

Public interest disclosure procedure

This is a mandated procedure under the operational policy framework. Any edits to this procedure must follow the process outlined on the [creating, updating and deleting operational policies](#) page.

Overview

This procedure outlines the obligations and processes for dealing with disclosures of public interest information.

The objective of this procedure is to ensure compliance with the *Public Interest Disclosure Act 2018* ([PID Act](#)).

The PID Act establishes a scheme that encourages and facilitates the appropriate disclosure of [public interest information](#) (which comprises both public administration information and environmental and health information) to certain persons or authorities (a public interest disclosure).

It provides protections for public officers who make an appropriate disclosure of public administration information and sets out processes for dealing with such disclosures. It also provides protections for all persons who make an appropriate disclosure of environmental and health information.

Scope

This procedure is mandatory for all staff.

In accordance with the requirements of the [PID Act](#), this procedure sets out the process:

- for any person who wants to [make an appropriate disclosure of public interest information](#)
- for any employee of the department in [receiving and dealing with any such appropriate disclosure](#).

The [Independent Commission Against Corruption \(the ICAC\)](#) has published 4 sets of guidelines under section 14 of the PID Act (the PID Guidelines) to provide additional requirements. The [PID Guidelines](#) also provide general information about the PID Act. This procedure has been prepared to comply, and be consistent, with the [Office for Public Integrity \(OPI\)](#) and [Ombudsman SA \(OSA\)](#) Directions and Guidelines.

Detail

Obligations on public sector agencies

In accordance with section 12 (5) of the [PID Act](#) and [PID Guideline 4](#), there is a requirement for public sector agencies to establish procedures for making and receiving appropriate disclosure of public interest information.

Commitment from the Chief Executive

The Chief Executive is committed to:

- accountability and transparency across the department
- protecting informants who disclose public interest information appropriately
- having sound procedures for receiving public interest information
- genuine and efficient consideration and investigation of any public interest disclosure matters relating to the department
- keeping persons who disclose information informed about the action taken or the outcome of any investigation
- addressing any matters of corruption, maladministration and misconduct in public administration
- ensuring all department staff are informed about their rights and the correct process for disclosing and receiving public interest information.

Public interest information

There are 2 types of public interest information:

1. Environmental and health information – means information that raises a potential issue of a substantial risk to the environment or to the health and safety of the public generally or a significant section of the public (whether occurring before or after the commencement of the PID Act).
A person who makes such a disclosure must:
 - believe on reasonable grounds that the information is true
 - not being in a position to form such a belief, believe on reasonable grounds that the information may be true and is of sufficient significance to justify its disclosure so that its truth may be investigated.
2. Public administration information – means information that raises a potential issue of corruption, misconduct or maladministration in public administration. The definitions of corruption, misconduct and maladministration in public administration are the same as those found in the [Independent Commission Against Corruption Act 2012 \(ICAC Act\)](#) and the [Ombudsman Act 1972](#). While anyone can make a disclosure of public administration information, only **public officers** who make such a disclosure are eligible for the protections provided by the PID Act.

Relevant authority

In making a public interest information disclosure, it is important to ensure that this is made to a relevant authority. The following table identifies to whom a disclosure should be made depending on whether the information is environmental and health information or public administration information.

Environmental and health information

Where information relates to	Relevant authority
Risk to the environment	Environment Protection Authority
A location within the area of a particular council	Member, officer or employee of that council
Any environment or health information	Office of Public Integrity, a Minister of the Crown

Public administration information

Where information relates to	Relevant authority
A public officer	Relevant supervisor or manager or department responsible officer
A public sector agency or employee	The Commissioner for Public Sector Employment or department responsible officer
An irregular and unauthorised use of public money or substantial mismanagement of public resources	Auditor-General
Commission or suspected commission of any offence	A member of the police force
An agency to which the <i>Ombudsman Act 1972</i> applies (eg water)	Relevant Ombudsman
A judicial officer	The Judicial Conduct Commissioner
A member of Parliament	The Presiding Officer of the House of Parliament
Any public administration information	Office of Public Integrity, a Minister of the Crown

Protections under the PID Act

Informant confidentiality

A person who makes an appropriate disclosure of public interest information is protected and their identity must be kept confidential. [PID Guideline 3: Informant Confidentiality](#) sets out some exceptions to maintaining confidentiality including in cases where it may be necessary to reveal the identity of an informant to prevent or minimise an imminent risk of serious physical injury or death to any person.

