



PROCEDURES RELATING TO ECU'S OBLIGATIONS UNDER THE PUBLIC INTEREST DISCLOSURE ACT (WA) 2003

Guidelines for Disclosers

Strategic and Governance Services Centre

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A. SUPPORT FOR STAFF WHO MAKE PUBLIC INTEREST DISCLOSURES

The Edith Cowan University Vision and associated Values are indicative of the importance the University places on ethical behaviour. As such the University does not tolerate corrupt or other improper conduct, including mismanagement of our resources, in the exercise of the public functions of the University.

The University is committed to the aims and objectives of the *Public Interest Disclosure Act 2003* (PID Act). The PID Act recognises the value and importance of reporting as a means to identify and address wrongdoing.

The University strongly supports disclosures being made by employees about corrupt or other improper conduct. We also strongly support contractors and members of the community making disclosures about corrupt or other improper conduct.

The University does not tolerate any of its employees, contractors or subcontractors taking reprisal action against anyone who makes or proposes to make a public interest disclosure. The University will take all reasonable steps to protect employees from any detrimental action in reprisal for the making of a public interest disclosure.

The commitment to effectively manage public interest disclosures extends to a proper authority of the University. The persons responsible for receiving disclosures of public interest information designated under s. 23(1)(a) of the PID Act will abide by the [Public Interest Disclosure Act Code of Conduct and Integrity](#) (refer Appendix E) while performing their duties.

The University is also committed to responding to the disclosure thoroughly and impartially. We will treat all people in the disclosure process fairly, including those who may be the subject of a disclosure.

The University will provide as much information as possible to people considering making a public interest disclosure. These internal Procedures shall be made available for access by all staff and members of the public at <http://intranet.ecu.edu.au/staff/centres/strategic-and-governance-services/our-services/legal-and-integrity/integrity/public-interest-disclosures>. Copies of these internal Procedures are available from ECU's PID Officers whose contact details appear in Part F of these Procedures. General information about public interest disclosures and how the University will manage a disclosure is available for external clients and members of the community on our website (www.ecu.edu.au).

While these Procedures focus on public interest disclosures, the University is committed to dealing with all reports of suspected wrongdoing. We encourage people to report any such behaviour. The University will consider each matter under the appropriate reporting pathway and will make every attempt to protect staff members making reports from any reprisals.

B. PURPOSE OF THESE PROCEDURES

The Vice-Chancellor must prepare and publish these internal Procedures under s. 23(1)(e) of the PID Act. These Procedures outline how the University will meet its obligations under the PID Act. They cover the roles and responsibilities of the Vice-Chancellor, the person designated as the proper authority in accordance with s. 23(1)(a) and s. 5(3) (h), referred to in this document as the PID Officer, the discloser and the subject of the disclosure.

C. SCOPE AND APPLICATION OF INTERNAL PROCEDURES

These Procedures apply to all people involved in the public interest disclosure process, including the Vice-Chancellor, PID Officer(s), employees of the University and/or any person making a public interest disclosure and any person(s) the subject of a disclosure.

These Procedures should be read with:

- *Public Interest Disclosure Act 2003 and Public Interest Disclosure Regulations 2003*
- *ECU Code of Conduct*
- *Fraud and Misconduct Management and Prevention Policy*
- The Public Sector Commission publication "[Don't be afraid to speak up](#)".

The behaviour of all employees involved in the public interest disclosure process must accord with our Code of Conduct at all times. A breach of the ECU Code of Conduct may result in disciplinary action.

D. ROLES AND RESPONSIBILITIES

Person / role	Responsibilities
<p>Principal executive officer (s. 23) (the Vice-Chancellor):</p>	<ul style="list-style-type: none"> • Designates the occupant of a specified position to receive public interest disclosures related to ECU (s. 23(1)(a)).[PID Officer]. • Provides protection from detrimental action or the threat of detrimental action for any employee of ECU who makes a public interest disclosure (s. 23(1)(b)). • Ensures ECU complies with the PID Act and the Code of Conduct and Integrity established by the Public Sector Commissioner (ss. 23(1)(c) and (d)). • Prepares and publishes internal procedures, consistent with those prepared by the Public Sector Commission, detailing how ECU will meet its obligations under the PID Act (s. 23(1)(e)). • Provides information (s. 23(1)(f)) to the Public Sector Commissioner on the: <ul style="list-style-type: none"> ○ number of disclosures received by ECU, ○ results of any investigations conducted as a result of the disclosures, ○ action, if any, taken as a result of each disclosure, and ○ any matters as prescribed. • May have a role in enabling an investigation to be undertaken or taking disciplinary action against individuals under functions and powers separately from the PID Act.

