



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

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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*. It recognises the value and importance of contributions of staff to enhance administrative and management practices and strongly supports disclosures being made by staff as to corrupt or other improper conduct.

The University will take all reasonable steps to provide protection to staff that make such disclosures from any detrimental action in reprisal for the making of a public interest disclosure.

The University does not tolerate any of its officers, employees or contractors engaging in acts of victimisation or reprisal against those who make public interest disclosures.

## **B. PURPOSE OF THESE PROCEDURES**

These Procedures provide for the manner in which the University will comply with its obligations under the *Public Interest Disclosure Act 2003*. They provide for the manner in which:

- Disclosures of public interest information shall be made to an ECU Public Interest Disclosure Officer (PID Officer).
- ECU's PID Officer shall investigate the information disclosed, or cause that information to be investigated.
- ECU's PID Officer may take action following the completion of the investigation.
- ECU's PID Officer shall report to the discloser as to the progress and outcome of that investigation and the action taken as a consequence.
- The confidentiality of the discloser, and any person who may be the subject of a public interest disclosure, shall be maintained.
- Records as to public interest disclosures shall be maintained and reporting obligations complied with.

## **C. DESIGNATION OF ECU'S PUBLIC INTEREST DISCLOSURE (PID) OFFICERS**

The person from time to time holding or acting in the position of Director, Risk & Assurance Services Centre is designated as the primary Public Interest Disclosure Officer, or PID Officer, of the University. The primary PID Officer will be supported by 1 or more supplementary PID Officers, as required. The PID Officers are responsible for receiving disclosures of public interest information relating to matters falling within the sphere of responsibility of Edith Cowan University.

The contact details of the ECU PID Officers are as follows:

### Primary PID Officer

Mr. Phillip Draber, Director, Risk & Assurance Services Centre  
Room 1.387, Joondalup Campus 270 Joondalup Drive JOONDALUP WA 6027  
Email: [p.draber@ecu.edu.au](mailto:p.draber@ecu.edu.au)  
Phone: (08) 6304 2791  
Fax: (08) 6304 2866

## Supplementary PID Officer

Mrs Janice Tracey  
Director, Office of Governance Services  
Room 1.333, Joondalup Campus 270 Joondalup Drive JOONDALUP WA 6027  
Email: [j.tracey@ecu.edu.au](mailto:j.tracey@ecu.edu.au)  
Phone: (08) 6304 2453  
Fax: (08) 6304 2661

For the purposes of the *Public Interest Disclosures Act, 2003*, the following are named authorities who also may investigate public interest disclosures in connection with the University.

<b>Corruption and Crime Commission</b>	The PID Act provides for the Corruption and Crime Commission 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 Commission who receives, on behalf of the Commission, information relating to an offence under State law.
<b>Police</b>	The PID Act 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 an officer who receives a public interest disclosure relating to an offence under State law.
<b>Ombudsman</b>	The PID Act 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.
<b>Auditor General</b>	The PID Act provides for the Auditor General to receive public interest disclosures of information relating to substantial unauthorised or irregular use of, 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.

## **D. RECEIVING PUBLIC INTEREST DISCLOSURES**

### **1. Advice to Disclosers**

A disclosure can ONLY be made to a designated ECU PID Officer or directly to one of the authorities named below. Before a discloser makes a public interest disclosure to an ECU PID Officer, the PID Officer concerned shall advise the discloser of the following matters:

- a) If they choose to make a public interest disclosure they will not as a result:
  - incur any civil or criminal liability
  - be liable to any disciplinary action under State law
  - be liable to be dismissed or have his or her services dispensed with or otherwise terminated
  - be liable for any breach of a duty of secrecy or confidentiality or any other applicable restriction on disclosure.
  
- b) If they choose to make a public interest disclosure they may have the right to take civil proceedings if they are subject to detrimental action as a result of making the disclosure.

- c) If they choose to make a public interest disclosure then their identity will not be disclosed except in accordance with section 16 of the PID Act (i.e. disclosure of their identity may be required in the course of the investigation).
- d) If they choose to make a public interest disclosure then they will have the right to be informed of the progress and outcome of the investigation and action taken as a result.
- e) If they choose to make a public interest disclosure:
- they are only protected if they believe on reasonable grounds that the information to be disclosed is or may be true
  - they will commit an offence, and lose the protection of the PID Act, if they know the information to be false or misleading in a material particular or are reckless about whether the information is false or misleading in a material particular
  - they will forfeit the protection given by the PID Act if they disclose the information otherwise than under the PID Act (i.e. if they provide the information to the media or a person who is not a proper authority)
  - they will forfeit the protection given by the PID Act if they fail, without reasonable excuse, to assist a person investigating the matter to which the information relates, by supplying any information requested
  - they may commit an offence if they disclose information that might identify or tend to identify anyone as a person in respect of whom a disclosure of public interest information has been made.
- f) The disclosure will only be protected if ECU's PID Officer is the proper authority for receiving that kind of information, as indicated in the following table:

**Proper authorities for receiving disclosures of public interest information**

When the disclosure relates to...	The proper authority is...
The sphere of responsibility of a public authority (e.g. matters about the public authority or its officers, or which the public authority has the function of investigating)	A Public Interest Disclosure Officer (PID Officer) of ECU
Offences under State law	A police officer or the Corruption and Crime Commission
Substantial unauthorised or irregular use of, or substantial mismanagement of, public resources	An ECU PID Officer or the Auditor General
Matters of administration affecting someone in their personal capacity falling within the jurisdiction of the Ombudsman	An ECU PID Officer or the Ombudsman
A police officer	The Commissioner of Police or the Corruption and Crime Commission
A Member of the Legislative Council	The President of the Legislative Council
A Member of the Legislative Assembly	The Speaker of the Legislative Assembly
A judicial officer	The Chief Justice
A public officer who is not a member of Parliament, a Minister, a Judicial Officer or a Commissioned or other officer specified in schedule 1 of the <i>Parliamentary Commissioner Act 1971</i>	An ECU PID Officer or the Public Sector Commissioner
A person or a matter of a prescribed class	A person declared by the regulations to be a proper authority

## **2. Assessing a Public Interest Disclosure**

The ECU PID Officer must, on receiving the information, make an initial assessment of whether:

- the information disclosed relates to the University, an officer of the University or a contractor to the University;
- the information disclosed relates to the performance of a public function;
- the information disclosed tends to show improper conduct;
- the improper conduct is of the kind for which the ECU PID Officer is the proper authority (see the table in Section B7 of Appendix 1);
- the discloser believes on reasonable grounds that the information is or may be true;
- the information is not protected by legal professional privilege;
- the discloser, after receiving the advice referred to in section B7 of Appendix 1, wishes to make a public interest disclosure under the PID Act.

If the above questions are **all** answered “yes”, then the disclosure of information is a public interest disclosure to which the PID Act will apply.

In assessing whether a disclosure is a public interest disclosure, the PID Officer concerned should consider the Flowchart for Receiving Disclosures at Appendix 2, as well as complete Part 1 of the Assessment Form Public Interest Disclosure at Appendix 5.

## **3. Form of Public Interest Disclosure**

If a disclosure is a public interest disclosure, the discloser and the ECU PID Officer should complete the Public Interest Disclosure Lodgement Form (see Appendix 7 - Forms). The ECU PID Officer should also complete Part 2 of the “Assessment Form for Public Interest Disclosures” (see Appendix 7 - Forms).

On completion of this form, the PID Officer should create an official ECU hardcopy or electronic file for the Public Interest Disclosure, with the following text noted on the file.

**“CONFIDENTIAL**

**The material in this file relates to a public interest disclosure made under the Public Interest Disclosure Act 2003. Disclosure of information that might identify or tend to identify either the discloser or a person in respect of whom the disclosure has been made is an offence, unless the disclosure occurs in accordance with the PID Act.**

**Penalty: \$24,000 or imprisonment for two years.”**

The making of the public interest disclosure should also be recorded in the Public Interest Disclosure Register, described in section J of these Procedures, for reporting to the Commissioner for Public Sector Standards.

## **4. Anonymous Disclosers**

A person may make an anonymous public interest disclosure. If a person makes an anonymous disclosure, ECU is relieved of its obligation to notify the discloser of the status or outcome of any investigation initiated as a result of the disclosure.

## **E. INVESTIGATING A PUBLIC INTEREST DISCLOSURE**

### **1. Determining whether the matter must be investigated**

After receiving a disclosure, the ECU PID Officer must consider whether:

- the disclosure relates to Edith Cowan University, its officers or contractors;
- the disclosure relates to a matter or person that Edith Cowan University has a function or power to investigate.

If the answer to **both** of these questions is “no”, the ECU PID Officer is not required by the PID Act to investigate the matter.

The ECU PID Officer must also consider whether:

- the matter is trivial;
- the disclosure is vexatious or frivolous;
- there is no reasonable prospect of obtaining sufficient evidence due to the time that has elapsed since the occurrence of the matter;
- the matter is being or has been adequately or properly investigated by another proper authority to which an appropriate disclosure of public interest information has been made under the PID Act;

If the answer to **any** of these questions is “yes”, the ECU PID Officer is not required by the PID Act to investigate the matter.

Where the ECU PID Officer considers that he or she lacks sufficient power to effectively investigate the matter, but the information received causes him or her to form the opinion that a public authority, public officer or public sector contractor may have engaged in improper conduct, the ECU PID Officer should refer the matter to another appropriate investigative body. For example, an allegation of an offence supported by cogent evidence may need to be referred by the ECU PID Officer to the WA Police for investigation.