Under the PID Act, it is a criminal offence to divulge the identity of an informant except in the limited circumstances where that is permitted. This carries a maximum penalty of \$20,000 or imprisonment for 2 years.

The identity of the informant must be kept confidential unless the informant has consented to their identity being disclosed even when seeking any advice, for example from the Office for Public Integrity (OPI) or from the department responsible officers.

You can only disclose the identity of the informant in accordance with [PID Guideline 3: Informant Confidentiality](#) or if:

- you have assessed the disclosure
- based on that assessment, you are referring the appropriate disclosure of public interest information to OPI or to the department responsible officer for investigation
- based on that assessment, you have concluded that the matter cannot be fully investigated in the absence of the identity of the informant being disclosed.

Immunity

A person who makes an appropriate disclosure of public interest information has the immunity provided for in section 5(1) of the PID Act; that is, the person is not subject to any liability as a result of that disclosure.

Victimisation

It is a criminal offence to victimise a person who makes an appropriate disclosure of public interest information. The offence carries a maximum penalty of a \$20,000 fine or imprisonment for 2 years.

The PID Act also contains provisions dealing with victimisation of a person who suffers a detriment on the ground, or substantially on the ground, that the person has made (or intends to make) an appropriate disclosure of public interest information. This is also addressed in section 9 of the PID Act.

Preventing or hindering disclosures

It is an offence against the PID Act for a person to prevent another person from making an appropriate disclosure of public interest information or to hinder or obstruct another person in making such a disclosure. The offence carries a maximum penalty of \$20,000 or imprisonment for 2 years.

How the department will protect informants

To make sure informants are protected, the department will:

- provide support and information on the PID Act protections to the informant
- adopt and apply internal procedures that require compliance with section 8(1) of the PID Act in relation to confidentiality
- store information about appropriate disclosures securely
- proactively recognise and address any potential detrimental outcomes that may be caused from the disclosure.

Public officers can refer to the [employee complaints procedure \(PDF 420.5KB\)](#) for any concerns or complaints that need to be addressed.

False or misleading disclosures

A public officer should consult the responsible officer if they suspect a disclosure to be false or misleading.

It is an offence against the PID Act, with a maximum penalty of \$20,000 or imprisonment for 2 years, to make a disclosure of public interest information knowing that it is false or misleading in a material particular (whether by reason of the inclusion or omission of a particular).

Such a disclosure of public interest information is not protected by the PID Act.

Making an appropriate disclosure of public interest information

Step 1 – before making a disclosure

To make an appropriate disclosure of public interest information, you need to determine:

- whether the information you have is public interest information
- who you should disclose the information to (ie who the relevant authority is). Refer to [relevant authority](#) in this procedure.

It is recommended that you speak to 1 of the department's responsible officers for guidance. Refer to the list of [responsible officers](#) in this procedure.

Step 2 – making a disclosure

If you want to make an appropriate disclosure of public interest information related to the department or a department public officer, you have a number of options including:

Contact the Office of Public Integrity (OPI) and speak to them

Public officers and public authorities must report to the OPI any matter that they reasonably suspect involved corruption in public administration. More information is on the [OPI website](#).

Contact Ombudsman SA (OSA) and speak to them

Public officers and public authorities can report to the OPI or the Ombudsman any reasonable suspicion of misconduct or maladministration. More information is on the [OSA website](#).

Contact any of the department responsible officers

The [department responsible officer](#) can give you advice and assistance. A department responsible officer is a relevant authority to receive disclosures of public administration information or environmental and health information.