Person / role	Responsibilities
<p>The Proper Authority (s. 5(3), s. 7 and s. 18)</p> <p>Or ECU PID Officer (s 23(1)(a)):</p>	<ul style="list-style-type: none"> • As is designated by ss. 5(3)(a)-(g) or by the Vice-Chancellor, under s. 23(1)(a) the ECU PID Officer is to receive disclosures related to the University. • Provides information to potential disclosers about their rights and responsibilities consistent with the Code of Conduct and Integrity established under s. 20(1). • Receives and manages public interest disclosures in accordance with the PID Act (s. 5(3)). • Notifies the discloser within three months of the disclosure being made about what action is planned in dealing with the disclosure (s. 10(1)). • Where appropriate, investigates, or causes an investigation of, the matters in the disclosures (s. 8(1)). • Where appropriate, provides information to the persons that are the subject of a disclosure about their rights, responsibilities, duties and potential offences (s. 9(2), s. 14, s. 15, s. 16 and s. 24). • Where appropriate, takes such action as is necessary and reasonable, within their functions and powers in accordance with s. 9. • Maintains confidentiality of the identity of the discloser and the persons that are the subject of disclosures, in accordance with the requirements of the PID Act (s. 11 and s. 16). • Provides progress reports where requested and a final report to the discloser in accordance with s. 10. • Creates and maintains proper and secure records in relation to the disclosures in accordance with the Code of Conduct and Integrity established under s. 20(1) and the <i>State Records Act 2000</i>. • Completes a PID Register for each disclosure lodged (s. 23(1)(f)). • Acts in accordance with the rules of natural justice (s. 9(2) and s. 16(1)(b)). • Acts in accordance with the Code of Conduct and Integrity established by the Public Sector Commissioner (s. 20(1)) and the University's Code of Conduct.

Person / role	Responsibilities
The discloser:	<ul style="list-style-type: none"> • Makes a public interest disclosure to a proper authority or the University's PID Officer if the matter relates to ECU (s. 5(1)). • Believes on reasonable grounds the information in their disclosure is, or may be, true (s. 5(2)). • Does not disclose information subject to legal professional privilege (s. 5(6)). • Does not knowingly and recklessly make a false or misleading disclosure (s. 24(1)). • Maintains confidentiality of the information disclosed and the identity of the person(s) to whom the information relates, in accordance with the requirements of the PID Act (s. 16 and s. 17(1)(b)). • Assists any person investigating the matter to which the disclosure relates by supplying the person with any information requested (s. 17(1)(a)).
The subject of the disclosure (person about whom disclosure is made):	<ul style="list-style-type: none"> • Is afforded the opportunity to make a submission, either orally or in writing, in relation to the matter before preventative or disciplinary action is taken (s. 9(2)). • Maintains confidentiality of the identity of the discloser, in accordance with the requirements of the PID Act (s. 16(1)). • Is to be treated in accordance with the rules of natural justice (s. 16(1)(b)). • Does not take or threaten to take detrimental action (defined in s. 3) against a person because they have made or intend to make a disclosure (s. 14(1)). • Does not incite another person to take detrimental action against another because they have made or intend to make a disclosure (s. 14(2)). • Does not commit an act of victimisation by taking or threatening to take detrimental action against the person making or intending to make a disclosure (s. 15(1)).
An investigating officer:	<ul style="list-style-type: none"> • May investigate matters of public interest information on behalf of a proper authority of the University in accordance with the terms of reference given to them. • Maintains confidentiality of the identity of the discloser and any persons subject to the disclosure (s. 16). • Makes, and keeps secure, comprehensive records of any investigation undertaken.

E. MANAGING PUBLIC INTEREST DISCLOSURES

The following procedures describe how the University will manage the public interest disclosure process.

1. Overarching requirements of the Public Interest Disclosure Act 2003

The PID Act has some overarching requirements for the handling of disclosures. These requirements separate the public interest disclosure process from other reporting or complaint handling processes. The PID Act does not, however, displace the notification or reporting requirements of the *Corruption, Crime and Misconduct Act 2003*, which are paramount. The following sections outline how the University will meet the PID Act requirements, as well as the expectations of disclosers, and any persons the subject of a disclosure.

2. What is 'public interest information'?

The PID Act only applies to disclosures of public interest information (defined in s. 3). Public interest information means information that:

- relates to the performance of a public function by a public authority, public officer or public sector contractor (either before or after the commencement of the PID Act); and
- shows or tends to show that a public authority, a public officer, or a public sector contractor is, has been or proposes to be involved in:
 - improper conduct, or
 - an act or omission that constitutes an offence under a written (State) law, or
 - substantial unauthorised or irregular use of, or substantial mismanagement of, public resources, or
 - an act done or omission that involves a substantial and specific risk of:
 - injury to public health, or
 - prejudice to public safety, or
 - harm to the environment, or
 - a matter of administration that can be investigated under section 14 of the *Parliamentary Commissioner Act 1971* by the Parliamentary Commissioner (Ombudsman Western Australia).

3. Confidentiality

Maintaining confidentiality is an important part of managing a disclosure. The confidentiality requirements of the PID Act (s. 16) not only protects the discloser, but also any other people affected by the disclosure.

The confidentiality requirements do not apply to all information in a disclosure, although, the University is committed to maintaining confidentiality around:

- any information that may identify the discloser or any person who may be the subject of a disclosure, including the fact a disclosure has been made,
- information relating to a disclosure that, if known, may cause detriment.

