



Public interest disclosure Procedure

Classification C

1. Purpose

- 1.1 The objective of this procedure is to assist in the protection of integrity in the Department for Child Protection (DCP) and public sector by seeking to ensure compliance with the *Public Interest Disclosure Act 2018* (PID Act) and informing employees as to the impact and operation of the Act.
- 1.2 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).
- 1.3 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*.

2. Overview

- 2.1 In accordance with the requirements of the [PID Act](#), this DCP Public Interest Disclosure Procedure (the Procedure) sets out the process:
 - for any person who wants to make an appropriate disclosure of public interest information concerning a DCP employee or DCP; and
 - for any employee of DCP in dealing with any such appropriate disclosure.
- 2.2 The Independent Commissioner Against Corruption (the ICAC) has published four sets of guidelines under section 14 of the PID Act (the ICAC Guidelines) to provide additional requirements. The [ICAC Guidelines](#) also provide general information about the PID Act. This Procedure has been prepared to comply, and be consistent, with the ICAC Guidelines.

3. Obligations on public sector agencies

- 3.1 In accordance with section 12 (5) of the PID Act and [ICAC Guideline Four](#) these Procedures set out the following:
 - the manner in which DCP receives disclosures of *public interest information*, including:
 - the way in which a disclosure can be securely received
 - what steps DCP has put in place to ensure the *public interest information* is securely received and stored, and
 - who is responsible for ensuring compliance with these steps.
 - the criteria that will be applied in the assessment of a *public interest disclosure*
 - the manner in which details of the assessment will be securely stored and the person in DCP who will be advised of the assessment
 - the manner in which an informant will be kept informed as to action taken in respect of a disclosure
 - the person in DCP who can be contacted if an informant believes that his or her disclosure is not being dealt with appropriately

- obligations on DCP and its officers and employees to take action to protect informants, and
- risk management steps for assessing and minimising detrimental action against people because of public interest disclosures and detriment to people against whom allegations are made in a disclosure.

3.2 These Procedures set out how you can ensure you are complying with the PID Act and the ICAC Guidelines.

4. DCP Statement of Principles

4.1 The Chief Executive of the Department for Child Protection 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 matters of serious or systemic maladministration and misconduct in public administration
- Ensuring all DCP staff are informed about their rights and the correct process for disclosing and receiving public interest information.

5. Responsibilities

5.1 **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 Directions and Guidelines issued by the Independent Commissioner Against Corruption.

6. Definitions

6.1 **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.

6.2 **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*.

6.3 **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.

6.4 **Responsible Officer** - Under section 12(1) of the PID Act, as *principal officer* of DCP the Chief Executive has appointed *responsible officers* for DCP.

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

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

6.5 Anyone wanting to disclose *public interest information* related to DCP can therefore seek the advice of the DCP *responsible officer*. In addition, information is also available on the on the ICAC / [Office for Public Integrity \(OPI\)](#) website (www.icac.sa.gov.au).

6.6 The DCP *responsible officers* can be contacted here: DCPPublicInterestDisclosure@sa.gov.au

7. Making an appropriate disclosure of public interest information

7.1 Section 5 of the PID Act sets out what is an appropriate disclosure of public interest information.

7.2 In order to make an appropriate disclosure of public interest information you need to determine whether the information you have is *public interest information* and what type of *public interest information* it is. All persons can receive protections under the PID Act for disclosing *environmental and health information* but only *public officers* receive protections for disclosing *public administration information*. These terms are explained in more detail below.

7.3 You then need to determine who you should disclose the information to (i.e. who the *relevant authority* is).

7.4 Advice can be provided to you by the [DCP responsible officer](#). Further information about the PID Act can also be found on the ICAC / [OPI](#) website (www.icac.sa.gov.au).

8. Receiving an appropriate disclosure of public interest information

8.1 In order to determine whether an informant has made an appropriate disclosure of public interest *information* to you, you need to assess the information given to you, determine whether it is *public interest information* and consider whether you are a *relevant authority* for that type of information.

8.2 Advice can be provided to you by a [DCP responsible officer](#). Further information about the PID Act can also be found on the ICAC / [OPI](#) website (www.icac.sa.gov.au/).