The questions to be considered in the initial assessment by the ECU PID Officer are indicated in the Flowchart for Investigating Information Disclosed at Appendix 3, and Part 1 of the “Assessment Form for Public Interest Disclosures” (see Appendix 7 - Forms) should be completed.

In assessing whether a public interest disclosure should be investigated, the ECU PID Officer should consider the Flowchart for Investigating Information Disclosed (Appendix 3) and complete Part 3 of the Assessment Form for Public Interest Disclosures (see Appendix 7 - Forms).

## **2. Investigating information received in a Public Interest Disclosure**

Where the ECU PID Officer determines that the disclosure is a public interest disclosure that should be investigated, the ECU PID officer must register the PID in the ECU Complaints Management Register and then investigate the disclosed matter himself or herself or engage another person to carry out the investigation. Such investigations will follow the process outlined in the Fraud and Misconduct Prevention and Management Policy to the extent that they are consistent with these procedures.

In conducting an investigation, 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 ECU Code of Conduct 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.

A disclosure once properly made cannot be withdrawn. ECU may still continue to investigate the issues raised.

### **3. Obligation to notify the Corruption and Crime Commission (CCC) of Suspected Misconduct**

The Vice-Chancellor is required to notify the Commission, as soon as is reasonably practicable, in writing of any matter which he or she suspects on reasonable grounds concerns or may concern misconduct. The obligation to notify the CCC of suspected misconduct under s. 28 of the CCC Act overrides, to the extent that there is any conflict, the confidentiality provided by s.16 of the PID Act.

When providing notification of a public interest disclosure involving suspected misconduct to the CCC as a notification under s.28 of the CCC Act, the report must be made in writing and contain the names of the public officer(s) alleged to be involved in the misconduct and the details of the alleged misconduct. The identity of the discloser is not provided to the CCC when notifying, or reporting unless:

- the discloser is involved in the alleged act of misconduct;
- the discloser consents to the disclosure of public interest information that might identify or tend to identify him or her. ECU's PID Officer may wish to discuss with the discloser their wishes regarding the release of their details to the CCC as part of any discussions with those seeking to lodge a public interest disclosure. Following notification or report, if the CCC advises the ECU PID Officer in writing of their intention to take over the investigation of the matter which is the subject of the disclosure, the CCC is entitled to be told the discloser's details provided that it is necessary to facilitate the matter's effective investigation. In such circumstances the ECU PID Officer managing the disclosure must take all reasonable steps to advise the discloser that an identifying disclosure is to be made and that the PID Act permits this to occur;
- in matters where the CCC subsequently determines that the identity of the discloser is required for the purposes of investigation, the CCC can issue a separate notice under s. 94 of the CCC Act.

### **4. Maintaining Confidentiality in an Investigation**

The PID Act imposes strict confidentiality requirements in relation to the identity of the discloser and persons in respect of whom a public interest disclosure has been made. The disclosure of information which might identify or tend to identify these persons, except in accordance with the PID Act, is a serious offence, punishable with a maximum penalty of \$24,000 or two years.

The confidentiality provisions of the PID Act do not apply to all information disclosed in a public interest disclosure, but only to information that might identify or tend to identify the discloser and persons in respect of whom a public interest disclosure has been made.

One of the circumstances in which identifying information may be disclosed is with the consent of the person concerned. It is important that this consent be recorded. The "Consent to Disclosure of Identifying Information" form should be used for this purpose (see Appendix 7 - Forms).

Identifying information relating to a discloser may be disclosed without the discloser's consent where:

- it is necessary to do so, having regard to the rules of natural justice;
- it is necessary to do so to enable the matter to be investigated effectively; or
- it is made in accordance with a order issued by a Court or another person/body with the authority to make such an order.

However, before information is disclosed for these reasons the person making the disclosure must take all reasonable steps to inform the person whose identity is to be disclosed:

- that the disclosure is being made; and
- the reasons for the disclosure being made.

This information should be given, where practicable, in the form for "Notification of Disclosure of Identifying Information" (see Appendix 7 - Forms).

Where identifying information in relation to a discloser is conveyed to another person for these



reasons, the other person should be warned that disclosure of the information to a third person may involve a serious offence.

Identifying information relating to a person in respect of whom a public interest disclosure has been made can be disclosed at the investigation stage where the disclosure:

- is necessary to enable the matter to be investigated effectively;
- there are reasonable grounds to believe that the disclosure of identifying information is necessary to prevent or minimise the risk of injury to any person or damage to any property; or
- is made in accordance with a order issued by a Court or another person/body with the authority to make such an order.

In addition, disclosures made in accordance with section 152 or 153 of the *Corruption and Crime Commission Act 2003* are exempt from these confidentiality requirements.

Particularly where a discloser works for ECU, protecting the identity of the discloser is an important part of protecting the discloser from reprisals and victimisation. Careful consideration must be given as to whether the disclosure of information that might identify or tend to identify a discloser is necessary for the effective investigation of the matter or having regard to the rules of natural justice.

Where a ECU PID Officer appoints a third party to conduct an investigation in relation to the public interest disclosure, he or she must consider whether it is necessary to inform the investigator of the identity of the discloser. In some cases it may not be necessary to provide the investigator with the identity of the discloser. Where it is necessary, to enable an effective investigation, or having regard to the rules of natural justice, to provide identifying information to the investigating officer, then the discloser should be notified in the manner described above.

## **5. Recording the Outcome of an Investigation**

The outcome of an investigation should be clearly and comprehensively recorded. In addition to any investigation report, the person conducting the investigation should complete part 4 of the "Assessment Form for Public Interest Disclosure" (see Appendix 7 - Forms).

The result of the investigation should also be recorded in the Public Interest Disclosure Register, described in section J of these Procedures (sample Register is provided as Appendix 5). All reporting to the Public Sector Commissioner as required under the PID Act will be based on extracts from this Register.

In addition to the aforementioned the outcome of the investigation should also be recorded in the ECU Complaint Management Register. Any recommendations for process and procedural improvements are to be entered into the ECU Recommendations Tracking System (ECURTS) and followed up to completion.

## **F. TAKING ACTION FOLLOWING AN INVESTIGATION**

### **1. General**

ECU's PID Officer must take action where he or she forms the opinion that a person may be, or has been or may in the future be, involved in improper conduct. Action that may be taken includes:

- providing advice to the relevant Senior Executive, to prevent the matter to which the disclosure relates from continuing or occurring;
- referring the matter to the Police or other appropriate body; or
- having due regard to ECU's certified agreements, recommending to the appropriate officer, the taking of disciplinary action against a person responsible for the matter.

Before taking any action, the person against whom the action is to be taken is to be given the opportunity to make written or oral submissions.

In taking that action the ECU PID Officer remains limited by the powers and functions that are

conferred by the legislation under which the Officer operates. The *Public Interest Disclosures Act* does not give ECU's PID Officer additional powers to take action. As well as being limited to matters within the functions and powers of the University, the action to be taken is guided by what is necessary and reasonable.

## **2. Maintaining Confidentiality when Taking Action**

When taking action, the confidentiality of identifying information must be maintained, unless its disclosure is authorised by the PID Act.

The only additional exception, beyond those identified in relation to investigations, is where disclosure of the identity of a person who is the subject of a public interest disclosure is necessary in taking action following the investigation.

## **3. Recording Action Taken**

In addition to keeping other records, the ECU PID Officer shall complete Part 5 of the "Assessment Form for Public Interest Disclosures" (see Appendix 7 - Forms) and record a summary of the action taken in the Public Interest Disclosure Register. All reporting requirements to the Public Sector Commissioner required under the PID Act will be based on extracts from this Register.

Any recommendations for process and procedural improvements are to be entered into the ECU Recommendations Tracking System (ECURTS) and followed up to completion.

## **G. REPORTING TO A DISCLOSER ON THE PROGRESS AND OUTCOME OF AN INVESTIGATION**

Where ECU's PID Officer decides not to investigate information disclosed under the PID Act, or discontinues an investigation, the Officer must give the person who made the disclosure reasons for doing so.

Within three months of the disclosure being made the ECU PID Officer must notify the discloser of the action taken or proposed to be taken in relation to the disclosure.

A discloser may also request a progress report.

If an investigation is not complete, the ECU PID Officer may provide to the discloser a progress report on the current status of the investigation.

If an investigation is complete, the ECU PID Officer must provide a final report to the discloser, stating the outcome of the investigation and the reason for taking action following the investigation.

In providing information and reports to disclosers, the ECU PID Officer must not give information that, in the officer's opinion, would be likely to adversely affect:

- any person's safety;
- the investigation of an offence or possible offence; or
- necessary confidentiality as to the existence or identity of another person who has made a disclosure of public interest information under the PID Act.

## **H. PROTECTING DISCLOSERS**

### **1. Victimisation and Reprisals**

ECU will not tolerate any acts of victimisation or reprisal as a result of a person making, or proposing to make, a public interest disclosure. Any victimisation or reprisals must be reported immediately to the Vice-Chancellor or an ECU PID Officer, who must take immediate action to prevent the continuance of this unlawful conduct.

Where victimisation or reprisals are reported, a record of the report and the action taken must be

placed on the file relating to the public interest disclosure. Steps taken to prevent acts of victimisation or reprisal should be recorded in a manner that they will be accessible for reference, should legal action be taken against the University.

If someone believes they have or will be subject to detrimental action in reprisal for making a protected disclosure, they may apply to the Supreme Court for either an order remedying the detrimental action or injunctive relief.

## **2. Confidentiality**

The confidentiality requirements in relation to information which might identify or tend to identify a discloser or a person in respect of whom a public interest disclosure has been made must be complied with at all times. As noted above, the disclosure of this identifying information, except in accordance with the PID Act, is an offence.

