

Public Interest Disclosures Procedures

1. PURPOSE

This procedure assists in the protection of integrity in the Department of Planning, Transport and Infrastructure (DPTI) and public sector by maintaining compliance with the *Public Interest Disclosure Act 2018* (PID Act).

This procedure sets out the processes for making and dealing with appropriate disclosures of public information. It further describes the protections for public officers who make an appropriate disclosure of public administration information, and protections for all people who make an appropriate disclosure of environmental and health information.

2. SCOPE

This procedure applies to DPTI public officers, DPTI public sector employees and other people.

3. OBLIGATIONS

DPTI employees

DPTI employees are *public officers* and must comply with the PID Act. If considering a disclosure of public interest information under the PID Act, Public officers should also consider if they have obligations under the Directions and Guidelines issued by the *Independent Commissioner Against Corruption (ICAC)*. Refer to the [ICAC Guidelines](#).

A *public officer* who makes a report to the OPI (under the ICAC Act) may also be protected under the PID Act. Where a public officer makes a report to the OPI about a matter the public officer reasonably suspects involves a potential issue of corruption, misconduct or maladministration in public administration, that report will also be an appropriate disclosure of public administration information. The OPI will deal with the report in accordance with the ICAC Act but will also act consistently with the requirements of the PID Act.

For more information about how the OPI deals with complaints and reports visit the [ICAC website](#).

Chief Executive

The Chief Executive as the department's *Principal Officer* will:

- designate one or more persons to perform the roles of DPTI responsible officers;
- ensure the name and contact details of each DPTI responsible officer is made available to DPTI public officers;
- ensure procedures are made available, which set out processes:
 - for a person who wants to make an appropriate disclosure of public interest information to DPTI;
 - for DPTI public officers dealing with such a disclosure; and
 - clear obligations on DPTI and its public officers to take action to protect informants.

Responsible Officers

The DPTI responsible officer/s will:

- receive appropriate disclosures of public interest information relating to DPTI and DPTI public officers;
- ensure compliance with the PID Act in relation to a PID;

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- make appropriate recommendations to the principal officer in relation to dealing with such disclosures;
- provide advice to DPTI officers in relation to the administration of the PID Act;
- encourage informants to raise any concerns they have about potential detrimental outcomes that may be caused from the disclosure; and
- ensure that the person making the disclosure is kept informed of progress in the investigation, taking into account the sensitivity and confidentiality of the matter.

4. PROCEDURAL STATEMENT

This Procedure is sectioned into three parts:

- [Part 1](#) - provides information on disclosures of public interest information.
- [Part 2](#) - sets out the processes for making an appropriate disclosure of public interest information concerning a DPTI employee, or DPTI.
- [Part 3](#) - sets out the processes for any employee of DPTI in dealing with an appropriate disclosure.

PART 1 – PUBLIC INTEREST INFORMATION

There are two types of public interest information. They are environmental and health information, and public administration information. These terms are explained in more detail below.

Any person disclosing public interest information related to DPTI can seek the advice of a DPTI responsible officer. Information about the DPTI responsible officers is available within [Appendix 1](#) of this Procedure.

4.1 Environmental and health information

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). While any person can make a disclosure of environmental and health information, to gain the protections provided under the PID Act, a person who makes such a disclosure:

- must believe on reasonable grounds that the information is true; or
- not being in a position to form such a belief, believes 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.

A disclosure of environmental and health information that is accompanied by either of the above mentioned beliefs is referred to as an appropriate disclosure for the purposes of the PID Act.

4.2 Relevant authorities for receiving environmental and health information

For a disclosure to be considered an appropriate disclosure of environmental and health information it must be made to a relevant authority. There are a number of relevant authorities that can receive disclosures of environmental and health information. A disclosure of environmental and health information may be made to any of following relevant authorities:

- the Environment Protection Authority; or
- a DPTI responsible officer (only if the environmental and health information concerns DPTI or a DPTI public officer); or

- a member, officer or employee of the particular local council (only if the environmental or health risk concerns a local council area); or
- [Office of Public Integrity](#).

The table below outlines additional avenues (relevant authorities) for reporting particular types of public interest information.

