



## Public Interest Disclosure Procedure

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# Public Interest Disclosure Procedure

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## 1. Purpose

The objective of this procedure is to assist in the protection of integrity in the Department for Trade and Investment (DTI) 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.

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.

### Overview

In accordance with the requirements of the PID Act, this DTI 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 an DTI employee or DTI (see Appendix 1 for details); and
- for any employee of DTI in dealing with any such *appropriate disclosure* (see Appendix 2 for details).

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.

## 2. Scope

This Procedure will apply to all areas of DTI, to all employees and contractors working in DTI.

In accordance with section 12 (5) of the PID Act and [ICAC Guideline Four](#), these Procedures set out the following:

- the manner in which DTI receives disclosures of *public interest information*, including:
  - the way in which a disclosure can be securely received (see Appendix 3 for details)
  - what steps DTI 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 DTI 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 DTI who can be contacted if an informant believes that his or her disclosure is not being dealt with appropriately
- obligations on DTI 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.

This Procedure sets out so to ensure compliance with the PID Act and the ICAC Guidelines.

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## 3. Responsibilities

The Code of Ethics for the South Australian Public Sector requires all public-sector employees to comply with the principles and values of public sector behaviour. Public officers are to exhibit the highest standards of professional conduct in undertaking their duties.

**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.

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

## 4. Public Interest Disclosure

### What is an appropriate disclosure of public interest information?

#### Informant

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

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.

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

#### Public officer or responsible officer

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*.

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

### What is Public Interest Information?

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

#### Disclosures of environmental and health information

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).

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

- Anyone can make a disclosure of *environmental and health information*.

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- 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.

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*.
- 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*.
- 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.
- If the *environmental and health information* relates to a *public officer* in DTI, the *relevant authority* is the DTI *responsible officer* or the person responsible for the supervision or management of the *public officer* the environmental and health information relates to.
- If the *environmental and health information* relates to a public sector employee in DTI or relates to DTI, the *relevant authority* is the DTI *responsible officer* or the Commissioner for Public Sector Employment.
- OPI is also a relevant authority.

### Disclosures of public administration information

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).

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](#)).

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- Public sector employees are *public officers*.

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 DTI, the *relevant authority* is the DTI *responsible officer* or the person responsible for the supervision or management of the *public officer* the *public administration information* relates to.
- If the *public administration information* relates to a public sector employee in DTI or relates to DTI, the *relevant authority* is the DTI *responsible officer* or the Commissioner for Public Sector Employment.
- The OPI is also a *relevant authority*.

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 DTI can make, and what to do if they receive, an *appropriate disclosure of public interest information*.

See Appendix 1-3 for further details.

## 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.

## What protections are given under the PID Act?

There are two types of public interest information:

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

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

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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.

## 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 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 there are penalties associated with keeping confidentially of the informant.
- If you receive an *appropriate disclosure of public interest information*, when seeking any advice, for example from OPI or from the DTI *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 Guidelines 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 DTI *responsible officer* for investigation; and
  - based on that assessment, 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.

## 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.

## 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.

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

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- 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.

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

## Protecting Informants

DTI 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.

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

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.

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

As set out in the Appendices, 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 DTI *responsible officer*.

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](#).

## How DTI will protect informants

In order to ensure that the informants are protected, DTI will follow the below steps, including:

1. Providing support and information on the PID Act protections to the informant
2. Maintain confidentiality throughout the process and ensuring the identity of any informant is kept secure as set out in these Procedures
3. Proactively recognising and addressing any potential detrimental outcomes that may be caused from the disclosure
4. Removing liability from any actions and outcomes that come from the disclosure.

Furthermore, public officers are able to refer to the Complaints Resolution and Internal Review Procedure for any concerns or complaints that need to be addressed.

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

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## More information

The Directions and Guidelines issued by the Independent Commissioner Against Corruption can be access through [www.icac.sa.gov.au](http://www.icac.sa.gov.au).

