

## **Non-disclosure policy – Recipients of the Commissioner's report**

### **Statement of Policy Intent**

The Commissioner has a statutory right to share investigative reports with the Minister and "Government Entities" as defined in section 3(1) of the *Small Business Development Corporation Act 1983 (WA)*.

The Commissioner will share a report with a government entity if there is a reasonable belief that doing so will benefit small business.

### **Guiding Principles**

1. Persons mentioned in a report have a right to respond to a report before it is shared with a government entity, if that report contains adverse information about that person.
2. Reports will be shared with a government entity if there is a reasonable belief that doing so will assist an individual business, group of small businesses or the small business sector as a whole.
3. Reports will not be shared with a government entity if there is a reasonable belief that the government entity will make that report or information derived from the report public, resulting in harm to the parties mentioned in the report.
4. The Commissioner has the discretion when determining:
  - a) The content of the report, for example whether content will be redacted from the report before it is shared;
  - b) Restrictions on the distribution of the report by the recipient;
  - c) Whether to require the recipient to sign a non-disclosure agreement in regards to the report; and
  - d) Whether to require the recipient to sign an undertaking that they will discuss their proposed use of the report with the Commissioner, prior to taking action.

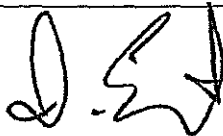

### **Reference Material**

Government entities include:

## Policy Manual – Investigations and Inquiry Unit

- the Australian Securities and Investment Commission established by the *Australian Securities and Investment Commission Act 2001 (Commonwealth)*;
- the Australian Competition and Consumer Commission established by the *Competition and Consumer Act 2010 (Commonwealth)*;
- the Commissioner, as defined in the *Taxation Administration Act 1953 (Commonwealth)* section 2(1);
- the Parliamentary Commissioner for Administrative Investigations appointed under the *Parliamentary Commissioner Act 1971*;
- the Australian Small Business and Family Enterprise Ombudsman established under the *Australian Small Business and Family Enterprise Ombudsman Act 2015 (Commonwealth)*;
- any other ombudsman or equivalent office under a written law or a law of the Commonwealth;
- a body, whether corporate or unincorporate, or the holder of an office, post or position, being a body or office, post or position that is established or continued for a public purpose under a written law;
- local governments;
- a department of the Public Service; and
- any persons or offices prescribed the regulations.<sup>1</sup>

### Governance Details

|                           |  |
|---------------------------|--|
| Responsible Business Unit | Investigations and Inquiry Unit  |
| Responsible Officer       | Director, Investigations and Inquiry Unit  |
| Authority name            | David Eaton, Small Business Commissioner   |
| Authority signature       |   |
| Date                      | 12 AUGUST 2019   |

<sup>1</sup> Note – No regulations have been made under the *Small Business Development Corporation Act 1983 (WA)*