Issue relates to	Relevant authority
Environmental risk	Environment Protection Authority
A location within a particular local council	A member, officer or employee of that council
Irregular and unauthorised use of public money or substantial mismanagement of public resources	Auditor-General
Public sector agency or public sector employee	Commissioner for Public Sector Employment or the responsible officer for the relevant public sector agency
Public officer (e.g. public sector employee, police officer)	The public officer's manager or supervisor, or the responsible officer for their public sector agency
Judicial officer	Judicial Conduct Commissioner
Member of Parliament	The Presiding Officer of the House of Parliament to which the member belongs
An agency which has a relevant Ombudsman – e.g. water	The relevant Ombudsman
Any environmental or health or public administration matter	Office for Public Integrity or a government minister

4.3 Public administration information

Public administration information means information that raises a potential issue of corruption, misconduct or maladministration in public administration, (whether occurring before or after the commencement of the PID Act). Only public officers who make an appropriate disclosure of public administration information are eligible for the protections provided by the PID Act. An appropriate disclosure of public administration information is made by a public officer if:

- the public officer reasonably suspects potential of corruption, misconduct and maladministration, as defined in the [Independent Commissioner Against Corruption Act 2012](#) (refer to Section 5 Definitions); and
- the disclosure is made to the relevant authority.

4.4 Relevant authorities for receiving disclosures of public administration information

There are a number of relevant authorities that can receive disclosures relating to public administration information. If the public administration information relates to a public officer in DPTI, relevant authorities for receiving the disclosure include any of the following:

- a [DPTI responsible officer](#); or
- the person responsible for the supervision or management of the public officer to whom the public administration information relates; or
- the Commissioner for Public Sector Employment (if the public officer is a public sector employee); or
- [Office of Public Integrity](#).

A list of relevant authorities is included in the appendices to the ICAC Guidelines (see the [ICAC Guidelines](#)).

PART 2 - MAKING AN APPROPRIATE DISCLOSURE

4.5 Making a disclosure

To make an appropriate disclosure of public interest information, prior to making the disclosure, determine whether the information is public interest information, and then determine who the information should be disclosed to (i.e. who the relevant authorities are).

The protection provided for the disclosure will depend on whether the informant is a public officer or not, and whether the public interest information is public administration information or environmental and health information.

There are a number of options available to an informant seeking to make an appropriate disclosure of public interest information related to DPTI or a DPTI public officer. These options include:

1 Contact the [Office of Public Integrity \(OPI\)](#).

The OPI is a relevant authority to receive disclosures of public administration information or environmental and health information regarding DPTI, DPTI public officers, and DPTI public sector employees.

2 Contact a DPTI responsible officer.

The DPTI responsible officer can provide advice and assistance. The DPTI responsible officer is a relevant authority to receive disclosures of public administration information or environmental and health information regarding DPTI, and DPTI public sector employees. Information on how to contact a DPTI responsible officers is available within [Appendix 1](#) of this Procedure.

3 Contact the person's manager or supervisor.

If a disclosure of public administration information relates to a DPTI public officer, the person responsible for the management or supervision of that DPTI public officer is also a relevant authority.

4 Contact the [Office of the Commissioner for Public Sector Employment](#).

The Commissioner for Public Sector Employment is a relevant authority to receive disclosures of public administration information regarding DPTI and DPTI public sector employees.

If an informant reveals their identity when making an appropriate disclosure of public interest information, they have rights to be kept informed and therefore should advise the relevant authority on how they wish to be contacted.

PART 3 - RECEIVING AN APPROPRIATE DISCLOSURE

The person receiving an appropriate disclosure of public interest information is required to comply with requirements set out under the PID Act and these Procedures.

4.6 Processes for people who receive a disclosure

If a person receives an appropriate disclosure of public interest information, the following must be considered:

1. 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, the recipient of the disclosure should immediately communicate the information to mitigate that risk to the most appropriate agency (eg. South Australia Police, SafeWork SA, SA Ambulance, Environment Protection Authority).
2. If the recipient of the disclosure forms a reasonable suspicion that the nature of the disclosure involves corruption in public administration, or serious or systemic misconduct or maladministration in public administration, they must comply with reporting obligations under the [ICAC Act](#).
3. If the recipient of the disclosure assesses the content of the disclosure as requiring further action, they must ensure that:
 - a) action as may be appropriate in the circumstances is taken to ensure the matter or the subject of the disclosure is properly addressed; or
 - b) information to enable action to be taken is communicated to the most appropriate person or relevant authority to take action.