Throughout the disclosure process and after its completion, the PID Act provides for the discloser's identity and the identity of any persons that are the subject of the disclosure to be kept confidential, except in certain circumstances. Disclosing information which might identify, or tend to identify the disclosers (s. 16(1)) or any person, that is, the subject(s) (s. 16(3)) of a disclosure, except in accordance with the PID Act, is an offence punishable with a penalty of a \$24 000 fine or imprisonment for two years.

Confidentiality regarding the discloser

Maintaining confidentiality is an important part of protecting the discloser, from any detrimental action in reprisal for making or intending to make a disclosure.

If the discloser consents to having their identity revealed to assist the University in dealing with the disclosure, the University's PID Officers will record the consent using the Consent to Disclosure of Identifying Information form (refer to Appendix A).

Sometimes the University may need to identify the discloser, without the discloser's consent (s. 16(1)(b)-(f)) but only where:

- it is necessary to do so having regard to the rules of natural justice, or
- it is necessary to do so to enable the matter to be effectively investigated, or
- the University is ordered by a court or any other person or body having authority to hear, receive or examine evidence, or
- the University is required by ss.152 or 153 of the *Corruption, Crime and Misconduct Act 2003*.

Before identifying the discloser for any of the reasons above, the University's PID Officers will take all reasonable steps to inform the discloser that this will happen and the reasons why. The University's PID Officers will use the Notification of Disclosure of Identifying Information form (refer to Appendix B) to do this.

If the University needs to provide information about the identity of the discloser to another person for the reasons above, the ECU PID Officer will inform the other person that further disclosure to a third person may put them at risk of committing an offence.

The University's PID Officers will also consider whether it is necessary to inform any external investigator about the identity of the discloser. Where it is necessary to provide this identifying information, the ECU PID Officers will notify as described above.

Confidentiality regarding the person, that is, the subject of the disclosure

The subject of a disclosure may consent to having their identity revealed to assist with the disclosure process s. 16(3)(a). The ECU PID Officers will use the Consent to Disclosure of Identifying Information form (refer to Appendix A) to record this.

Additionally, the University may need to reveal identifying information about the subject(s) of a disclosure without their consent, (ss. 16(3)(b)-(g)) where:

- it is necessary to do so to enable the matter to be investigated effectively,
- it is necessary to do so in the course of taking action under s. 9,
- there are reasonable grounds to believe that it is necessary to prevent or minimise the risk of injury to any person or damage to any property,
- the University is ordered by a court or any other person or body having authority to hear, receive or examine evidence, or
- the University is required by ss. 152 or 153 of the *Corruption, Crime and Misconduct Act 2003*.

There is no obligation to advise the subject of a disclosure that identifying information will be released.

4. Protections

The PID Act provides a range of protections for disclosers (Part 3). It also requires that the University's Vice-Chancellor provides protection for employees who make disclosures (s. 23(1)(b)).

The Public Sector Commission publication, [Don't be afraid to speak up](#) contains general information about the protections provided by the PID Act. The University's PID Officers will be able to expand on this information specific to ECU.

The University is committed to ensuring that no detrimental action, including workplace reprisals by managers or other employees, occurs as a result of a person making a disclosure. If any reprisal action

does occur, the discloser can request the University to take action to protect them. Disclosers should immediately advise the PID Officer who is handling the disclosure of any reprisal action being taken against them.

The PID Act also provides that the discloser may lose the protections provided in s. 13 in some circumstances, including where they on-disclose information or fail, without reasonable excuse, to assist any person investigating the matters of the disclosure.

5. Notification requirements

The University's PID Officers will ensure that they complete all reporting in accordance with the legislative and administrative requirements of the PID Act. Provided it is not an anonymous disclosure, a PID Officer will provide the following reports:

- within three months of a disclosure being made, the action taken, or proposed to be taken, in relation to the disclosure (s. 10(1))
- when the disclosure process has concluded, the outcome of the investigation and the reasons for taking any action following the investigation (s. 10(4)).

PID Officers may also provide a progress report during an investigation, either on their initiative or upon request (ss. 10(2) and (3)).

PID Officers have some limits on what they can include in their reports. Section 11 prevents provision of information that would be likely to adversely affect:

- any person's safety s(1)(a), or
- the investigation of an offence or possible offences s(1)(b), or
- confidentiality as to the existence or identity of any other person who made a public interest disclosure s(1)(c).

PID Officers are also prevented from giving any information they must not disclose under ss. 151, 152 or 153 of the *Corruption, Crime and Misconduct Act 2003*.

6. Record keeping

During the investigation, the PID Officer may make comprehensive and contemporaneous records of any discussions and interviews. These records along with any other documentation or files relating to the disclosure, whether paper or electronic, will be stored securely and only accessed by authorised persons.

F. HOW TO MAKE A PUBLIC INTEREST DISCLOSURE

1. Before making a disclosure

The University strongly encourages anyone thinking about making a public interest disclosure to seek advice from a PID Officer ('proper authority') before they do. A disclosure must be made to a proper authority for it to be covered by the PID Act.

A number of other requirements apply to the discloser, so it is important to understand the rights and responsibilities in the process. This information is outlined generally in [Don't be afraid to speak up](#), available from the Public Sector Commission website at www.publicsector.wa.gov.au.