## 5. Terms and Definitions

<b>Customer</b>	the people who receive or consume our services; they can be individuals or organisations who are directly affected by our services, policies or products. Customers can be internal or external to government.
<b>Informant</b>	A person who makes an <i>appropriate disclosure</i> of <i>public interest information</i> is referred to in these Procedures and throughout the PID Act as an informant.
<b>Public Officer</b>	The term <i>public officer</i> is defined in Schedule 1 of the ICAC Act. The most common categories of <i>public officer</i> can be found in the appendices to the <a href="#">ICAC Guidelines</a> . Public sector employees are <i>public officers</i> .
<b>Relevant Authority</b>	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.
<b>Responsible Officer</b>	Under section 12(1) of the PID Act, as principal officer of DTI the Chief Executive has appointed a responsible officer for DTI. In accordance with section 13 of the PID Act, the responsible officer must: <ul style="list-style-type: none"><li>• receive appropriate disclosures of public interest information relating to DTI and ensure compliance with the PID Act in relation to such disclosures, and</li><li>• make appropriate recommendations to the DTI Chief Executive in relation to dealing with such disclosures, and</li><li>• provide advice to officers and employees of the DTI in relation to the administration of the PID Act.</li></ul>

## 6. Principles and Standards

The Chief Executive of DTI is committed to:

- Accountability and transparency across DTI
- 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 DTI
- 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



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- Ensuring all DTI staff are informed about their rights and the correct process for disclosing and receiving public interest information.

## 7. Supporting Documents

- *Public Interest Disclosure Act 2018*
- *Public Interest Disclosure Act 2018* Fact Sheets

## 8. Appendices

- Appendix 1 Making an appropriate disclosure of public interest information.
- Appendix 2 Receiving and dealing with an appropriate disclosure of public interest information.
- Appendix 3 How informants can contact DTI.

## 9. Document Feedback

To provide any feedback, including omissions, error or general comment on this document, email the feedback details to [DTTI.OCE@sa.gov.au](mailto:DTTI.OCE@sa.gov.au)

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## 10. Document Control

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# Public Interest Disclosure Procedure

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

<b>Step 1 - Before making a disclosure</b>
<p>To make an <i>appropriate disclosure of public interest information</i> you need to determine whether the information you have is <i>public interest information</i> and you need determine who you should disclose the information to (i.e. who the <i>relevant authority</i> is).</p> <p>What protection you receive will depend on whether you are a <i>public officer</i> or not and whether the <i>public interest information</i> is <i>public administration information</i> or <i>environmental and health information</i>.</p>
<b>Step 2 – Making a Disclosure</b>
<p>If you want to make an <i>appropriate disclosure of public interest information</i> related to DTI or an DTI <i>public officer</i>, you have a number of options including:</p> <ul style="list-style-type: none"><li>• <b>You can contact the <a href="#">OPI</a> and speak to them.</b><p>The OPI is a <i>relevant authority</i> to receive disclosures of <i>public administration information</i> or <i>environmental and health information</i> regarding DTI, DTI <i>public officers</i> and DTI public sector employees.</p></li><li>• <b>You can contact the DTI responsible officer.</b><p>The DTI <i>responsible officer</i> can provide you with advice and assistance. The DTI <i>responsible officer</i> is a <i>relevant authority</i> to receive disclosures of <i>public administration information</i> or <i>environmental and health information</i> regarding DTI and DTI public sector employees.</p><p>You can follow the steps at Appendix 3.</p></li><li>• <b>Contact the person’s manager or supervisor</b><p>If your disclosure of <i>public administration information</i> or <i>environmental and health information</i> relates to an DTI <i>public officer</i>, the person responsible for the management or supervision of that DTI <i>public officer</i> is also a <i>relevant authority</i> and you can disclose to them.</p></li><li>• <b>Contact the <a href="#">Office of the Commissioner for Public Sector Employment</a>.</b><p>The Commissioner for Public Sector Employment is a <i>relevant authority</i> to receive disclosures of <i>public administration information</i> or <i>environmental and health information</i> regarding DTI and DTI public sector employees.</p></li></ul> <p>The person receiving the <i>appropriate disclosure of public interest information</i> is required to comply with a number of requirements set out under the PID Act and these Procedures.</p> <p>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 <i>relevant authority</i> 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.</p>
<b>Step 3 – Assessment of Disclosure</b>

## Public Interest Disclosure Procedure

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 is allowed to be disclosed as part of that referral, provided it 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'.