NOTE: The above does not apply if the matter is reported to the [OPI](#) as a potential issue of corruption in public administration.

4. The recipient of the disclosure must notify the [OPI](#) of the appropriate disclosure as soon as reasonably practicable after the receipt of the appropriate disclosure by making an electronic notification via the dedicated notification form on the [ICAC website](#). The notification must include the following details:
 - a) the date the disclosure was received;
 - b) the recipient's name and contact details;
 - c) a summary of the content of the disclosure;
 - d) the assessment made of the disclosure;
 - e) the action taken (by the recipient of the disclosure) including:
 - i. whether the disclosure was referred to another relevant authority, public authority, public officer or another person; and
 - ii. 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; and
 - the action to be taken by that relevant authority, public authority or public officer or another person (if known).
 - f) if no action was taken (by the recipient of the disclosure) the reason why no action was taken; and
 - g) whether the identity of the informant is known only to 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).

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

Manager/supervisors

If a DPTI officer receives a public interest disclosure relating to a DPTI public officer they manage or supervise, they must confirm the nature and contents of the disclosure with the informant and refer the disclosure to a DPTI responsible officer or other relevant authority.

It is important to note that a person to whom an appropriate disclosure of public interest information is made, or a person to whom such a disclosure is referred, or who otherwise knows that such a disclosure has been made, must not, without the consent of the informant, knowingly divulge the identity of the informant except:

- so far as may be necessary to ensure that the matters to which the information relates are properly investigated; or
- in accordance with any applicable ICAC Guidelines.

The identity of the informant must be kept confidential unless the informant has consented to their identity being disclosed, even when seeking advice from the DPTI responsible officer, or other relevant authority.

Responsible officer

The DPTI responsible officer, will assess disclosures and will further:

- take action in relation to the information as is appropriate in the circumstances;
- 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; or
 - if, no action is being taken in relation to the information, of the reasons why no action is being taken in relation to the information; and
- provide OPI with information relating to the disclosure.

Where an informant has made an appropriate disclosure of public interest information, the responsible officer will:

- within 30 days after receiving that disclosure, provide notification of the action being taken (or the reasons for no actions being taken); and
- within 90 days after receiving that disclosure, provide notification of the outcome of the action.

However, the responsible officer may provide written notice where the above noted period of time will be longer. If the responsible officer does not provide the required notification after 30 days or 90 days (or such other longer period specified in writing), the informant is entitled to receive the protections under the PID Act if they 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).

4.7 Investigation of a disclosure

If a decision is made not to investigate or deal with a PID, the informant will be provided with written reasons for that decision. If information about the PID is substantiated following investigation, the responsible officer must:

- prepare a report and decide what action will be taken;

- inform the informant of progress and of the outcome; and
- provide OPI with information relating to the outcome of that action.

4.8 How DPTI will protect informants

In order to ensure that the informants are protected, DPTI 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; and
- proactively recognise and address any potential detrimental outcomes that may be caused from the disclosure.

4.9 Risk assessment and risk management

The *DPTI responsible officer* will conduct a risk assessment to:

- assess the likelihood of the informant suffering a detriment as a result of having made the disclosure; and
- as far as is reasonably practicable, manage any allegation of an alleged or suspected detriment.

A risk management plan will be developed in response to the risk assessment in consultation with the *informant* (where their identity is known) and will be reviewed and amended if required, until management of the public interest disclosure is finalised.

If an informant is concerned or believes that the *appropriate disclosure* is not being dealt with by DPTI appropriately, the following may be undertaken:

- If the *appropriate disclosure of public interest information* was made to a *relevant authority* in DPTI other than one of the *DPTI responsible officers*, seek the advice of a [DPTI responsible officer](#).
- If the appropriate disclosure was made to a *DPTI responsible officer*, contact other relevant authorities such as [OPI](#) or the [Office of the Commissioner for Public Sector Employment](#).