All files relating to a public interest disclosure, whether paper or electronic, must be secure and accessible only by authorised persons. Files should carry clear warnings that there are penalties for unauthorised divulgence of information concerning a disclosure. For the purposes of the PID Act, a restricted access file will be established for each investigation.

Sensitive information will not be emailed or faxed to machines with general or shared access.

### **I. DISCLOSURE TO A JOURNALIST**

A discloser may make a disclosure to a journalist, provided they disclose information which is substantially the same as they disclosed in the original disclosure and the proper authority receiving the original disclosure or the person to whom a matter raised by the disclosure was referred under s9(1)(b) of the PID Act:

- refused to investigate, or discontinued the investigation of a matter raised by the disclosure; or
- did not complete an investigation within six months of the matter being raised; or
- completed an investigation but did not recommend that action be taken; or
- did not notify the discloser within three months of the disclosure being made about the proposed actions or action taken; or
- did not provide a report stating the outcome of investigation and any action proposed or taken and the reasons for those actions.

A journalist is someone engaged in the profession or occupation of journalism in connection with the publication of information in a medium for dissemination to the public of news and observation of news.

### **J. PUBLIC INTEREST DISCLOSURE REGISTER**

ECU shall maintain a Public Interest Disclosure Register recording 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 Director – Risk and Assurance Services Centre.

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 identity of persons named in the disclosure;
- claims of unlawful disclosure of discloser's identity or identity of persons named in the disclosure;
- claims of victimisation;

- key dates.

A sample Public Interest Disclosure Register is provided at Appendix 5. Additional information may also be recorded in the Register at the discretion of the ECU 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.

## **K. REPORTING REQUIREMENTS**

Under the PID Act the University will need to report to the Public Sector Commissioner each year as outlined below.

### **1. Vice-Chancellors Report**

Under section 23 (f) of the PID Act, the Vice-Chancellor is required to report annually to the Public Sector Commissioner on:

- the number of public interest disclosures received over the report period;
- the results of any investigations conducted as a result of the disclosures; and
- the action, if any, taken as a result of each investigation.

### **2. Public Sector Commissioner's Compliance Report**

Under section 19 and 22 of the PID Act, the Public Sector Commissioner is required to monitor compliance with the PID Act, to assist public authorities to comply with the PID Act and the Code and to provide an Annual Report to Parliament.

Under section 27 of the PID Act, the Minister will carry out a review of the PID Act in 2006.

To enable the Public Sector Commissioner and the Minister to meet these obligations the University will provide a report each year on compliance with and administration of the PID Act as requested by the Public Sector Commissioner.

### **3. Report Format and Submission**

An electronic format for the Vice-Chancellor's Report and the information for the Public Sector Commissioner's Compliance Report will be provided each year by the Public Sector Commissioner and both will be able to be submitted in a single electronic submission. The reports will cover the period 1 July in any year to 30 June in the subsequent year.

Where there has been no action on a disclosure in the reporting period the format of the report will provide for a simple nil return. Where action relating to one or more disclosures has occurred, all data required will be obtainable as a simple extract from the Public Interest Disclosure Register.

## **L. MAKING INFORMATION AVAILABLE**

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/risk-and-assurance-services/compliance/fraud-and-misconduct>. Copies of these internal procedures are available from ECU's PID Officers whose contact details appear in Part C of these procedures.

All staff will be provided with the Information for Staff at Appendix 6. This information will also be provided to new staff on induction.

A person making an allegation about improper conduct without referring to the PID Act should be advised that they might want to make a public interest disclosure under the PID Act. If they wish to do so, they should be referred to an ECU PID Officer for guidance on how to make a disclosure under the PID Act and on the implications of having done so.

## APPENDIX 1

### Edith Cowan University Public Interest Disclosure Procedures

#### RIGHTS AND OBLIGATIONS UNDER THE PUBLIC INTEREST DISCLOSURE ACT

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## **A. OVERVIEW OF THE PUBLIC INTEREST DISCLOSURE ACT**

### **1. INTRODUCTION**

The *Public Interest Disclosure Act 2003 (PID Act)* facilitates the disclosure of public interest information, and provides protection for those making such disclosures and those who are the subject of disclosures. The PID Act provides a system for the matters disclosed to be investigated and for appropriate action to be taken.

The PID Act does not confer additional powers on ECU to investigate or take action in relation to public interest disclosures. Rather, it provides for protection to persons who make disclosures that may result in a proper authority exercising its existing powers to investigate and take action in relation to the subject matter of the disclosure. In some circumstances the PID Act requires ECU to investigate a matter and to notify the person making the disclosure of the action taken.

The PID Act also requires the Vice-Chancellor to prepare and publish internal procedures relating to their authority's obligations under the PID Act. ECU's internal procedures must be consistent with these Guidelines.

### **2. What is a Public Interest Disclosure?**

A public interest disclosure is made when a person discloses to a proper authority information that tends to show past, present or proposed future improper conduct by the University in the exercise of its public functions.

In order to be a disclosure to which the PID Act applies, a disclosure must be:

- made by a discloser who believes on reasonable grounds that the information is or may be true;
- a disclosure of public interest information;
- made to the appropriate proper authority.

While the PID Act provides for the protection of all public interest disclosures, not every proper authority will have the obligation or power to investigate and take action in relation to the disclosure. In some cases the discloser or information may need to be referred to another proper authority to enable an effective response to the disclosure to be made.

More specific information about how a public interest disclosure is to be made and assessed can be found in section B – Making, Receiving and Assessing a Public Interest Disclosure.

### **3. What is Protection?**

When a person makes an appropriate disclosure of public interest information to a proper authority, the PID Act:

- protects the person making the disclosure from legal or other action;
- provides for the confidentiality of the identity of the person making the disclosure and a person who is the subject of a disclosure; and
- provides remedies for acts of reprisal and victimisation that occur substantially because the person has made a disclosure.

In general terms, for people who make disclosures, protection is provided against detrimental action, which includes injury, intimidation, harassment, adverse treatment or reprisal. More specific information about protection can be found in section D – Confidentiality and Protection for Disclosers.

The PID Act also provides penalties for disclosing the identity of those persons about whom public interest disclosures are made, as well as emphasising the need for those persons to be accorded natural justice or procedural fairness.

## **B. MAKING, RECEIVING AND ASSESSING A PUBLIC INTEREST DISCLOSURE**

### **1. What is different about a Public Interest Disclosure?**

Not all disclosures about a public authority (ECU) can be classified as public interest disclosures that are protected by the PID Act.

In order to be a disclosure to which the PID Act applies, a disclosure must be:

- made by a discloser who believes on reasonable grounds that the information is or may be true;
- a disclosure of public interest information;
- made to the appropriate proper authority.

### **2. Who can make a Disclosure?**

Any person may make a disclosure of public interest information. While public officers may make disclosures of public interest information, the PID Act also allows for members of the public to make these disclosures.

A person making a public interest disclosure can be called a discloser.

A person making a public interest disclosure must believe, on reasonable grounds, that the information disclosed is true or may be true. A person making a disclosure purporting to be a disclosure of public interest information commits an offence where they:

- know the information to be false or misleading in a material particular; or
- are reckless about whether the information is false or misleading in a material particular.

The discloser does not necessarily need to be able to identify any person whom the disclosure concerns.

### **3. What is Public Interest Information?**

The PID Act only applies to disclosures of public interest information. Public interest information must meet a number of criteria. It must:

- relate to a public authority (ECU), public officer (ECU employees) or public sector (ECU contractor ("a public body"))
- relate to the performance of a public function of the public body
- tend to show that the public body is, has been, or proposes to be, involved in improper conduct.

ECU contractors to whom public interest information may relate are contractors engaged by ECU for the supply of goods and services or the performance of public functions.

### **4. What is a Public Function to which Public Interest Information must relate?**

The PID Act does not apply to the disclosure of information concerning improper conduct, unless the conduct relates to the performance of the functions of the public authority (ECU), Public officer (ECU employee) or public sector (ECU) contractor.

So, for example, the PID Act would not apply to information that an employee of the University had engaged in criminal behaviour unconnected with their employment.

### **5. Who are the Public Bodies to which Public Interest Information must relate?**

The following are public authorities to which public interest information may relate:

- a department in the public service.

- an agency within the public sector.
- a local government or regional local government.
- a body established under State law for a public purpose (eg public universities, port authorities, government boards etc.), bodies established by the Governor or a minister.

The following are public officers to whom public interest information may relate:

- Ministers, Parliamentary Secretaries and Members of Parliament
- Judicial officers.
- Police officers.
- Officers such as a bailiff serving or executing the process of a court or tribunal for remuneration.
- Public service officers.
- Members, officers and employees of public authorities.
- Holders of offices under the State and offices established by the Governor or a minister.
- Officers of the Commonwealth exercising a function on behalf of the State.

The Act does not apply to information relating to Commonwealth Government bodies, apart from officers of the Commonwealth exercising functions for the State under State law.

Public sector contractors to whom public interest information may relate are contractors engaged by public authorities for the supply of goods and services or the performance of public functions.

## 6. What is Improper Conduct to which the Public Interest information must relate?

Public interest information must tend to show the involvement of a public body (ECU) in:

- improper conduct;
- an offence against State law;
- a substantial unauthorised or irregular use of public (ECU) resources;
- a substantial mismanagement of public (ECU) resources;
- conduct involving a substantial and specific risk of injury to public health, prejudice to public safety or harm to the environment;
- conduct relating to matters of administration affecting someone in their personal capacity falling within the jurisdiction of the Ombudsman.