At the University the occupant(s) of the following designated positions are specified with the authority as the persons responsible for receiving disclosures of public interest information in accordance with s. 23(1)(a). For the purposes of this Procedure, these PID Officers are the proper authorities, designated under s. 5(3)(h), for dealing with information that falls within the sphere of responsibility of ECU.

Position	Name	Contact
Director, Strategic and Governance Services Centre and General Counsel	Jo Quinn	JO Room 1.362 Email: j.quinn@ecu.edu.au Phone: (08) 6304 2016
Manager, Legal and Integrity and Associate General Counsel	Clarke Drury	JO Room 1.360 Email: c.drury@ecu.edu.au Phone: (08) 6304 2158
Manager and Chief Risk and Assurance Officer	Phillip Draber	JO Room 1.373, Email: p.draber@ecu.edu.au Phone: (08) 6304 2495

Initial discussions between the discloser and an ECU PID Officer should be general in nature and should not discuss the specific details of the disclosure until the discloser understands their rights and responsibilities under the PID Act. The ECU PID Officer shall inform the discloser that they need to make the disclosure voluntarily and consciously – the University will never force a person to make a disclosure. Once a disclosure has been made, it cannot be withdrawn.

When the University receives a disclosure, the ECU PID Officer is obliged to take action and the University may continue to look into the matters within the disclosure irrespective of the discloser's continued approval.

These initial discussions with the ECU PID Officer may assist potential disclosers in deciding whether they want to make a public interest disclosure and will also enable the ECU PID Officer to ascertain if the information would be covered by the PID Act. If the information appears not to be the type covered by the PID Act, the ECU PID Officer will discuss other mechanisms through which issues may be reported, for example, the University's general complaints or grievance resolution process.

The ECU PID Officer will be able to provide more detailed information about the University's disclosure process and what people can expect from it. Disclosers may also contact the Public Sector Commission Advisory Line on (08) 6552 8888 (or 1800 676 607 for country callers) for general information about the disclosure process.

What is 'sphere of responsibility'?

Under s. 5(3)(h) a PID Officer for an authority can receive information relating to a matter which falls within the 'sphere of responsibility' for their public authority. 'Sphere of responsibility' is not defined in the PID Act but may include:

- matters that relate to the University, or
- a public officer or public sector contractor of the University, or
- a matter or person that the University has a function or power to investigate.

The proper authority to which disclosers need to make the disclosure depends on the type of disclosure information. Where the information is outside of ECU's PID Officers sphere of responsibility, it may need to be made to another proper authority for it to be considered as a public interest disclosure and for the discloser to receive the protections of the PID Act. A list of proper authorities and the information they can receive is covered in [Don't be afraid to speak up](#).

For the purposes of the PID Act, the following are named authorities who also may investigate public interest disclosures in connection with the University.

Proper Authorities that may Investigate PIDs in relation to ECU

Corruption and Crime Commission	The PID Act also provides for the Corruption and Crime Commission (CCC) to receive public interest disclosures of information relating to an offence under State law. Subsequent references in these procedures to the PID Officer shall be taken to include an employee or officer of the CCC who receives, on behalf of the CCC, information relating to an offence under State law.
WA Police	The PID Act also provides for any police officer to receive public interest disclosures of information relating to an offence under State law. Subsequent references in these procedures to the PID Officer shall be taken to include a police officer who receives a public interest disclosure relating to an offence under State law.
Parliamentary Commissioner (Ombudsman Western Australia)	The PID Act also provides for the Ombudsman to receive public interest disclosures of information relating to matters of administration within the jurisdiction of the Ombudsman, and matters relating to most public officers. Subsequent references in these procedures to the PID Officer shall be taken to include an officer of the Ombudsman who receives, on behalf of the Ombudsman, information relating to these matters.
Auditor General	The PID Act also provides for the Auditor General to receive public interest disclosures of information relating to substantial unauthorised or irregular use or substantial mismanagement of public resources. Subsequent references in these procedures to the PID Officer shall be taken to include a person appointed by the Auditor General who receives, on behalf of the Auditor General, information relating to these matters.
Public Sector Commission	The PID Act also provides for the Public Sector Commissioner to receive public interest disclosures of information that relates to a Public Officer (other than a Member of Parliament, a Minister of the Crown, a judicial officer or an officer referred to in Schedule 1 to the Parliamentary Commissioner Act 1971). Subsequent references in these procedures to the PID Officer shall be taken to include the Public Sector Commissioner.

2. Making the disclosure

A discloser needs to clearly identify that they are making a public interest disclosure. For the purposes of accountability and certainty, persons wishing to make a disclosure of public interest information under the PID Act are encouraged to do so in writing. The University has developed a Public Interest Disclosure Lodgement form (Form) which may be used for the purpose of making a disclosure (refer to Appendix C). There is no requirement to use the Form, however the use of the Form will help to define the details of the disclosure. A discloser may complete the Form themselves or the relevant ECU PID Officer may complete the Form when they are speaking with the discloser. Disclosers should sign the Form to acknowledge that they are making a disclosure voluntarily and consciously.