9. What is Public Interest Information?

9.1 There are two types of *public interest information*. The first is *environmental and health information*. The second is *public administration information*.

9.1.1 Disclosures of environmental and health information

9.1.1.1 What is *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 - see section 4).

9.1.1.2 Who can make a disclosure of *environmental and health information*?

- Anyone can make a disclosure of environmental and health information.
- However, to gain the protections provided under the PID Act, a person who makes a disclosure of environmental and health information:
 - 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 these beliefs is referred to as an appropriate disclosure of environmental and health information for the purposes of the PID Act.

9.1.1.3 Who can receive a disclosure of *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.
- Whether a disclosure of public interest information is made to a relevant authority depends on the type of information being disclosed and what or who the information relates to.
- Section 5(5) of the PID Act specifies the relevant authorities that can receive disclosure of public interest information.
- This list of relevant authorities is included in the appendices to the ICAC Guidelines.
- Where information relates to a risk to the environment you should consider making a disclosure to the Environment Protection Authority (see the [ICAC Guidelines](#)).
- Where the information relates to a location within the area of a particular local council, you should consider making a disclosure to a member, officer or employee of that council (see the [ICAC Guidelines](#)).
- There are other relevant authorities that can receive disclosures relating to environmental and health information.
- If the environmental and health information relates to a public officer in DCP, both the DCP responsible officer or the person responsible for the supervision or management of the public officer the environmental and health information relates to are relevant authorities.
- If the environmental and health information relates to a public sector employee in DCP or relates to DCP, both the DCP responsible officer or the Commissioner for Public Sector Employment are relevant authorities.
- [OPI](#) is also a relevant authority for any appropriate disclosure of environmental and health information.

9.1.2 Disclosures of public administration information

9.1.2.1 What is *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).
- The definitions of corruption, misconduct and maladministration in public administration are the same as those found in the ICAC Act and can be found in the appendices to ICAC Guidelines (see the ICAC Guidelines).

9.1.2.2 Who can make a disclosure of *public administration information*?

- 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.
- 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 (see the [ICAC Guidelines](#)).
- Public sector employees are *public officers*.

9.1.2.3 Who can receive a disclosure of *public administration information*?

- To gain the protections provided by the PID Act a *public officer* must make a disclosure of *public administration information* to a *relevant authority* in circumstances where the *public officer* reasonably suspects that the information raises a potential issue of corruption, misconduct or maladministration in public administration.
- A disclosure of *public administration information* that is accompanied by such a suspicion is referred to as an *appropriate disclosure of public administration information* for the purposes of the PID Act.
- There are a number of *relevant authorities* that can receive disclosures relating to *public administration information*.
- Whether a disclosure of *public interest information* is made to a *relevant authority* depends on the type of information being disclosed and what or who the information relates to.
- Section 5(5) of the PID Act specifies the *relevant authorities* that can receive disclosure of *public interest information*.
- The list of relevant authorities is included in the appendices to the ICAC Guidelines (see the [ICAC Guidelines](#)).
- If the *public administration information* relates to a *public officer* in DCP, both the DCP *responsible officer* or the person responsible for the supervision or management of the *public officer* the *public administration information* relates to are relevant authorities.
- If the *public administration information* relates to a public sector employee in DCP or relates to DCP, both the DCP *responsible officer* or the Commissioner for Public Sector Employment are relevant authorities.
- The OPI is also a *relevant authority* for any appropriate disclosure of *public administration information*.

9.1.2.4 How do I make a disclosure of *public administration information*?

- Each *relevant authority* has its own procedures in relation to disclosing and receiving public administration information.
- These Procedures set out how *public officers* in DCP can make, and what to do if they receive, an *appropriate disclosure of public interest information*.

10. False or Misleading Disclosures

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

10.2 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).

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

11. What protections are given under the PID Act?

11.1 There are two types of public interest information:

1. Environmental and health information
2. Public administration information.

11.2 Only *public officers* are eligible for the protections provided by the PID Act when they make an appropriate disclosure of *public administration information*.

11.3 However, anyone is eligible for the protections provided by the PID Act if they make an appropriate disclosure of *environmental and health information*, provided:

- they 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.