If an informant is concerned or suspects that they may have been or will be the subject of detriment on the grounds of having made, or being about to make, an *appropriate disclosure of public interest information*, they are encouraged to report that suspicion by:

- raising the concerns or suspicions with one of the [DPTI responsible officer](#); or
- raising the concerns with a different *DPTI responsible officer*, if the concerns relate to the way in which a *DPTI responsible officer* is handling the matter; or
- contact other *relevant authorities* such as [OPI](#) or the [Office of the Commissioner for Public Sector Employment](#).

4.10 Rights of DPTI public officers who are the subject of a disclosure

DPTI public officers who are the subject of a public interest disclosure are entitled to confidentiality. Matters relating to a public interest disclosure are dealt with impartially, fairly and reasonably, in accordance with the principles of natural justice.

4.11 Confidentiality

The PID Act creates an obligation to maintain the confidentiality of all people who make an *appropriate disclosure of public interest information*. An offence against section 8 of the PID Act carries a maximum penalty of \$20 000 or imprisonment for two years.

The identity of the informant must be kept confidential unless the informant has consented to their identity being disclosed, even when seeking advice from the DPTI *responsible officer* or any other relevant authority. [ICAC Guideline three: Informant Confidentiality](#) sets out some exceptions to maintaining confidentiality 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.

4.12 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.

4.13 Victimisation

It is a criminal offence to victimise a person who makes an *appropriate disclosure of public interest information*. The PID Act provides that a person who personally commits an act of victimisation under the PID Act is guilty of an offence. The offence carries a maximum penalty of a \$20 000 fine or imprisonment for two 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.

4.14 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 two years.

5. DEFINITIONS

Detriment - includes any of the following:

- *loss or damage (including damage to reputation); or*
- *injury or harm (including psychological harm); or*
- *intimidation or harassment; or*
- *discrimination, disadvantage or adverse treatment in relation to a person's employment; or*
- *threats of reprisal (whether express, or implied, or conditional or unconditional).*

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.

Journalist - means a person engaged in the profession or occupation of journalism in connection with the publication of information in a news medium.

Other persons – Includes members of the public.

Public officer - The term *public officer* is defined in Schedule 1 of the ICAC Act. The most common categories of *public officer* can be found in the appendices to the [ICAC Guidelines](#). Public sector employees are *public officers*. For the purposes of this Procedure the term 'DPTI Public Officer' includes DPTI public sector employees and more broadly public officers performing work or functions for or on behalf of DPTI.

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.

Responsible Officer - *responsible officers* for DPTI have been designated by the Chief Executive for the purposes of administering of the PID Act.

REFERENCES

Legislation

- [Independent Commissioner Against Corruption Act 2012](#)
- [Public Sector Act 2009](#)
- [Public Interest Disclosure Act 2018](#)

FURTHER INFORMATION

- [Code of Ethics for the South Australian Public Sector](#)
- [Office of the Commissioner for Public Sector Employment.](#)

APPROVAL

Approved on 1 July, 2019

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APPROVAL by Chief Executive

APPENDIX 1 - HOW INFORMANTS CAN CONTACT DPTI

There are a number of ways you can contact DPTI to make an *appropriate disclosure* of public interest information, including:

Email:

DPTI.PID@sa.gov.au, or

Post:

*Mark the envelope private and confidential
Public Interest Disclosure
Department of Planning, Transport and Infrastructure
GPO Box 1533
Adelaide SA 5001

A DPTI responsible officer is a relevant authority to receive disclosures of public administration information or environmental and health information regarding DPTI, and DPTI public sector employees.

When handling an appropriate public interest disclosure, DPTI responsible officers, will:

- Ensure referred disclosures are dealt with in a confidential manner in accordance with the PID Act.
- Ensure that the person making the disclosure is kept informed, while maintaining confidentiality.
- Encourage persons making a disclosure to raise any concerns they have about potential detrimental outcomes that may be caused from the disclosure.

Depending on the nature of the disclosure, and with the consent of the person making the disclosure, a responsible officer may refer the matter to a relevant person or authority.

Responsible officers will keep the identity of the person making the disclosure confidential, except where it is necessary to ensure that any disclosure is properly investigated or where the person making the disclosure provides the responsible officer with permission for their identity to be disclosed.