- 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).

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

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### Concerns about the action taken

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

- If your *appropriate disclosure of public interest information* was made to a *relevant authority* in DTI other than a *responsible officer*, please contact the DTI responsible officer (see contact details at Appendix 3). *Responsible officers* have obligations under the PID Act and will be able to assist you.
- If your *appropriate disclosure* was made to the DTI *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.

- If your *appropriate disclosure of public interest information* was made to a *relevant authority* in DTI other than a *responsible officer*, please contact one of the DTI *responsible officers*. *Responsible officers* have obligations under the PID Act and will be able to assist you.
- If your *appropriate disclosure* was made to an DTI *responsible officer*, you can always discuss your concerns with them, but 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.

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### **Other information**

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

DTI *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 DTI *responsible officer* can access and any conversations with an informant are to be held in private. In addition, the emails sent to and from DTI *responsible officers* are kept secure and are not accessed by other staff members.

DTI 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*.

DTI *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.

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## 10.2. Appendix 2 - Receiving and dealing with an appropriate disclosure of public interest information

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*.

Advice can be provided to you by a DTI *responsible officer* and also by the [Office for Public Integrity \(OPI\)](#).

**When seeking advice, you must not disclose the identity of the informant, nor disclose any information that could reveal the identity of the informant, unless the informant consents.**

There are two types of *public interest information*. The first is *environmental and health information*. The second is *public administration information*. And whether you are a *relevant authority* will depend on the information being received.

Once you have determined that you are a *relevant authority* who has received an *appropriate disclosure of public interest information* you must take certain steps to comply with the PID Act and the ICAC Guidelines.

To ensure you are complying with the PID Act it is recommended that you seek the advice and assistance of the DTI responsible officer.

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 that they be kept informed as set out below, but that it is done in a way that maintains strict confidentiality. Decide together how you will keep them informed.

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

### Receipt, assessment and notification of appropriate disclosures of public interest information

A person to whom an *appropriate disclosure of public interest information* is made, must assess the information as soon as practicable after the disclosure is made (see section 7(1) of the PID Act).

If you are person to whom an *appropriate disclosure of public interest information* is made, then the first step is to seek the advice of a DTI *responsible officer*.

#### 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.

#### Assess for Imminent Risk

Immediately assess the disclosure to ascertain whether the 'imminent risk' provision of Guideline One applies (see below).

#### Assess to decide whether, on its face, it is a disclosure of public interest information

- *Does the information disclosed raise a potential issue of:*
  - Corruption in public administration?
  - Misconduct in public administration?
  - Maladministration in public administration?
- *Does the information disclosed raise a potential issue of a substantial risk to the environment or to the health or safety of the public generally or a significant section of the public?*

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If the disclosure assessed has the character of public interest information consider whether an obligation arises to report that matter to the OPI, applying the criteria in the ICAC Act, and in accordance with Guideline One:

- *If the recipient of the disclosure forms a reasonable suspicion that the matter(s) the subject of the disclosure involve(s) corruption in public administration, or serious or systemic misconduct or maladministration in public administration, the recipient of the disclosure must comply with his or her reporting obligations under the ICAC Act.*

### **Assess for no further action**

If the obligation to report under the ICAC Act does not arise, assess whether this is information in relation to which no action need be taken seeking the advice of the *responsible officer*.

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 (see section 7(2)).

### **No Action Required: Notification of Informant**

If no action is being taken, as the person to whom the *appropriate disclosure of public interest information* was made, you still need to comply with 7(1)(b) of the PID Act.

The *responsible officer* can assist you, but 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; and
- 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 to be an *appropriate disclosure of public interest information*.