The University has to accept anonymous disclosures. Disclosers should be aware that if they decide to make an anonymous disclosure they should consider that it may be more difficult for the ECU PID Officer to investigate or take action about the disclosure. Reasons include that the ECU PID Officer would not be able to contact the discloser to seek any further information. The University is also not required to provide any reports about the progress or final outcome of the disclosure, if the discloser chooses to remain anonymous.

An anonymous disclosure may not prevent the discloser from being identified during an investigation. Additionally, if the ECU PID Officer does not know who made the disclosure, it will be difficult for them to ensure the discloser is protected and to prevent any reprisal or detrimental action.

3. Determining whether a matter is an appropriate disclosure

Once an ECU PID Officer has received the disclosure they will assess whether it meets the

requirements under the PID Act. It may be that the ECU PID Officer undertakes initial inquiries and decides not to take the matter any further, as it does not constitute an appropriate public interest disclosure.

If the disclosure is not one to which the PID Act applies, the ECU PID Officer will let the discloser know the reasons for their decision (unless an anonymous disclosure was made) and make proper and adequate records about it. Some matters raised within the disclosure may not be matters to which the PID Act applies and the ECU PID Officer may discuss with the discloser other pathways to report these matters.

If the disclosure is one to which the PID Act applies, the ECU PID Officer will ensure proper and adequate records are made and will communicate with the discloser further, unless it is an anonymous disclosure.

ECU's PID Officer will notify the discloser within three months of the disclosure being made about what the University intends to do in dealing with the disclosure, unless it is an anonymous disclosure.

4. Determining whether a public interest disclosure will be investigated

After assessing the disclosure as one to which the PID Act applies, ECU's PID Officer will consider whether it will be investigated, guided by the requirements in s. 8. The reasons ECU's PID Officer may not investigate the disclosure include:

- the matter is trivial, or
- the disclosure is vexatious or frivolous, or
- there is no reasonable prospect of obtaining sufficient evidence due to the time that has elapsed since the matter(s) occurred, or
- the matter is being or has been adequately or properly investigated by another proper authority, s. 5(3).

ECU's PID Officer will make proper and adequate records of their decision and reasons about whether to investigate or not.

5. Referring public interest matters

Where a University PID Officer assesses the disclosure as one to which the PID Act applies, but they do not have the functions or power to investigate one or more matters within the disclosure, they will refer the information to the appropriate authority for investigation as provided for under the PID Act. For example, ECU's PID Officer may need to refer an allegation of an offence supported by evidence to the Western Australia Police for investigation. Alternatively, a discloser may also be able to make a disclosure directly to the appropriate authority, if they wish to receive reports from them about the disclosure.

6. Investigating the disclosure

The University's PID Officer will investigate, or cause to be investigated, any matters in the disclosure within their sphere of responsibility. ECU's PID Officer may cause the disclosure to be investigated by engaging a suitably skilled staff member within the University or an externally contracted investigator.

If causing the disclosure to be investigated, the ECU PID Officer will ensure that the person undertaking the investigation understands the requirements of the PID Act, in particular the confidentiality requirements and protections for disclosers. The University PID Officer will only provide the name of the discloser and that of the subject of the disclosure to the investigator in accordance with s. 16 of the PID Act.

When investigating the disclosure, ECU's PID Officer or investigator is limited by the functions and powers derived from the University's operating legislation. The PID Act does not provide for any additional investigative powers.

Disclosers who are employees are expected to cooperate with any investigation into the disclosure in order to maintain the protections under the PID Act. A discloser is also expected to act in accordance with the University's Code of Conduct at all times.

Employees who are the subject of the disclosure can clarify the process and what to expect with the University PID Officer.

ECU's PID Officer may also decide to discontinue an investigation, in accordance with s. 8(2). If this happens, they will provide the discloser with reasons for their decision in accordance with s. 8(3), unless they made an anonymous disclosure. The ECU PID Officer may also notify any person(s) the subject of the disclosure, if they discontinue the investigation.

To ensure the disclosure is adequately and properly investigated the ECU PID Officer, or other investigator, will be guided by the procedures set out in the Universities industrial instrument, the Code of Conduct and the Fraud and Misconduct Prevention and Management Policy. In general the ECU PID Officer will:

- Draw up terms of reference, which should clarify the key issues identified by the disclosure;
- Specify a date by which the investigation should be completed;
- Ensure the objectives of the investigation include collecting and collating information relating to the disclosure, considering the information collected and drawing conclusions objectively and impartially;
- Maintain procedural fairness for the person who is the subject of the disclosure;
- Provide information to the person who is the subject of a disclosure about their rights and obligations under the PID Act, the Code of Conduct and Integrity, the Universities industrial instrument, the Code of Conduct, the Fraud and Misconduct Prevention and Management Policy and the law;
- Ensure investigators make contemporaneous notes of discussions and interviews and, where practicable and appropriate, record discussions and interviews on audio or videotape;
- Ensure strict security with all investigations, so as to maintain the confidentiality requirements of the PID Act.

What responsibilities do those who are the subject of a disclosure have?

The subject of a disclosure is a person of interest about whom an allegation has been made through a public interest disclosure. The University will treat such a person fairly and impartially throughout the process, and inform them of their rights and obligations. The University will generally keep the parties involved, informed during any investigation, although the University cannot release any information to any party, including the person(s) that is the subject of a disclosure, which may prejudice the University's investigation.