11.4 Confidentiality

- A person who makes an *appropriate disclosure of public interest information* is protected and their identity must be kept confidential in accordance with section 8 of the PID Act.
- [ICAC Guideline three: 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.
- If you receive an *appropriate disclosure of public interest information*, when seeking any advice, for example from OPI or from the DCP *responsible officer*, you must not disclose the identity of the informant unless the informant has consented.
- You can only disclose the identity of the informant in accordance with ICAC Guideline three or if you have:
 - assessed the disclosure; and
 - based on that assessment, you are referring the *appropriate disclosure of public interest information* to OPI or to the DCP *responsible officer* for investigation; and
 - 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.

11.5 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.

11.6 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 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.

11.7 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.

11.8 The offence carries a maximum penalty of \$20 000 or imprisonment for 2 years.

11.9 I have an obligation to make a report to the Office of Public Integrity (OPI). Can I still be protected under the PID Act?

- 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* because the OPI is itself a *relevant authority*.
- Accordingly, such a report will ordinarily provide the *public officer* the protections under the PID Act.
- The OPI will deal with your report in accordance with the ICAC Act but will also act consistently with the requirements of the PID Act.

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

12. Protecting Informants

12.1 DCP is committed to protecting people who make an appropriate disclosure of public interest information. The protections afforded under the PID Act are outlined in the section 'What protections are given under the PID Act' in this Procedures document.

12.2 The PID Act creates an obligation to maintain the confidentiality of all people who make an *appropriate disclosure of public interest information*.

12.3 This is reflected in section 8 of the PID Act which states 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.

12.4 An offence against this section carries a maximum penalty of \$20 000 or imprisonment for 2 years.

12.5 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 DCP *responsible officer*.

12.6 The obligation to maintain confidentiality imposed by section 8 applies despite any other statutory provision, or a common law rule, to the contrary. The exceptions to maintaining confidentiality are set out in [ICAC Guideline 3 and in section 8\(1\) of the PID Act](#).

12.7 How DCP will protect informants

12.7.1 In order to ensure that the informants are protected, DCP will:

1. Provide support and information on the PID Act protections to the informant
2. Adopt and apply internal procedures that require compliance with section 8(1) of the PID Act in relation to confidentiality
3. Store information about appropriate disclosures securely
4. Proactively recognise and address any potential detrimental outcomes that may be caused from the disclosure

12.7.2 Furthermore, *public officers* are able to refer to the [DCP complaints web page](#) for any concerns or complaints that need to be addressed.

12.7.3 Remember you can seek the advice of the DCP *responsible officer* to ensure you are complying with the ICAC Guidelines, as well as with the PID Act.

13. More information

13.1.1 The Directions and Guidelines issued by the Independent Commissioner Against Corruption can be access through www.icac.sa.gov.au.

14. Appendices

- Appendix 1 Making an appropriate disclosure of public interest information.

APPENDIX 1

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* and you need determine who you should disclose the information to (i.e. who the *relevant authorities* are).

Whether you receive protection under the PID Act will depend in part on who you are and the subject matter the disclosure. Anyone can receive the protection of the PID Act if an appropriate disclosure is made of *environmental and health information* in accordance with the PID Act. Only *public officers* are eligible for the protections under the PID Act if making an appropriate disclosure of *public administration information*.

Step 2 Making a disclosure

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

- 1. You can contact the [OPI](#) and speak to them.**
 - The OPI is a *relevant authority* to receive disclosures of *public administration information* or *environmental and health information* regarding DCP, DCP *public officers* and DCP public sector employees.
- 2. You can contact the [DCP responsible officer](#).**
 - The DCP *responsible officer* can provide you with advice and assistance. The DCP *responsible officer* is a *relevant authority* to receive disclosures of *public administration information* or *environmental and health information* regarding DCP and DCP public sector employees.
- 3. Contact the person's manager or supervisor**
 - If your disclosure of *public administration information* or *environmental and health information* relates to a DCP *public officer*, the person responsible for the management or supervision of that DCP *public officer* is also a *relevant authority* and you can disclose to them.
- 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* or *environmental and health information* regarding DCP and DCP public sector employees.

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

When making the disclosure of information, if you are revealing your identity, you have rights set out below about being kept informed. Please speak to the *relevant authority* about how you wish to be contacted by them. It is important that keeping you informed is done in a way that maintains strict confidentiality. 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 make an *appropriate disclosure of public interest information* in accordance with section 5, the person to whom you made the *appropriate disclosure* must take certain steps as set out in section 7 of the PID Act.