Alternatively, a disclosure can be made via the [online notification form](#) (which is only accessible by department responsible officers) or by sending a report through post:

Responsible Officer, Department for Education

GPO Box 1152

Adelaide SA 5001

Mark the envelope as private and confidential and address it to 1 of the responsible officers. Although not a requirement, it would be preferred if it can be sent through registered mail to ensure it is received by the department. If you want to be notified of the action taken, please provide your contact details.

Contact the person's manager or supervisor

If your disclosure of public administration information or environmental and health information relates to a department public officer, the person responsible for the management or supervision of that department public officer is also a relevant authority to whom you can make a disclosure.

Contact the Office of the Commissioner for Public Sector Employment

(OCPSE)

The [Office of the Commissioner for Public Sector Employment](#) is a relevant authority to receive disclosures of public administration information or environmental and health information regarding the department and department public sector employees.

When making the disclosure of information, if you are revealing your identity, you have rights about being kept informed. Please speak to the relevant authority about how you wish to be contacted. It is important that keeping you informed is done in a way that maintains strict confidentiality. You should decide together how they will keep you informed.

It is better to be kept informed in writing, although this is not a requirement.

Step 3 – assessment of disclosure

Once you have made an appropriate disclosure of public interest information, the person to whom you made the appropriate disclosure must take reasonable steps to notify you (provided your identity is known) that an assessment of the information has been made and to advise you of either:

- the action being taken in relation to the information
- no action being taken in relation to the information, and the reasons why no action is being taken.

If the action being taken is referring it to another person, then your identity may be disclosed as part of that referral, provided it is necessary for the purpose of investigating the disclosure.

Section 7(2) of the PID Act provides that no action need be taken in relation to an appropriate disclosure of public interest information if either:

- the information disclosed does not justify the taking of further action
- the information disclosed relates to a matter that has already been investigated or acted upon by a relevant authority and there is no reason to re-examine the matter or there is other good reason why no action should be taken in respect of the matter.

The requirements set out above from section 7 do not apply where an appropriate disclosure of public interest information is made to a journalist or a member of Parliament.

Step 4 – notification of action

If you have made an appropriate disclosure of public interest information, you should receive notification (provided your identity is known) of the action being taken (or the reasons for no actions being taken) within 30 days after making that disclosure.

You should also receive notification of the outcome of the action within 90 days after making that disclosure. However, the person whom you notified can give you a written notice saying that this period of time will be longer.

These notifications can be either verbal or in writing.

If the above applies, and if after 30 days or 90 days (or such other longer period specified in writing) you have not been notified as required, you are entitled the protections under the PID Act if you make an appropriate disclosure of the public interest information to a journalist or member of Parliament (other than a Minister of the Crown, as Ministers of the Crown are already relevant authorities under the PID Act) (see section 6 of the PID Act).

Under the PID Act, journalist means a person engaged in the profession or occupation of journalism in connection with the publication of information in a news medium.

Concerns about the action taken

If you are concerned or believe (as an informant) that your appropriate disclosure is not being dealt with by the department appropriately, please contact one of the department's [responsible officers](#), if prior disclosure has been made to a supervisor or manager. Responsible officers have obligations under the PID Act and will be able to assist you.

If your appropriate disclosure was made to a department responsible officer, contact other relevant authorities such as the [OPI](#) or the [Office of the Commissioner for Public Sector Employment](#).

Receiving and dealing with an appropriate disclosure of public interest information

Initial consideration

In order to determine whether someone has made an appropriate disclosure of public interest information to you, you need to assess the information given to you and consider whether you are a [relevant authority](#) for the particular information.

Advice can be provided to you by the department [responsible officers](#) and also by the [OPI](#).

When receiving the disclosure of information, please speak to the informant about how they wish to be contacted by you. It is important that if the informant has provided their identity, they be kept informed in a way that maintains strict confidentiality. You should decide together how you will keep them informed.

It is better they be kept informed in writing, although this is not a requirement.

Keeping the information secure

Any person who has received an appropriate disclosure of public interest information, must keep that information confidential. The department is committed to minimising any risk that an informant might be victimised as a consequence of making, or intending to make, a public interest disclosure.

The department's [responsible officers](#) will provide support and information about the PID Act protections to informants, and encourage informants to raise any concerns they have about potential detrimental outcomes that may be caused from the disclosure.