ECU can receive many different types of complaints. These can range from workplace disputes, claims of harassment and bullying, occupational health concerns and allegations of improper conduct or corruption. Not all of these disclosures will be of public interest information to which the PID Act will apply. The chart below identifies some of the differences between a grievance to which the PID Act would not apply and a public interest disclosure.

Grievance	Public Interest Disclosure
Aims to resolve a complaint or dispute	Does not aim to resolve a grievance or dispute
Aims to deal with the complaint as close to the source as possible, i.e. to resolve differences directly between the parties concerned	This principle is not relevant to the handling of a public interest disclosure
Usually a dispute between an employee and management, or between two parties	More than a dispute between two parties – relates to a matter of public interest
A complainant generally 'owns' the complaint and can withdraw it at any stage	The discloser doesn't 'own' the disclosure once it has been made and cannot withdraw it
Generally can be resolved by agreement between the parties	The aim is not to resolve the issue between two or more parties



## 7. To whom must a Public Interest Disclosure be made?

A disclosure will only be a public interest disclosure if it is made to the appropriate proper authority. Depending on the nature of the disclosure, the identity of the appropriate proper authority will vary. It is important that the disclosure be made to the appropriate proper authority as disclosures to other persons will not be protected.

A public interest disclosure may be made internally to ECU or, in appropriate cases, externally to the proper authorities named in the PID Act. Generally, disclosures about ECU or its staff or contractors should be made to an ECU PID Officer. ECU's PID Officers are the Director, Risk & Assurance Services Centre and the Director, Office of Governance Services.

ECU's PID Officers are the proper authorities for the disclosure of information relating to a matter falling within the sphere of responsibility of ECU. ECU's PID Officers are responsible for keeping up to date with all information made available by the Public Sector Commissioner and must also comply with the *Code of Conduct and Integrity* (Appendix 8) made under the PID Act.

In some cases a public interest disclosure may be made to an external named proper authority. The authority to which a disclosure ought to be made will vary according to the nature of the information disclosed.

The chart below identifies the appropriate proper authority for each type of disclosure.

### PROPER AUTHORITIES FOR RECEIVING DISCLOSURES OF PUBLIC INTEREST INFORMATION

When the disclosure relates to...	the proper authority is...
The sphere of responsibility of a public authority (matters about the public authority or its officer, or which the public authority has the function of investigating)	An ECU Public Interest Disclosure Officer (PID Officer)
Offences under State law	A police officer or the Corruption and Crime Commission
Substantial unauthorised or irregular use of, or substantial mismanagement of public resources	An ECU PID Officer or the Auditor General
Matters of administration affecting someone in their personal capacity falling within the jurisdiction of the Ombudsman	An ECU PID Officer or the Ombudsman
A police officer	The Commissioner of Police or the Corruption and Crime Commission
A Member of the Legislative Council	The President of the Legislative Council
A Member of the Legislative Assembly	The Speaker of the Legislative Assembly
A judicial officer	The Chief Justice
A public officer who is not a member of Parliament, a Minister, a Judicial Officer or a Commissioned or other officer specified in schedule 1 of the Parliamentary Commissioner Act 1971.	An ECU PID Officer, the Ombudsman or the Public Sector Commissioner
A Person or a matter of a prescribed class	A person declared by the regulations to be a proper authority

**Important Note:** In addition, the information disclosed must be public interest information as defined in the PID Act. Not all proper authorities to which a disclosure may be made will be required or have the power to investigate the information disclosed. In some cases it

***may be necessary for the discloser or information to be referred to another proper authority with power to investigate the information.***

#### **8. Can a Disclosure of Public Interest Information be made to more than one Proper Authority?**

Yes – the PID Act refers to a disclosure being made to more than one proper authority. In such a case the protection and obligations created by the PID Act will apply to each of the disclosures.

A public authority (ECU) may not have to investigate a matter raised by a public interest disclosure where it considers that the matter is being or has been adequately investigated by another person to whom a disclosure under the PID Act has been made.

In some cases the proper authority to which the disclosure is made may refer the matter to some other person having power to investigate the matter. In general, a disclosure about ECU, its staff or contractors, or a disclosure falling within the sphere of responsibility of ECU, should in the first instance, be made to ECU.

#### **9. Disclosure to a Journalist**

A discloser may make a disclosure to a journalist, provided they disclose information which is substantially the same as they disclosed in their original disclosure and the proper authority receiving the original disclosure or the person to whom a matter raised by the disclosure was referred under s9(1)(b) of the PID Act:

- refused to investigate, or discontinued the investigation of a matter raised by the disclosure; or
- did not complete an investigation within six months of the matter being raised; or
- completed an investigation but did not recommend that action be taken; or
- did not notify the discloser within three months of the disclosure being made about the proposed actions or action taken; or
- did not provide a report stating the outcome of investigation and any action proposed or taken and the reasons for those actions.

A journalist is someone engaged in the profession or occupation of journalism in connection with the publication of information in a medium for dissemination to the public of news and observation of news.

#### **10. Anonymous Disclosers**

A person may make an anonymous public interest disclosure. If a person makes an anonymous disclosure to an ECU PID Officer, ECU is relieved of its obligation to notify the discloser of the status or outcome of any investigation initiated as a result of the disclosure.

#### **11. No Time Limit on a Disclosure**

A disclosure may relate to matters that occurred before the commencement of the PID Act. There is no time limit to the retrospectivity of a disclosure. However, a claim cannot be made in relation to victimisation that occurred prior to the PID Act coming into effect on 1 July 2003.

#### **12. Can Information Protected by Legal Professional Privilege be disclosed?**

The PID Act does not protect disclosures of information protected by legal professional privilege. Legal professional privilege protects confidential communications between public authorities (ECU) and their legal advisers, and associated documents. This protection exists where the communication was made or document was created for the dominant purpose of:

- Obtaining or giving legal advice; or
- With reference to current or contemplated litigation.

## **C. DEALING WITH PUBLIC INTEREST DISCLOSURES**

### **1. How should a Public Interest Disclosure be made?**

The PID Act does not specify a form in which an appropriate disclosure of public interest must be made.

However, public authorities such as ECU are required to prepare and publish internal procedures relating to its obligations under the PID Act. These internal procedures will provide for the manner in which disclosures of public interest information may be made to the public authority concerned.

These procedures will provide for making a written record of the information disclosed, which clearly identifies the disclosure as a public interest disclosure made under the PID Act.

This is necessary to enable public interest disclosures to be identified for reporting purposes, and to be distinguished from ordinary complaints made to the public authority (ECU). This provision is also necessary to ensure that the information is identified as information to which the protection and confidentiality provisions of the PID Act apply.

### **2. Must a Public Interest Disclosure be Investigated?**

Public authorities such as ECU are not obliged to investigate every public interest disclosure made to it. Generally ECU must investigate information disclosed under the PID Act where:

- the disclosure relates to ECU, its staff or contractors;
- the disclosure relates to a matter or person that ECU has a function or power to investigate (e.g. where a police officer may investigate an offence committed in the University).

ECU may refuse to investigate, or discontinue an investigation, where it considers that:

- the matter is trivial;
- the disclosure is vexatious or frivolous;
- there is no reasonable prospect of obtaining sufficient evidence due to the time that has elapsed since the occurrence of the matter;
- the matter is being or has been adequately or properly investigated by another proper authority to which an appropriate disclosure of public interest information has been made.

The obligations in relation to investigations do not apply to the Corruption and Crime Commission or the Ombudsman where they have functions in relation to the disclosure under their own legislation. These provisions are made in their legislation.

The PID Act does not give ECU investigative powers that it did not otherwise have. Where ECU lacks sufficient power to effectively investigate the matter, but the information received causes ECU to form the opinion that a public body has engaged in improper conduct, ECU may need to refer the matter to another investigative body such as the Corruption and Crime Commission, Police or Auditor General.

### **3. What action must a Public Authority take following an investigation?**

A proper authority is only required to take action following an investigation if it forms the view that a person may be, may have been, or may in the future be, involved in improper conduct to which the PID Act applies. If the proper authority does not form that view after undertaking the investigation that is within its power, it is not required to take further action other than reporting to the discloser and recording the outcome.

If the proper authority forms the view that a person may be, may have been, or may in the future be, involved in improper conduct to which the PID Act applies, then it will be required to take action in relation to the matter.

In taking that action the proper authority remains limited by the powers and functions that are

conferred by its enabling legislation; for ECU this is the *Edith Cowan University Act*. The Public Interest Disclosure Act does not give ECU additional powers to take action.

As well as being limited to matters within the functions and powers of the proper authority, the action to be taken is guided by what is necessary and reasonable. ECU's certified agreements, Fraud & Misconduct Prevention and Management Policy and Human Resources Policies and Procedures will provide the necessary advice and guidance for the University.

Having regard to those matters, the proper authority must take action to:

- prevent the matter to which the disclosure relates from continuing or occurring in future;
- refer the matter to the Commissioner of Police or another person, body, or organisation having power to investigate the matter; or
- take disciplinary action or commence or enable disciplinary proceedings to be commenced against a person responsible for the matter.

These options are not mutually exclusive, and a proper authority may take more than one of the indicated steps: for example, to seek to terminate the employment of an officer caught stealing and refer the matter to the police.