The PID Act provides that the person who is the subject of a disclosure has rights and obligations. Firstly, the subject of a disclosure has a right to have their identity kept confidential under s.16(3), unless one of the following conditions apply:

- they consent to their identity being disclosed, or
- it is necessary to enable the matter to be investigated effectively, or
- it is necessary to do so in taking action within s. 9, or
- there are reasonable grounds to believe that it is necessary to prevent or minimise the risk of injury to any person or damage to any property, or
- it is made in accordance with a court order or other body having authority to hear evidence, or
- it is made in accordance with ss. 152 or 153 of the *Corruption, Crime and Misconduct Act 2003*.

The University will also provide appropriate natural justice. This means that, before the University takes any disciplinary or other action against the person who is the subject of a disclosure under s. 9, the University will provide the person with the opportunity to:

- be informed of the substance of the allegations, and
- make a submission either verbally or in writing in relation to the matter.

Individuals who are the subject of a disclosure, must not identify or tend to identify the identity of the discloser or a person who they think may be the discloser, as they also have rights to confidentiality

under the PID Act. It is an offence under s. 16 to identify or tend to identify any person who has made a disclosure under the PID Act.

Individuals who are the subject of a disclosure must not engage in reprisal action, threaten anyone with reprisal action or have someone else conduct this action on their behalf because someone has made, or intends to make, a disclosure. It is an offence to conduct such action against any person who is believed to have made a disclosure even if they were not the individual who actually made the disclosure. This is an offence under s. 14(1) of the PID Act.

7. Taking action

The University's PID Officers will take action where they form the opinion that a person may be, may have been or may in the future be involved in conduct which may be the subject of a public interest disclosure. Usually, the University's PID Officers will form this opinion at the conclusion of an investigation, although there may be instances where they need to take immediate action and the PID Act enables them to do this.

Action ECU's PID Officers may take under s. 9 includes, but is not limited to:

- preventing the matter disclosed from continuing or occurring, or
- referring the matter to the Western Australia Police or other appropriate body, or
- taking disciplinary action against a person responsible for the matter.

The options above are not mutually exclusive. ECU's PID Officers may take more than one action depending on the circumstances. For example, the ECU PID Officers may seek to terminate the employment of an employee caught stealing and refer the matter to the Western Australia Police.

In taking action the University's PID Officers and/or the University are limited by the powers and functions derived from the University's operating legislation. The PID Act does not provide for any additional powers to take action. The University is also guided by what is necessary and reasonable in the circumstances.

Before taking any action the University will provide the person against whom the action is to be taken (the subject of the disclosure) an opportunity to respond, either verbally or in writing, to ensure procedural fairness.

Confidentiality and record keeping when taking action

The University will maintain confidentiality in accordance with the PID Act when taking action. The ECU PID Officers will keep appropriate records about any action taken, as well as recording a summary of this action in the Public Interest Disclosure Register. The Public Interest Disclosure Register records a unique register number and key information for each disclosure. An official hardcopy "In Confidence" file has been created to facilitate this, SUB/49024. The Register is maintained by the Manager, Legal and Integrity (SGSC).

The Register should include a summary of information relating to:

- the discloser;
- the organisational area, officer or contractor about which a disclosure is made;
- people named in the disclosure;
- the nature of the disclosure;
- the investigation process and the action, if any, taken;
- communication with the discloser;
- disclosure of the discloser's identity, if applicable;
- disclosure of the identity of persons named in the disclosure;
- claims of unlawful disclosure of the discloser's identity or the identity of persons named in the disclosure;

- claims of victimisation; and
- key dates.

A sample Public Interest Disclosure Register is provided at Appendix D. Additional information may also be recorded in the Register at the discretion of the University's PID Officer. All reporting requirements to the Public Sector Commissioner required under the PID Act will be based on extracts from the fields shown in the sample Register.

8. After the public interest disclosure process has been finalised

The PID Act places no further obligations on the University or the University's PID Officers after the disclosure process is complete. The confidentiality requirements of the PID Act, however, continue to apply to disclosers and all other people involved with the disclosure.

The PID Act does not provide disclosers with the right to appeal the outcome of the disclosure process. Disclosers may be able to make another disclosure to another proper authority, if the information relates to their functions or sphere of responsibility (s. 5). Refer to [Don't be afraid to speak up](#) for the correct proper authority for disclosures. However, this 'new' proper authority may be able to decline to investigate the disclosure under s. 8, if they consider that the matter(s) has already been properly or adequately investigated (as a public interest disclosure).

9. Making a disclosure to a journalist

The PID Act provides for certain circumstances where a discloser may be able to make a protected disclosure to a journalist (s. 7A(d)). These circumstances apply where the discloser has first made a disclosure to an ECU PID Officer or another proper authority named in the PID Act (outlined in s. 5 or [Don't be afraid to speak up](#)).