This includes (amongst other things) taking reasonable steps to notify you (as the informant provided your identity is known) that an assessment of the information has been made and to advise you (as the informant) of either:

- the action being taken in relation to the information (section 7(1)(b)(i)), 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 (section 7(1)(b)(ii)).

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

If any action is being taken in relation to the information, then the person you disclosed the information to (or the person it has been referred to) must take reasonable steps to notify you (as the informant, if your identity is known) of the outcome of that action (section 7(3)(a)).

However, if you make an *appropriate disclosure of public interest information* to a Minister of the Crown, the requirements set out above from section 7 do not apply. The following provisions apply instead:

- the Minister must, as soon as practicable, refer the disclosure to a *relevant authority*; and
- the *relevant authority*:
 - must deal with the information in accordance with section 7 (as if the disclosure had been made to the *relevant authority* in the first place); and
 - must ensure that the Minister is notified of the action taken under section 7 in relation to the information and the outcome of such action.

Step 4 Action to be taken

Section 7 of the PID Act requires the person to whom an *appropriate disclosure of public interest information* is made to take certain actions and notify OPI in accordance with the ICAC Guidelines. This is set out below in more detail below under 'Receipt, assessment and notification of appropriate disclosures of public interest information'.

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

- the information disclosed does not justify the taking of further action; or
- 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 (see below).

Concerns about the action taken

If you are concerned or believe (as an informant) that your *appropriate disclosure* is not being dealt with by DCP appropriately:

- If your *appropriate disclosure of public interest information* was made to a *relevant authority* in DCP other than a *responsible officer*, please contact one of the [DCP responsible officers](#). *Responsible officers* have obligations under the PID Act and will be able to assist you.
- If your *appropriate disclosure* was made to a DCP *responsible officer*, contact other relevant authorities such as [OPI](#) or the [Office of the Commissioner for Public Sector Employment](#).

If you are concerned or suspect (as an informant) that you 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*, you are encouraged to report that suspicion.

- Please raise your concerns or suspicions with one of the [DCP responsible officers](#). *Responsible officers* have obligations under the PID Act and will be able to assist you.
- If your concerns relate to the way in which a DCP *responsible officer* is handling your matter, you might want to raise your concerns with a different DCP responsible officer.
- Alternatively, you might prefer to contact other *relevant authorities* such as [OPI](#) or the [Office of the Commissioner for Public Sector Employment](#).

Disclosure to a journalist or member of Parliament

If you have:

- made an *appropriate disclosure of public interest information* in accordance with section 5; and
- believe on reasonable grounds that the information is true, and
- if you have made your identity known to the person to whom that *appropriate disclosure* was made (that is, they can contact you);

you have certain rights.

You should receive notification 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. Under these Procedures the *relevant authority* is directed to provide the notification in writing but under the PID Act this is not a requirement.

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 to receive 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.

Other information

As set out in these Procedures, DCP has an obligation to protect informants.

DCP *responsible officers* are directed to ensure matters are kept strictly confidential, for example, all printed materials are kept in a locked cupboard or drawer that only the DCP *responsible officer* can access and any conversations with an informant are to be held in private. In addition, the emails sent to and from DCP *responsible officers* are kept secure and are not accessed by other staff members.

DCP 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*.

DCP *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.

How informants can contact DCP

You can contact DCP to make an *appropriate disclosure* of public interest information via Email: DCPPublicInterestDisclosure@sa.gov.au

You can contact the *responsible officer* via email to make an *appropriate disclosure* or you may request to meet them face to face in a neutral location.

Upon receiving the disclosure, the DCP *responsible officer*, will ensure:

- that the information is securely received and not divulged to other parties;
- only *responsible officers* will be able to access the DCP PID mailbox (with appropriate ICT security measures);
- the Chief Executive is responsible for ensuring compliance with these steps.

When making the disclosure of information, if you are revealing your identity, you have rights about being kept informed. Please speak to the *responsible officer* about how you wish to be contacted by them.

The person receiving the *public interest information* must comply with the requirements set out under the PID Act.