The Vice-Chancellor is required to notify the Corruption and Crime Commission (CCC), as soon as is reasonably practicable, in writing of any matter which he or she suspects on reasonable grounds concerns or may concern misconduct. The Fraud & Misconduct Prevention and Management Policy sets out the procedures to enable the Vice-Chancellor to notify the CCC. When providing notification of a public interest disclosure involving suspected misconduct to the CCC as a notification under s.28 of the CCC Act, the report must be made in writing and contain the names of the public officer(s) alleged to be involved in the misconduct and the details of the alleged misconduct. The identity of the discloser is not provided to the CCC when notifying or reporting unless:

- The discloser is involved in the alleged act of misconduct;
- The discloser consents to the disclosure of public interest information that might identify or tend to identify him or her. ECU's PID Officers may wish to discuss with the discloser their wishes regarding the release of their details to the CCC as part of any discussions with those seeking to lodge a public interest disclosure;
- Following notification or report, if the CCC advises the ECU PID Officer in writing of their intention to take over the investigation of the matter which is the subject of the disclosure, the CCC is entitled to be told the discloser's details provided that it is necessary to facilitate the matter's effective investigation.. In such circumstances the ECU PID Officer managing the disclosure must take all reasonable steps to advise the discloser that an identifying disclosure is to be made and that the PID Act permits this to occur;
- In matters where the CCC subsequently determines that the identity of the discloser is required for the purposes of investigation, the CCC can issue a separate notice under s. 94 of the CCC Act.

Before taking preventative or disciplinary action the proper authority is to afford any person against whom, or in respect of whom, the action is to be taken the opportunity to make a submission, either orally or in writing, in relation to the matter.

#### **4. Is the Discloser given details of the investigation and action taken?**

Where a proper authority refuses to investigate information disclosed under the PID Act, or discontinues an investigation, it must give the discloser reasons for doing so.

Within three months after a public interest disclosure is made the proper authority must notify the discloser of the action taken or proposed to be taken in relation to the disclosure.

A discloser may also request a progress report.

If an investigation is not complete, the proper authority may provide a progress report on the current status of the investigation to the discloser.

If an investigation is complete, the proper authority must provide a final report to the discloser stating the outcome of the investigation and the reason for taking action following the investigation.

In providing information and reports to disclosers, a proper authority must not give information that, in its opinion, would be likely to adversely affect:

- any person's safety;
- the investigation of an offence or possible offence; or
- necessary confidentiality about the existence or identity of another person who has made a disclosure of public interest information under the PID Act.

## **5. Can a Discloser withdraw a Public Interest Disclosure?**

No. Once a disclosure of public interest information is made, a proper authority is required to investigate it and take action regardless of the subsequent attitude of the discloser.

In addition, a discloser may forfeit the protection given by the PID Act if they fail, without reasonable excuse, to assist a person investigating the matter to which the information relates by supplying any information requested, unless a court otherwise orders.

## **6. What if a Discloser does not agree with the action taken by the Proper Authority?**

The PID Act does not provide for any right of appeal against decisions of an appropriate authority as to investigations and subsequent action.

If a discloser is dissatisfied with a decision made by a proper authority, they may make a further disclosure of the information to another proper authority. For example, where a discloser is dissatisfied with the response to a public interest disclosure about a matter of administration made to an ECU PID Officer, the discloser may disclose the information to the Ombudsman.

However, a proper authority to which a subsequent disclosure is made need not investigate the matter if it considers the matter has been adequately or properly investigated by another proper authority. In deciding whether this is the case, the second proper authority may need to contact the authority that has already dealt, or is already dealing, with the information in relation to its investigation.

## **7. Record Keeping**

It is extremely important that comprehensive and secure records are kept for each disclosure made.

As well as being normal administrative practice, keeping proper records enables a proper authority to give account of their decisions and actions. The period for which any record should be kept and the manner of disposal must be in accordance with the provisions of the *State Records Act 2000*.

Additionally, the PID Act requires all proper authorities to provide to the Public Sector Commissioner annual information about the number of disclosures received, investigations conducted and actions taken.

At ECU official files are to be created in accordance with the Records Management Policy.

## **8. PID Code of Conduct and Integrity**

Any person to whom a public interest disclosure may be made must comply with the Public Interest Disclosure *Code of Conduct and Integrity*. A copy of the PID Code of Conduct and Integrity is attached as per Appendix 8.

## D. CONFIDENTIALITY AND PROTECTION FOR DISCLOSERS

### 1. What Protection does the PID Act provide to Disclosers?

The PID Act offers protection to disclosers by:

- providing for immunity from legal or other action in relation to the disclosure;
- providing for an offence of reprisal;
- providing for civil remedies for acts of victimisation;
- providing for confidentiality of the identity of the discloser, subject to exceptions;
- requiring public authorities to provide protection from detrimental action for disclosers who are their employees;
- providing for the ability of disclosers to apply to the Supreme Court for remedying action for detrimental action or injunctive relief.

### 2. What Immunity do Disclosers have?

Making an appropriate disclosure of public interest information to a proper authority does not result in a discloser:

- incurring any civil or criminal liability;
- being liable to any disciplinary action under State law;
- being liable to be dismissed or have his or her services dispensed with or otherwise terminated;
- being liable for any breach of a duty of secrecy or confidentiality or any other applicable restriction on disclosure.

### 3. Is it an Offence to take Reprisals against a Discloser?

Yes. A person must not take, or threaten to take, detrimental action against another because someone has made, or intends to make, a disclosure under the PID Act. This is the offence of reprisal.

Detrimental action for these purposes includes action causing:

- injury, damage, or loss;
- intimidation or harassment;
- adverse discrimination, disadvantage, or adverse treatment in relation to a person's career, profession, employment, trade, or business;
- a reprisal.

A person who attempts to commit the offence of reprisal, or incites another to commit that offence, is also guilty of this offence.

**The maximum penalty for the offence of reprisal is a fine of \$24,000 or imprisonment for two years.**

### 4. What Remedies does a Discloser have against Victimisation?

A person who takes or threatens to take detrimental action against another because someone has made, or intends to make, a disclosure of public interest information commits an act of victimisation.

A person who is subject to detrimental action may either take civil proceedings for damages or make a complaint under the *Equal Opportunity Act 1984*. Instituting one of these alternative avenues of relief extinguishes the other. Further if someone believes they have or will be subject to detrimental action in reprisal for making a protected disclosure, they may apply to the Supreme Court for either an order remedying the detrimental action or injunctive relief.

Civil proceedings may be taken against either the perpetrator of the act of victimisation or any employer of the perpetrator. For example, the employer of the perpetrator may be:

- ECU who employs the perpetrator; or
- An ECU contractor whose employees engage in victimisation.

However, an employer may have a defence to civil proceedings for damages where it proves that is:

- was not knowingly involved in the PID Act of victimisation
- did not know and could not reasonably be expected to have known about the PID Act of victimisation; and
- could not, by the exercise of reasonable care, have prevented the PID Act of victimisation.

If someone believes they have or will be subject to detrimental action in reprisal for making a protected disclosure, they may apply to the Supreme Court for either an order remedying the detrimental action or injunctive relief.

## **5. Is a Discloser's Identity to be kept Confidential?**

Generally, a person must not make a disclosure of information that might identify or tend to identify anyone as a person who has made an appropriate disclosure of public interest information under the PID Act.

This prohibition against disclosure applies both to disclosures that identify a discloser and disclosures that might tend to identify a discloser. For example, to disclose that a young woman in a small accounts section has made a public interest disclosure about irregularities she has detected in the accounts of a particular public authority might tend to identify the discloser, even though she is not named.

Exceptions arise where the disclosure of a discloser's identity:

- a) is made with the discloser's consent;
- b) is made under the Corruption and Crime Commission Act;
- c) is necessary, having regard to the rules of natural justice (see Section E2 in relation to the rules of natural justice);
- d) is necessary to enable the matter to be investigated effectively; or
- e) is made in accordance with a order issued by a Court or another person/body with the authority to make such an order.

In the case of disclosures made in accordance with 5 (c) and (d), the person making the disclosure must take all reasonable steps to inform the person whose identity is to be disclosed:

- that the disclosure is being made; and
- the reasons for the disclosure being made.

Those steps to inform the person must be taken a reasonable time before the identifying disclosure is made. This requirement does not apply to anonymous disclosures.

*A breach of these confidentiality requirements is an offence punishable with a penalty of \$24,000 or imprisonment for two years.*

## **E. MANAGING PERSON(S) SUBJECT TO A DISCLOSURE**

### **1. Is the Identity of a Person about whom a Disclosure is made to be kept Confidential?**

The protection the PID Act provides to disclosers is largely mirrored in the protection offered to a person to whom disclosed public interest information relates.

A person must not make a disclosure of information that might identify or tend to identify anyone

as a person in respect of whom a disclosure of public interest information has been made under the PID Act.

Exceptions arise where:

- the disclosure is made with the consent of that person;
- the disclosure is made in accordance with section 152 or 153 of the Corruption and Crime Commission Act 2003;
- the disclosure is necessary to enable the matter to be investigated effectively;
- the disclosure is necessary in the course of taking action following the investigation;
- there are reasonable grounds to believe that the disclosure of identifying information is necessary to prevent or minimise the risk of injury to any person or damage to any property;
- the disclosure is made in accordance with a order issued by a Court or another person/body with the authority to make such an order.

*A breach of these confidentiality requirements is an offence punishable with a penalty of \$24,000 or imprisonment for two years.*

## **2. Providing Natural Justice**

The PID Act requires that natural justice, or procedural fairness, be accorded to those who may be the subject of a public interest disclosure. An exception to the obligation to keep identifying information confidential arises where, having regard to the rules of natural justice, disclosing identifying information is necessary.

The rules of natural justice will generally include a requirement that, before disciplinary or other action is taken against them, those subject to a disclosure be given the opportunity to:

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

The precise requirements of the rules of natural justice will vary according to the circumstances, and legal advice should be obtained via the Office of Legal Services in a case where there is any doubt as to these requirements.