Importantly, the PID Act states that to attract the privileges and protections of the PID Act when disclosing to a journalist, the discloser must disclose information that is substantially the same as what was disclosed in their original disclosure, and the PID Officer that received the original disclosure:

- did not notify the discloser within three months of making the disclosure about the actions they propose to take or have already taken, or
- refused to investigate, or discontinued the investigation of, a matter raised in the disclosure, or
- did not complete an investigation within six months of the discloser making the disclosure, or
- completed an investigation but did not recommend that action be taken, or
- did not provide the discloser with a report stating the outcome of any investigation or any action proposed, or taken, and the reasons for those actions.

The University is committed to ensuring that it provides the notifications required under the PID Act and that the discloser understands the reasons for the University's decisions and actions. If a discloser is considering making a disclosure to a journalist because they believe their circumstances meet one or more of the requirements outlined above, the University would encourage the discloser to discuss this with the relevant ECU PID Officer prior to making a disclosure to a journalist. It is also recommended that the discloser seek their own legal advice before taking any action in relation to matters that have been disclosed under the PID Act.

If a discloser makes an anonymous disclosure, they may not be able to demonstrate that they meet the above requirements and the University would then not be obliged to provide the discloser with any notifications about what happens to the disclosure.

10. Contact details and further information

These internal Procedures are available for access by all staff and members of the public at <http://intranet.ecu.edu.au/staff/centres/strategic-and-governance-services/our-services/legal-and-integrity/integrity/public-interest-disclosures>.

Copies of these internal procedures are available from ECU's PID Officers whose contact details appear in Part F of these Procedures. Information is also available from the Public Sector Commissioner's website: www.publicsector.wa.gov.au.

APPENDIX A

Consent to Disclosure of Identifying Information Form

Public Interest Disclosure Act 2003

Personal details	
Family name	
Given name	
Disclosure No.	(to be completed by proper authority/Public Interest Disclosure (PID) Officer)

Consent	
<p>Consent to disclosure of identifying information by discloser I consent to the disclosure of information that might identify or tend to identify me as a person who has made an appropriate disclosure of public interest information under section 16(1)(a) of the <i>Public Interest Disclosure Act 2003</i>.</p>	<input type="checkbox"/>
<p>Consent to disclosure of identifying information by subject I consent to the disclosure of information that might identify or tend to identify me as a person in respect of whom a disclosure of public interest information has been made (subject) under section 16(3)(a) of the <i>Public Interest Disclosure Act 2003</i>.</p>	<input type="checkbox"/>

Limitations on consent	
This consent only applies to disclosures made to the following persons	
This consent only applies to the following information	

Authorisation	
Signature of discloser/subject: (delete as appropriate)	
Date	
Signature of proper authority/PID Officer	
Date	

APPENDIX B

Notification of Disclosure of Identifying Information Form

Public Interest Disclosure Act 2003

To					
Title	<input type="checkbox"/> Mr	<input type="checkbox"/> Ms	<input type="checkbox"/> Mrs	<input type="checkbox"/> Dr	<input type="checkbox"/> Other:
Given name					
Family name					
Provided by	<input type="checkbox"/> email <input type="checkbox"/> mail <input type="checkbox"/> in person				

I intend to make a disclosure of information that might identify or tend to identify you as a person who has made an appropriate disclosure of public interest information under section 16 of the *Public Interest Disclosure Act 2003*.

The disclosure of this information

Is necessary, having regard to the rules of natural justice (section 16(1)(b))	<input type="checkbox"/>
Is necessary to enable the matter to be investigated effectively (section 16(1)(c))	<input type="checkbox"/>
The reason(s) why the disclosure of this information is necessary is (specify reason(s))	

Important: A person making an identifying disclosure for these reasons must take all reasonable steps to provide this information to the discloser within a reasonable time before making the disclosure in accordance with section 16(2).

Authorisation

Signature of person proposing to make disclosure	
Name	
Position	
Contact details	
Date	

APPENDIX C

Public Interest Disclosure Lodgement Form

Public Interest Disclosure Act 2003

Edith Cowan University strongly encourages anyone thinking about making a public interest disclosure to seek out a nominated proper authority to discuss their issues first. Our proper authority(ies) (Public Interest Disclosure (PID) Officer(s)) are:

Position	Director SGSC and General Counsel	Manager, Legal and Integrity and Associate General Counsel	
Name of PID Officer	Joanne Quinn	Clarke Drury	
Contact details	j.quinn@ecu.edu.au	c.drury@ecu.edu.au	

Ensure you understand your rights and responsibilities under the *Public Interest Disclosure Act 2003* (PID Act) before you sign this lodgement form. You may wish to seek external legal advice about those rights and responsibilities. Lodge your public interest disclosure form with one of Edith Cowan University's proper authorities (PID Officers), not the Public Sector Commission.