Step 1 – assessment

Section 7 of the PID Act requires a person to whom an appropriate disclosure is made to assess the information as soon as practicable after the disclosure is made.

If you are a person **to whom an appropriate disclosure of public interest information has been made**, you must assess the disclosure in accordance with the following:

- If the content of the disclosure suggests that there is an imminent risk of serious physical injury or death to any person or the public generally, you (as the recipient of the disclosure) should immediately communicate such information to the most appropriate agency (eg South Australia Police, SafeWork SA, SA Ambulance, Environment Protection Authority).
- If you form a reasonable suspicion that the matter(s) disclosed involve(s) corruption in public administration, misconduct or maladministration in public administration, you must comply with your reporting obligations under the [ICAC Act](#) and [report the matter to the OPI](#).
- If you assess the content of the disclosure as requiring further action, you must, unless the matter is reported to the OPI as a potential issue of corruption in public administration, ensure that:
 - such action as may be appropriate in the circumstances is taken by you to ensure the subject matter of the disclosure is properly addressed
 - such information as is necessary to enable action to be taken is communicated to the most appropriate person or [relevant authority](#) to take such action.
- You must notify the OPI of the appropriate disclosure as soon as reasonably practicable after its receipt by [making an electronic notification to the OPI](#). You must include:
 - the date the disclosure was received
 - your name and contact details
 - a summary of the content of the disclosure
 - the assessment made of the disclosure
 - the action taken by you including:
 - whether the disclosure was referred to another relevant authority, public authority, public officer or another person
 - (if the disclosure was referred to another relevant authority, public authority or public officer or other person):
 - the date of the referral
 - the identity of that relevant authority, public authority or public officer or another person to whom the disclosure was referred
 - the manner of referral
 - the action to be taken by that relevant authority, public authority or public officer or another person (if known).
 - (if no action was taken by you), the reason why no action was taken
 - whether the identity of the informant is known only to you (as the recipient of the disclosure) or if the identity of the informant has been communicated to a relevant authority, public authority or public officer or another person (and if so, the reasons why such communication was made).

- As the recipient of the disclosure, you must retain the unique reference number issued by the OPI after the making of a notification and must ensure that that unique reference number is provided to any other person or authority to whom the disclosure is referred.

Following your assessment, when referring the appropriate disclosure of public interest information to a department responsible officer, you can only disclose the identity of the informant if:

- you have assessed the disclosure
- based on that assessment, you are referring the appropriate disclosure of public interest information to the department responsible officer for investigation
- based on that assessment, you conclude that the matter cannot be fully investigated in the absence of the identity of the informant being disclosed.

There is no action needed to be taken in relation to an appropriate disclosure of public interest information if either:

- the information disclosed does not justify the taking of further action
- the information disclosed relates to a matter that has already been investigated or acted upon by a relevant authority and there is no reason to re-examine the matter or there is other good reason why no action should be taken in respect of the matter.

Advice can be provided to you by the department [responsible officers](#) and also by the [OPI](#).

Step 2 – notification to informants

You must take reasonable steps to notify the informant (if the informant's identity is known) that an assessment of the information has been made and to advise the informant of the action being taken in relation to the information.

Make this notification within 30 days of receiving the appropriate disclosure of public interest information. Make this notification in writing. However before emailing an informant, please ensure they have agreed to an appropriate email address to be used.

If you take longer than 30 days, if the informant believes on reasonable grounds that the information is true, then they are entitled to disclose the public interest information to a journalist or a member of Parliament other than a Minister of the Crown, and the disclosure will be considered to be an appropriate disclosure of public interest information.

You or a person to whom you have referred the disclosure to, will also need to notify the informant of the outcomes of the action. This needs to be done within 90 days of receiving the appropriate disclosure of public interest information.

If you or the department responsible officer form the view that it will take longer than 90 days for an outcome, then you must notify the informant in writing of this time period. You must then ensure that the informant is notified of the outcomes taken within this alternative time period.