## **F. ROLES AND RESPONSIBILITIES**

### **1. What is the role of the Public Sector Commissioner?**

The role of the Public Sector Commissioner under the PID Act is to:

- develop a Code setting out the minimum standards of conduct and integrity to be complied with by proper authorities;
- monitor compliance with the PID Act and Code;
- assist public authorities and public officers to comply with the PID Act and Code;
- prepare and publish guidelines on internal procedures relating to the functions of a proper authority under the PID Act;
- report annually to Parliament on the performance of his/her obligations and the compliance or non-compliance with the PID Act and Code, and
- at any time report to Parliament on any matter arising in connection with the exercise of his/her functions under the PID Act.

### **2. What are the responsibilities of ECU?**

The Vice-Chancellor must ensure that ECU complies with the PID Act and Code.

In particular, the Vice-Chancellor must:

- designate the occupant of a specified position as the person responsible for receiving disclosures of public interest information; and
- prepare and publish internal procedures relating to the authority's obligations under the PID



Act, which are consistent with the guidelines published by the Public Sector Commissioner.

The Vice-Chancellor must also provide protection from detrimental action or the threat of detrimental action for any employee of the public authority who makes an appropriate disclosure of public interest information.

There is also an obligation to report to the Public Sector Commissioner annually on:

- the number of disclosures made to ECU under the PID Act;
- the outcome of investigations conducted as a result of disclosures;
- the action taken as a result of the investigation; and
- other matters prescribed (at present it is not contemplated that other matters will be prescribed).

In order to enable these reports to be consolidated into the Public Sector Commissioner's report to Parliament, it will be necessary for the information to be provided in a common format. These guidelines will provide for a reporting format, and the internal procedures that each public authority is required to establish will need to implement these requirements.

### 3. Roles and Responsibilities of persons directly involved in a Public Interest Disclosure

In the case of a typical public interest disclosure there will be a number of people involved with different roles and responsibilities.

The main players and their principal roles and responsibilities are noted in the table below. A more detailed description of the rights and obligations of these individuals is given elsewhere in these guidelines, and reference should be made to the preceding sections, as well as this chart, in determining rights and responsibilities.

<b>The discloser</b>	<p>Makes a Public Interest Disclosure.</p> <p>Maintains confidentiality of the information disclosed and, in particular, the identity of the persons to whom the information relates.</p>
<b>The proper authority</b>	<p>Receives a Public Interest Disclosure.</p> <p>Considers whether an investigation is required.</p> <p>Carries out, or causes to be carried out, any investigation.</p> <p>Maintains confidentiality of the identity of the discloser and persons subject to the disclosure, in accordance with the requirements of the PID Act.</p> <p>Takes action following an investigation, where appropriate.</p> <p>Provides appropriate reports of investigation and action taken to discloser.</p> <p>Creates and maintains proper records in relation to disclosure.</p> <p>Keeps statistics of disclosures made.</p> <p>Acts in accordance with the rules of natural justice or procedural fairness.</p>
<b>The person about whom the disclosure is made</b>	<p>May be subject to investigation and other action if improper conduct is established.</p> <p>Maintains confidentiality of the identity of the discloser.</p>
<b>An investigating officer</b>	<p>May conduct investigations of public interest information on behalf of a proper authority, within the terms of reference given.</p> <p>Maintains confidentiality of the identity of the public interest discloser and persons subject to the disclosure, in accordance with the PID Act.</p> <p>Makes and keeps secure, comprehensive records of any investigation undertaken.</p>

**G. FOR INFORMATION ABOUT AGENCY ROLES GENERALLY, CONTACT:**

**Office of the Public Sector Commissioner**

17<sup>th</sup> Floor St Martin's Tower  
44 St Georges Terrace  
Perth WA 6000  
Telephone: (08) 9260 6600  
Fax: (08) 9260 6611  
National Relay Service 133677  
Website: [www.wa.gov.au/opssc/](http://www.wa.gov.au/opssc/)  
Email: [pssc@opssc.wa.gov.au](mailto:pssc@opssc.wa.gov.au)

For advice on information related to an act or omission that constitutes an offence under a written law contact:

**Corruption and Crime Commission**

PO Box 7667  
Cloisters Square  
PERTH WA 6850

Level 5, 141 St Georges Terrace  
Perth WA 6000  
Telephone: (08) 9215 4888  
Facsimile: (08) 9215 4884  
Website: [www.ccc.wa.gov.au](http://www.ccc.wa.gov.au)

**Commissioner of Police**

Police Headquarters  
2 Adelaide Terrace  
East Perth WA 6004

Telephone: (08) 9222 1497  
Facsimile: (08) 9222 1520  
Website: [www.police.wa.gov.au](http://www.police.wa.gov.au)

For information about proper use and management of public resources, and more generally on public authorities accountability and performance requirements contact:

**Office of the Auditor General**

4th Floor, Dumas House  
2 Havelock Street  
West Perth WA 6005

Telephone: (08) 9222 7500  
Facsimile: (08) 9322 5664  
Website: [www.audit.gov.au](http://www.audit.gov.au)

On what constitute matters of administration and what can be investigated under section 14 of the Parliamentary Commissioner Act 1971 contact:

**State Ombudsman**

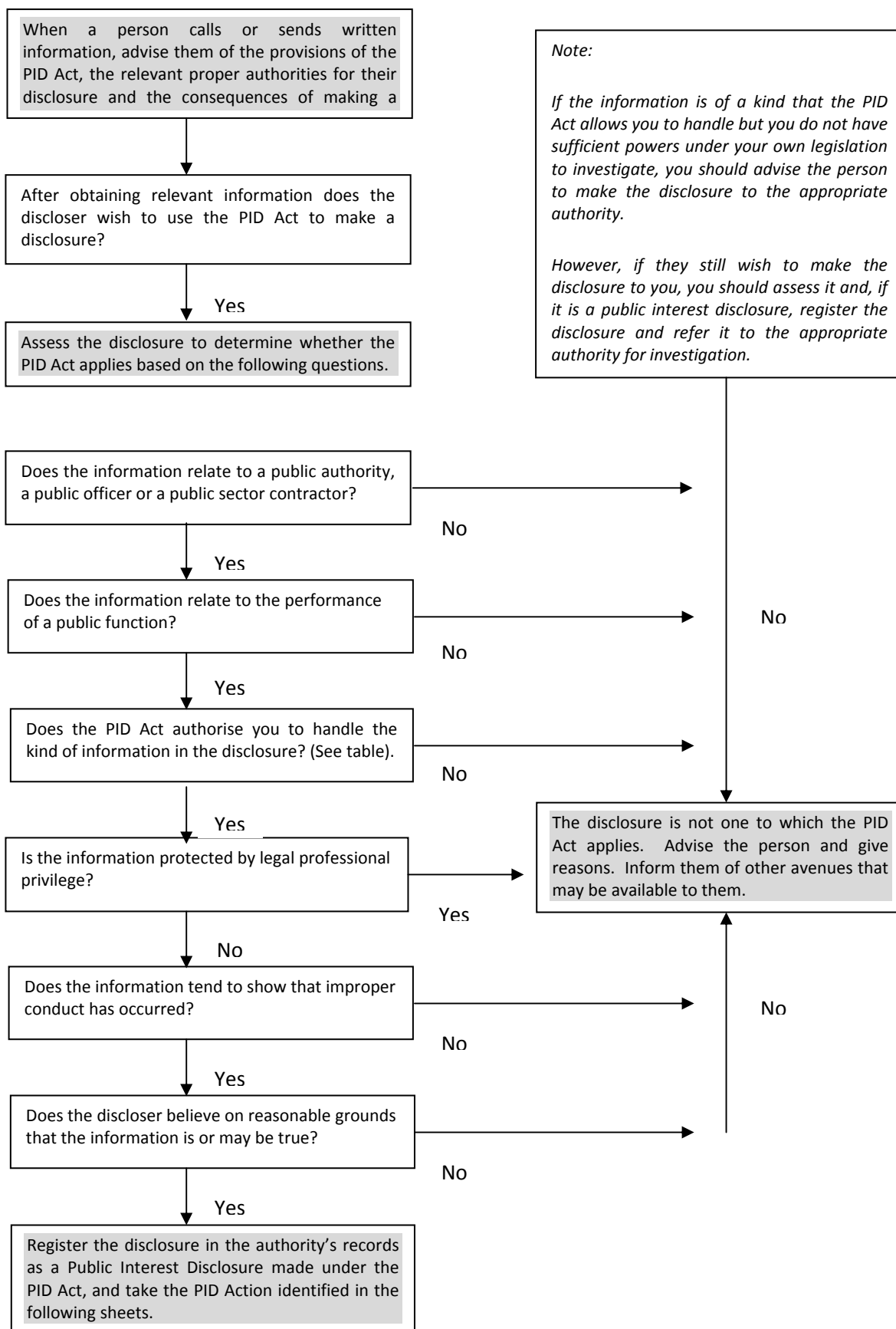
PO Box Z5386  
St Georges Terrace  
Perth WA 6831

Level 17  
44 St Georges Terrace  
Perth WA 6000

Telephone: (08) 9220 7555  
Outside Metro: 1800 117 000  
Facsimile: (08) 9325 1107  
Website: [www.ombudsman.wa.gov.au](http://www.ombudsman.wa.gov.au)