### **Assess for further action required**

If the information does not give rise to a potential issue of corruption, but warrants further action, you need to determine who best should take action in relation to it, having regard to the following criteria:

- If investigation of the information may be warranted, who has the skills, resources and powers to investigate the matter?
- If the information is substantiated following an investigation, what action would be appropriate? Who has the skills, resources and powers to take appropriate action in relation to the matter arising from the information, if the information is substantiated?

Having identified the appropriate person or authority to take action in relation to the matter raised by the information, the information should be further assessed to determine what information

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should be communicated to that person or authority to enable the information to be properly addressed.

### **Action Required: Provide Information to OPI**

If action needs to be taken, unless good reasons exist for not doing so, please refer the *appropriate disclosure of public interest information* to an DTI *responsible officer*.

For example, an appropriate disclosure of public interest information would not be referred to an DTI *responsible officer* if the information related to them.

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

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

Even if you refer the appropriate disclosure of public interest information to an DTI responsible officer then you must still:

- take action in relation to the information in accordance with the [ICAC Guideline One](#) set out below (as required by section 7(1)(a)); and
- provide OPI with information relating to the disclosure in accordance with the [ICAC Guideline One](#) (as required by section 7(1)(c)).

The DTI *responsible officer* can assist you.

The first step is to ensure you are complying with [ICAC Guideline One](#) entitled *Receipt, assessment & notification of appropriate disclosures*.

ICAC Guideline One applies in respect of the action to be taken by **a person to whom an appropriate disclosure of public interest information has been made** (the recipient of the disclosure) and in respect of the notification to the OPI of the receipt of the appropriate disclosure.

If you are a person **to whom an appropriate disclosure of public interest information has been made**:

- 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 as may be necessary to mitigate that risk to the most appropriate agency (eg. South Australia Police, SafeWork SA, SA Ambulance, Environment Protection Authority).
- If you (as the recipient of the disclosure) form a reasonable suspicion that the matter(s) the subject of the disclosure involve(s) corruption in public administration, or serious or systemic misconduct or maladministration in public administration, you must comply with your reporting obligations under the [ICAC Act](#).
- If you (as the recipient of the disclosure) assesses 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 matter the subject of the disclosure is properly addressed; or



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- 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 (as 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](#) and must include in that notification:
  - 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 (as the recipient of the disclosure) including:
    - whether the disclosure was referred to another *relevant authority*, *public authority*, *public officer* or another person; and
    - 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).
  - if no action was taken by you (as the recipient of the disclosure) the reason why no action was taken; and
  - 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.

### Step 2 - Action Required: Notification of Informant

As a person to whom an *appropriate disclosure of public interest information* has been made, you also need comply with section 7(1)(b) of the PID Act.

The DTI *responsible officer* can assist you.

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*.

As set out below, later on either 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

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90 days of receiving the *appropriate disclosure of public interest information* (see below) unless you let the person know it will take longer.

If you or the DTI *responsible officer* form the view that it will take longer than 90 days from the *appropriate disclosure of public interest information* for an outcome, then you must notify the informant in writing of this alternative longer period of time in which you will report to them on the outcomes of the actions.

Do this when you notify the informant of the action being taken.

### Step 3 - Outcomes of Action: Notifications

#### Outcomes of Action: Notification of Informant

It is recommended that you refer any *appropriate disclosure of public interest information* to an DTI *responsible officer*. You must take reasonable steps to notify the informant (if the informant's identity is known) of the outcome of that action (see section 7(3)(a) of the PID Act).

If you don't refer the matter to an DTI *responsible officer*, you must take the appropriate action as decided through the assessment of the information.

You must take reasonable steps to notify the informant (if the informant's identity is known) of the outcome of that action (see section 7(3)(a) of the PID Act).

If you refer the *appropriate disclosure of public interest information* to an DTI *responsible officer*, or to another person, then the DTI *responsible officer* or the other person must take reasonable steps to notify the informant (if the informant's identity is known) of the outcome of that action (see section 7(3)(a) of the PID Act).