If no action is required

If no action is being taken following an assessment, you must take reasonable steps to notify the informant (if the informant's identity is known):

- that an assessment of the information has been made
- that no action is being taken in relation to the information
- the reasons why no action is being taken in relation to the information.

Make this notification within 30 days of receiving the appropriate disclosure of public interest information. If you take longer than 30 days and if the informant believes on reasonable grounds that the information is true, the informant is entitled to disclose the public interest information to a journalist or a member of Parliament other than a Minister of the Crown, and the disclosure will be considered as an appropriate disclosure of public interest information.

Step 3 – notification of outcome of action taken

If an action is taken following the assessment of disclosure of public interest information

You or a person to whom you have referred the disclosure to, will need to notify the informant of the outcomes of the action. This needs to be done within 90 days of receiving the appropriate disclosure of public interest information or any previously communicated longer time frame to the informant (as per Step 2 – notification to informants in this procedure).

In addition, you or a person to whom you have referred the disclosure to, must notify the OPI as soon as reasonably practicable via the [online notification form](#) of the following:

- the unique identification number issued by the OPI upon notification of the original disclosure
- the name and contact details of the informant
- the name and contact details of the person or authority responsible for taking the action
- what (if any) findings were made in respect of the disclosure
- the nature of the action taken (if any)
- the outcome of any action taken (if applicable)
- whether the identity of the informant was disclosed to a person other than the original recipient of the disclosure
- whether the informant was notified of the action taken and, if so, when and how that notification was made.

Roles and responsibilities

All employees

All employees will comply with the PID Act. Where employees are considering a disclosure of public interest information under the PID Act, they should also consider if they have obligations under the [OPI directions and guidelines](#) and [OSA directions and guidelines](#).

Responsible officer

In accordance with section 13 of the PID Act, the responsible officer must:

- receive appropriate disclosures of public interest information relating to the department and ensure compliance with the PID Act in relation to such disclosures
- make appropriate recommendations to the department Chief Executive in relation to dealing with such disclosures
- provide advice to officers and employees of the department in relation to the administration of the PID Act.

The Chief Executive has appointed 4 responsible officers for the department:

Lisa Dwiar, Director Employee Relations

Phone: 8226 2207

Email: Lisa.Dwiar@sa.gov.au

Audra Cooper, Director Customer and Information Services

Phone: 8226 3246

Email: Audra.Cooper2@sa.gov.au

Andrew Wells, Director Incident Management

Phone: 8226 1847

Email: Andrew.Wells@sa.gov.au

Jasmine Sinodinos, Director Audit and Risk

Phone: 8226 1997

Email: jasmine.sinodinos@sa.gov.au

Definitions

environmental and health information

Information that raises a potential issue of a substantial risk to the environment or to the health and safety of the public generally or a significant section of the public (whether occurring before or after the commencement of the PID Act).

informant

A person who makes an appropriate disclosure of public interest information is referred to in these procedures and throughout the PID Act as an informant.

public administration information

Information that raises a potential issue of corruption, misconduct or maladministration in public administration. The definitions of corruption, misconduct and maladministration in public administration are the same as those found in the *ICAC Act* and the *Ombudsman Act 1972*.

public interest information

May either be an environmental and health information or public administration information.

public officer

Defined in Schedule 1 of the *ICAC Act*. The most common categories of public officer can be found in the appendices to the [PID Guidelines](#). Public sector employees are public officers.

relevant authority

The PID Act designates certain persons or organisations who can receive an appropriate disclosure of public interest information, depending on who or what the information relates to.

Supporting information

The directions and guidelines issued by the [OPI](#) and [OSA](#) can be accessed through the relevant websites.

Related legislation

[Public Interest Disclosure Act 2018](#)

[Public Interest Disclosure Regulations 2019](#)

[Public Interest Disclosure Guidelines](#)

[Independent Commission Against Corruption Act 2012](#)

[Independent Commission Against Corruption Regulations 2013](#)

[Ombudsman Act 1972](#)

Related policies

[Fraud, corruption, misconduct and maladministration control framework](#)

[Fraud, corruption, misconduct and maladministration control policy](#)

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