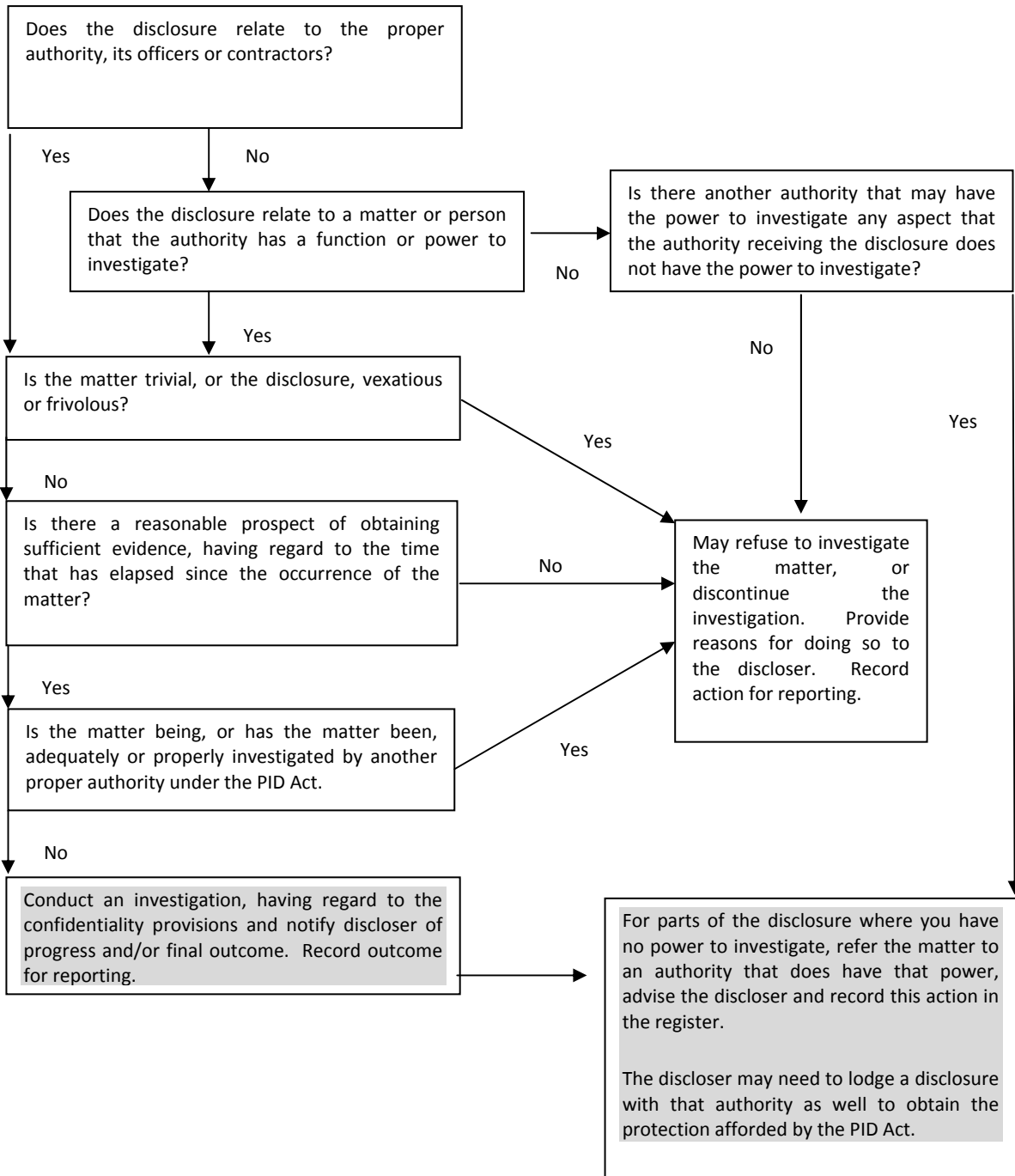
## APPENDIX 2

Flowchart for receiving and assessing disclosures



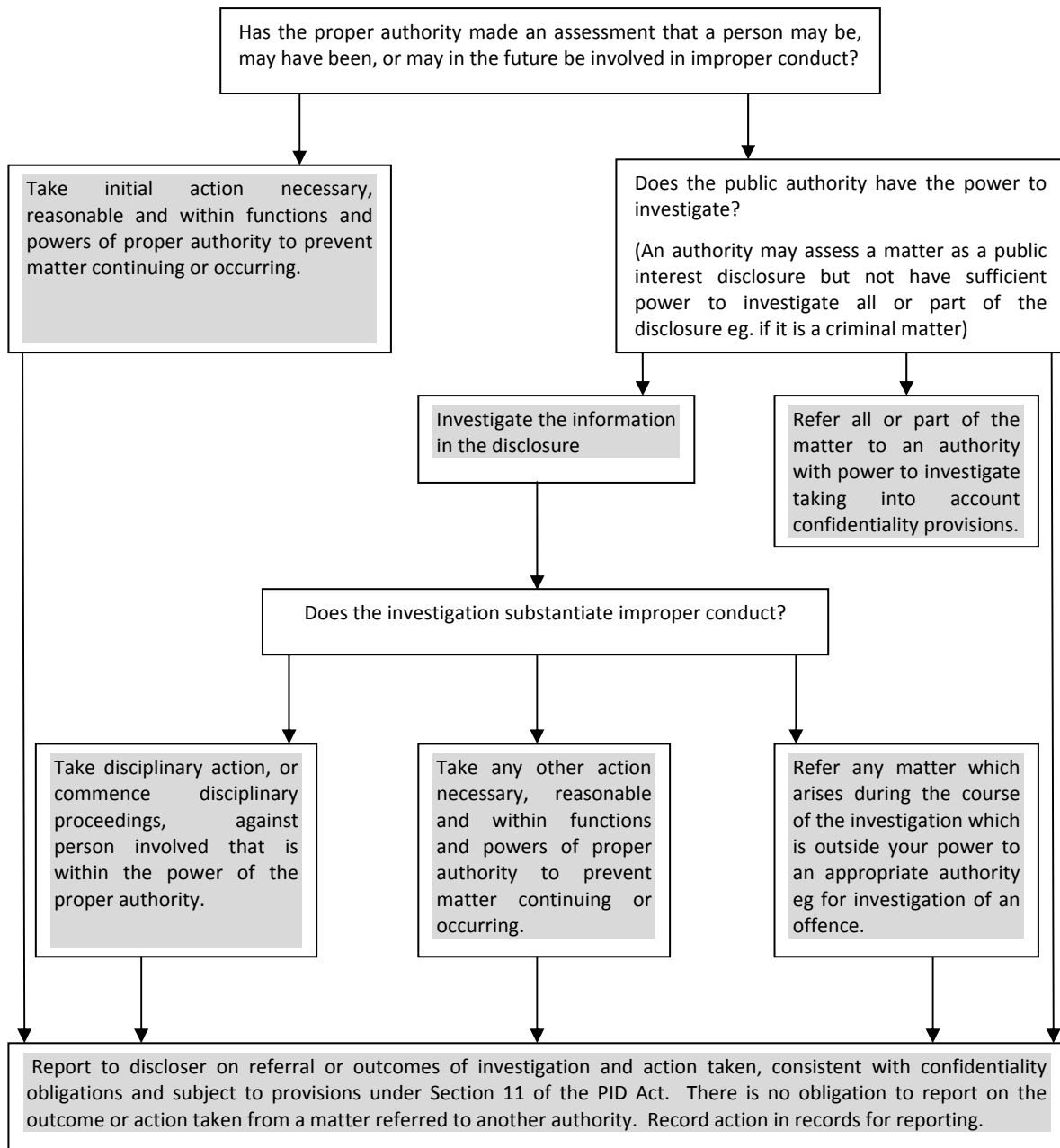
### APPENDIX 3

Flowchart for investigating information disclosed



## APPENDIX 4

### Flowchart for taking action



**Note on Referrals**

The confidentiality provisions apply when you refer a matter and the authority to whom the matter is referred is bound by the confidentiality provisions of the PID Act. However, they will treat it in accordance with their own powers and are not required to treat the matter as a PID for the purposes of reporting the outcome to the discloser.

Nothing precludes the discloser from lodging the matter as a PID with the new authority if they wish to extend the legal protections available to them under the PID Act and receive reports from the new authority on the outcome and action taken.

**APPENDIX 5**

**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.

<b>Disclosure Number:</b>	
<b>Disclosure Code (Unique Register No)</b>	
<b>Person Making the Disclosure (Discloser)</b>	
<b>Name of discloser:</b>	
<b>Gender of discloser:</b>	
<b>Name of public authority employing the discloser (if applicable)</b>	
<b>Relationship of discloser to public authority about which disclosure is made</b>	
<b>First Public Authority about which the Disclosure is made</b>	
<b>Name of public authority</b>	
<b>Individuals named in the disclosure</b>	
<b>Second Public Authority about which the Disclosure is made</b>	
<b>Name of public authority</b>	
<b>Individuals named in the disclosure</b>	
<b>Nature of disclosure</b>	
<b>Type of disclosure</b>	
<b>Brief description of nature of disclosure</b>	

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 6

### STAFF INFORMATION

#### What is a Public Interest Disclosure?

The *Public Interest Disclosure Act 2003 (PID Act)* came into effect on 1 July 2003. The PID Act facilitates the disclosure of public interest information by providing protection for those who make disclosures and those who are the subject of disclosures.

ECU is committed to the aims and objectives of the PID Act. It recognises the value and importance of contributions of staff to enhance administrative and management practices and strongly supports disclosures being made by staff regarding corrupt or other improper conduct.

#### What do I need to know before making a disclosure?

The PID Act deals with disclosures by anyone (not just government employees) but the information must be specific to the following areas:

<b>Improper conduct</b>	Irregular or unauthorised use of public resources
<b>An offence under State law, including corruption</b>	The PID Act 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 an officer who receives a public interest disclosure relating to an offence under State law.
<b>Administration matter(s) affecting you</b>	Conduct involving a substantial and specific risk of injury to public health, prejudice to public safety or harm to the environment

If your information falls outside the above areas then you may still be able to make a complaint, but this will not be a public interest disclosure under the PID Act.