Please make this notification in writing however before emailing an informant, please ensure they have agreed to an appropriate email address to be used. This notification to the informant must be done within 90 days of receiving the *appropriate disclosure of public interest information*, or within such longer period if you have made a notification to the informant that you will take longer to report to them on the outcomes (see above).

If it takes longer than 90 days (or the alternative longer period of time notified above) to notify the informant of the outcomes of the action, and 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*.

#### Outcomes of Action: Notification of OPI

If you take action in relation to an *appropriate disclosure of public interest information*, you must provide OPI with information relating to the outcome of that action in accordance with [ICAC Guideline Two](#) entitled *Notification of action taken* set out below (see section 7(3)(b) of the PID Act).

If you take action in relation to an *appropriate disclosure of public interest information*, and if such action consists of referring the *appropriate disclosure of public interest information* to another person, then that other person to whom it is referred must provide OPI with information relating to the outcome of that action in accordance with [ICAC Guideline Two](#) (see section 7(3)(b) of the PID Act).

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ICAC Guideline Two provides that in addition to the requirement for OPI to be notified when an *appropriate disclosure of public interest information* is received (see [Guideline One](#)), the OPI must also be notified of any action taken in relation to the disclosure.

ICAC Guideline Two applies in relation to the notification to the OPI of the outcome of any action taken upon receipt of, or referral of, an appropriate disclosure of public interest information.

If you have received an *appropriate disclosure of public interest information*, or if you have received a referral of such a disclosure from someone else, you must notify the OPI as soon as reasonably practicable via the [online notification form](#) 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, and
- whether the informant was notified of the action taken and, if so, when and how that notification was made.

### Appropriate disclosure of public interest information made to Minister of the Crown

If an *appropriate disclosure of public interest information* is made to a Minister of the Crown, the following provisions apply:

- 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 this section (as if the disclosure had been made to the relevant authority); and
  - must ensure that the Minister is notified of the action taken under this section in relation to the information and the outcome of such action (see section 7(5) of the [PID Act](#)).

### Keeping the information safe

Any person who has received an *appropriate disclosure of public interest information*, must keep that information confidential.

DTI *responsible officers* will have access to a secure positional mailbox through their email account. The mailbox will only be accessed by the *responsible officers* and has appropriate ICT security measures in place.

The DTI *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 DTI *responsible officers* can access and any conversations with an informant are to be held in private. In addition, the emails sent to and from the DTI *responsible officers* are kept secure and are not accessed by other staff members.

DTI 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 DTI *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.



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## 10.3. Appendix 3 - How informants can contact DTI

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

- Email: [DTTI.PID@sa.gov.au](mailto:DTTI.PID@sa.gov.au), or
- Telephone: 8303 2400 and ask to speak to the Public Interest Disclosure Responsible Officer, or
- Post: *\*Mark the envelope private and confidential*  
Public Interest Disclosure,  
Department for Trade, Tourism and Investment  
GPO Box 320  
Adelaide SA 5001.

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

Upon receiving the disclosure, the DTI *responsible officers*, will ensure:

- that the information is securely received and not divulge to other parties;
- only *responsible officers* will be able to access the DTTI.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 and must also follow the procedures outlined in this document (see the section 'Receiving and dealing with an appropriate disclosure of public interest information').

### Accessibility and assistance

For customers who do not have English as their first language or customers who are hearing impaired or mute, the Australian Government provides the following services:

- If English is not your preferred language, please contact the Interpreting and Translating Centre (ITC): on 1800 280 203 and then ask for 8303 2400
- National Relay Service (Speak and Listen): call 1300 555 727, then ask for 8303 2400
- National Relay Service (TTY users): call 133 677, then ask for 8303 2400
- Internet relay users can make an online call at: <https://internet-relay.nrscall.gov.au/>.

Customers using these services can request to be put through to DTI via telephone on 8303 2400 to provide a *disclosure* or to make an enquiry.