Personal details

Family name					
Given name					
Title	<input type="checkbox"/> Mr	<input type="checkbox"/> Ms	<input type="checkbox"/> Mrs	<input type="checkbox"/> Dr	<input type="checkbox"/> Other
Address					
Work phone					
Mobile					
Email					

<input type="checkbox"/>	<p>I wish to make an anonymous public interest disclosure. I understand that:</p> <ul style="list-style-type: none"> I will not receive any information about what happens to this disclosure it may be more difficult for the proper authority to look into the matter(s) as they cannot come back to me for further information it may be more difficult for the proper authority/public authority to protect me this anonymous disclosure may not prevent me from being identified during any investigation or when action is being taken.
--------------------------	---

Categories of public interest information

Tick relevant box(es)

Improper conduct	<input type="checkbox"/>
An offence under written State law	<input type="checkbox"/>
Substantial unauthorised or irregular use of, or substantial mismanagement of, public resources	<input type="checkbox"/>
Conduct involving a substantial and specific risk of injury to public health, or prejudice to public safety or harm to the environment	<input type="checkbox"/>
Administration matter(s) affecting you personally	<input type="checkbox"/>

Disclosure details

Name of the public authority(ies) the disclosure relates to	
Do you work for a public authority?	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, which public authority and what is your position title?</p>
Does the disclosure relate to one or more individuals?	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, provide name(s) and position(s) held by person(s) in the public authority</p>
When did the alleged events occur?	
Summary of the matters to disclose	

Additional information	
Description of any documents provided or names of witnesses	
Have you reported this information to any other person or agency?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, did you report this information as a Public Interest Disclosure matter?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details

You should read the following information and sign this form prior to lodgement.

Acknowledgement

I believe on reasonable grounds that the information contained in this disclosure is or may be true.

I have been informed and I am aware that:

- I will commit an offence under section 24 of the PID Act, if I know that the information contained in this disclosure is false or misleading in a material particular, or I am reckless as to whether it is false or misleading in a material particular.
Penalty: \$12 000 or imprisonment for one (1) year.
- I will forfeit the protection provided by section 13 of the PID Act, if I fail, without reasonable excuse, to assist a person investigating the matter by supplying requested information (s17).
- I will forfeit the protection provided by section 13 of the PID Act, if I subsequently disclose this information to any person other than a proper authority under the PID Act (s17).
- I will commit an offence, if I subsequently make a disclosure of information that might identify or tend to identify anyone as a person in respect of whom this disclosure has been made under the PID Act, except in accordance with section 16(3) of the PID Act.
Penalty: \$24 000 or imprisonment for two (2) years.
- I cannot withdraw my disclosure after I have made it.

Authorisation	
Discloser's signature	
Date	

APPENDIX D

Public Interest Disclosure Register

ECU will use this Register to record public interest disclosures. All information required for reporting to the Public Sector Commissioner will be able to be extracted from this register. ECU will ensure that the Public Interest Disclosure Register, both in electronic and hardcopy forms, is kept strictly confidential and in a secure place. A pink central records file will be raised for each disclosure. Central Records file SUB/18683 will form the basis of the Public Interest Disclosure Register.

Disclosure Number:		
Disclosure Code (Unique Register No)		
Person Making the Disclosure (Discloser)		
Name of discloser:		
Gender of discloser:		
Name of public authority employing the discloser (if applicable)		
Relationship of discloser to public authority about which disclosure is made		
First Public Authority about which the Disclosure is made		
Name of public authority		
Individuals named in the disclosure		
Second Public Authority about which the Disclosure is made		
Name of public authority		
Individuals named in the disclosure		
Nature of disclosure		
Type of disclosure		
Brief description of nature of disclosure		
Investigation Process and Action Taken		
Investigation undertaken	Yes	No
Reason if no investigation or investigation discontinued		

Outcome of investigation
Brief description of results of investigation
Brief description of action taken if investigation has substance
Unlawful Disclosure of Discloser's Identity
Outcome of investigation
Brief description of results of investigation
Brief description of action taken if claim has substance
Unlawful Disclosure of Identity of Person Named in Disclosure
Outcome of investigation
Brief description of results of investigation
Brief description of action taken if claim has substance
Victimisation Claims Lodged with Equal Opportunity Commission (if applicable)
Outcome of investigation
Brief description of results of investigation
Brief description of action taken if claim has substance

APPENDIX E

PUBLIC INTEREST DISCLOSURE ACT - CODE OF CONDUCT AND INTEGRITY

Code of conduct and integrity

Established by the Public Sector Commissioner under Section 20 of the *Public Interest Disclosure Act 2003* (PID Act).

The Code operates from 1 July 2003.

The Code is to be complied with by any person to whom a disclosure is made under the PID Act.

The Code

The Code uses as its ethical base the principles of personal integrity, relationships with others and accountability as referred to in the Western Australian Public Sector Code of Ethics.

Consistent with those principles, to meet the minimum standards of conduct and integrity, persons receiving disclosures, must:

- be professional and courteous to those involved in a disclosure, and give prompt attention to all their lawful requirements
- not use any circumstance or information connected to a disclosure for personal profit or gain
- take all reasonable steps to seek to ensure informants who make a public interest disclosure are protected in accordance with the provisions specified in the PID Act
- take all reasonable steps to seek to ensure that persons who are the subject of a disclosure are also provided with appropriate safeguards and protections as specified in the PID Act
- maintain records that ensure all action taken about the receipt and processing of a disclosure is reviewable
- declare to an appropriate person, in writing, any interests that may conflict with their obligations to impartially receive and process disclosures
- immediately report corrupt behaviour that has been, or may be occurring, to an appropriate authority
- provide information to the informant about their rights and responsibilities and the possible implications of lodging a public interest disclosure.