart agencies, such as the Independent Broad-based Anti-corruption Commission (IBAC) (Victoria), Independent Commission Against Corruption (ICAC) (New South Wales), and the Crime and Corruption Commission (Queensland).

Specifically in NSW the *Privacy and Personal Information Protection Act 1998* (NSW) Division 3 provides for specific exemptions for particular agencies in respect of compliance with the information protection principles. Under this Act ICAC is defined as an 'investigative agency': s 3(1)(a)(iii). The Act sets out exemptions for law enforcement and related matters.

The Commission requests that it be consulted in respect of the drafting of the legislation to ensure it is afforded with the necessary protections and exemptions in order for it to continue to perform its functions under the CCM Act. We would also welcome discussions with the proposed oversight body in regard to breaches of future privacy and data sharing legislation, and the assessment of those breaches in relation to serious misconduct under the CCM Act.

Yours sincerely



Ray Warnes  
**CHIEF EXECUTIVE**