Before making a disclosure it is important that you are aware of the rights and responsibilities imposed on disclosers and others under the PID Act. Three issues are worth highlighting:

- It is an offence to make a disclosure if you know, or are reckless about, it being false and misleading.
- With some exceptions, the public authority will investigate your information and in doing so you will be expected to cooperate.
- You will have to keep your information confidential – or else you may lose protection under the PID Act and may commit an offence under the PID Act.

The PID Act only confers protection where a disclosure is made to an appropriate proper authority. The identity of the appropriate proper authority will vary according to the kind of information to be disclosed.

The Public Interest Disclosure Officers of ECU are the Director, Risk & Assurance Services Centre and the Director, Office of Governance Services. These Officers are responsible for receiving disclosures of public interest information relating to matters falling within the sphere of responsibility of ECU.

#### Primary PID Officer

Mr. Phillip Draber, Director, Risk & Assurance Services Centre  
Room 1.387, Joondalup Campus 270 Joondalup Drive JOONDALUP WA 6027  
Email: [p.draber@ecu.edu.au](mailto:p.draber@ecu.edu.au)  
Phone: (08) 6304 2791  
Fax: (08) 6304 2866

## Supplementary PID Officer

Mrs Janice Tracey  
Director, Office of Governance Services  
Room 1.334, Joondalup Campus 270 Joondalup Drive JOONDALUP WA 6027  
Email: [j.tracey@ecu.edu.au](mailto:j.tracey@ecu.edu.au)  
Phone: (08) 6304 2453  
Fax: (08) 6304 2661

### **Proper authorities for receiving disclosures of public interest information**

<b>When the disclosure relates to...</b>	<b>the proper authority is...</b>
The sphere of responsibility of a public authority (eg matters about the public authority or its officers, or which the public authority has the function of investigating)	The Public Interest Disclosure Officer (PID Officer) of the public authority.
Offences under State Law	A police officer or the Corruption and Crime Commission
Substantial unauthorised or irregular use of, or substantial mismanagement of, public resources	The PID Officer of the public authority concerned or the Auditor General
Matters of administration affecting someone in their personal capacity falling within the jurisdiction of the Ombudsman	The PID Officer of the public authority concerned or the Ombudsman
A Police Officer	The Commissioner of Police or the Corruption and Crime Commission
A Member of the Legislative Council	The President of the Legislative Council
A Member of the Legislative Assembly	The Speaker of the Legislative Assembly
A Judicial Officer	Chief Justice
A public officer who is not a member of Parliament, a Minister, a judicial officer or a Commissioned or other officer specified in schedule 1 of the <i>Parliamentary Commissioner Act, 1971</i>	The PID Officer of the public authority concerned, the Ombudsman or the Public Sector Commissioner
A person or a matter of a prescribed class	A person declared by the regulations to be a proper authority

#### **Important Note:**

*In addition, the information disclosed must be public interest information as defined in the PID Act. Not all proper authorities to which a disclosure may be made will be required or have the power to investigate the information disclosed. In some cases it may be necessary for the discloser or information to be referred to another proper authority with power to investigate the information.*

#### **What you should ask yourself**

Making a disclosure is a serious matter and needs to be fully considered. You should ask yourself:

- whether you have reasonable grounds to believe the information you are thinking of disclosing is or may be true
- if the information is something that you think is important to be disclosed because it is in the public interest. The information should not be tied to any personal agenda
- if you have sought proper advice; and
- if you fully understand your responsibilities under the PID Act if you make a disclosure.

#### **I have made a disclosure – what next?**

After assessing your information the public authority will have to investigate unless it considers:

- the matter to be trivial
- the disclosure to be vexatious or frivolous
- there is no reasonable prospect of obtaining sufficient evidence, due to the lapse of time
- the matter is being, or has already been, adequately or properly investigated by a proper authority under the PID Act; and
- the information does not relate to the proper authority, an officer or contractor of the authority or a matter that the proper authority has the function or power to investigate

### **Will I be kept informed?**

Yes – the public authority must inform you within three months of making the disclosure of what they intend to do about your disclosure.

Where the information is under investigation you will be able to request a progress report.

You are entitled to a report on the outcome and any action taken when the investigation is complete.

### **What about confidentiality and my protection?**

As the disclosure is about a public interest matter rather than a specific complaint, the PID Act requires confidentiality to be maintained on:

- The identity of the person making the disclosure
- The identity of any person named in the disclosure.

There are exceptions to these rules and anyone thinking of making a disclosure should seek advice from PSC on these prior to making a disclosure.

A person making a disclosure is provided with protection under the PID Act for:

- any reprisals
- civil and criminal liability in the event of making a disclosure
- dismissal or having services dispensed with; and
- breach of confidentiality or secrecy agreements

A person alleging victimisation as a result of a disclosure can complain to the Equal Opportunity Commission or may be able to take civil action. (The Equal Opportunity Commission is at Level 2 Westralia Square 141 St Georges Terrace. Telephone (08) 9216-3900 or via its website [eoc@equalopportunity.wa.gov.au](mailto:eoc@equalopportunity.wa.gov.au)).

### **Obligation to notify the CCC of Suspected Misconduct**

The Vice-Chancellor is required to notify the Corruption and Crime Commission (CCC), as soon as is reasonably practicable, in writing of any matter which he or she suspects on reasonable grounds concerns or may concern misconduct. The Fraud & Misconduct Prevention and Management Policy sets out the procedures to enable the Vice-Chancellor to notify the CCC. When providing notification of a public interest disclosure involving suspected misconduct to the CCC as a notification under s.28 of the CCC Act, the report must be made in writing and contain the names of the public officer(s) alleged to be involved in the misconduct and the details of the alleged misconduct. The identity of the discloser is not provided to the CCC when notifying, or reporting unless:

- The discloser is involved in the alleged act of misconduct;
- The discloser consents to the disclosure of public interest information that might identify or tend to identify him or her. ECU's PID Officers may wish to discuss with the discloser their wishes regarding the release of their details to the CCC as part of any discussions with those seeking to lodge a public interest disclosure;
- Following notification or report, if the CCC advises the ECU PID Officer in writing of their intention to take over the investigation of the matter which is the subject of the disclosure, the CCC is

entitled to be told the discloser's details provided that it is necessary to facilitate the matter's effective investigation.. In such circumstances the ECU PID Officer managing the disclosure must take all reasonable steps to advise the discloser that an identifying disclosure is to be made and that the PID Act permits this to occur.

- In matters where the CCC subsequently determines that the identity of the discloser is required for the purposes of investigation, the CCC can issue a separate notice under s. 94 of the CCC Act.

### **After investigation**

After making a disclosure you will not normally be required to do anything else other than cooperate with an investigation. If you are unhappy with the public authority's response to your disclosure there is no right of appeal under the PID Act to challenge the public authority's actions. You may, however, be able to make another disclosure to a different proper authority.

### **Victimisation and reprisals**

ECU will take all reasonable steps to provide protection to staff who make such disclosures from any detrimental action in reprisal for the making of a disclosure.

ECU does not tolerate any of its officers, employees or contractors engaging in acts of victimisation or reprisal against those who make public interest disclosures. These acts should be reported immediately to the Public Interest Disclosure Officer or the Vice-Chancellor.

### **Named proper authorities**

When ECU deals with a relevant disclosure it is referred to in the PID Act as a proper authority. There are some public authorities that are named as proper authorities in the PID Act that may be able to offer you assistance. These are listed below.

- The Corruption and Crime Commission will be able to provide advice on corruption: Telephone (08) 9215-4888 Website: [www.ccc.wa.gov.au](http://www.ccc.wa.gov.au)
- The Ombudsman will be able to provide advice on matters of administration: Telephone (08) 9220-7555 Website [www.ombudsman.wa.gov.au](http://www.ombudsman.wa.gov.au)
- The Office of the Auditor General will be able to provide advice on proper use and management of public resources and more generally public authorities' accountability and performance requirements: Telephone (08) 9222-7500 Website [www.audit.wa.gov.au](http://www.audit.wa.gov.au)
- The Police Service will be able to provide advice on offences under a State law: Telephone (08) 9223 1000 Website [www.police.wa.gov.au](http://www.police.wa.gov.au)
- The Public Sector Commission will be able to provide assistance to public authorities and public officers to comply with the Code of Conduct and Integrity, and with the PID Act: PID Advice and Referral Line 1800 355 835 Website [www.publicsector.wa.gov.au](http://www.publicsector.wa.gov.au).

## APPENDIX 7

# GUIDELINES ON INTERNAL PROCEDURES FORMS

### Contents

- Public Interest Disclosure Officer's Declaration
- Assessment Form for Public Interest Disclosure (Part 1 – 5)
- Public Interest Disclosure Lodgement Form
- Consent to Disclosure of Identifying Information
- Notification of Disclosure of Identifying Information

## PUBLIC INTEREST DISCLOSURE OFFICER'S DECLARATION

To: Public Sector Commission  
Governor Stirling Tower  
197 St Georges Terrace  
Perth WA 6000

Facsimile: (08) 9219 6001  
Email: [admin@psc.wa.gov.au](mailto:admin@psc.wa.gov.au)

<b>Name of PID Officer:</b>
<b>Position of PID Officer in Public Authority:</b>
<b>Name of Public Authority:</b>
<b>Address:</b>
<b>Telephone:</b>
<b>Facsimile:</b>
<b>Email:</b>
<b>Date of Commencement as PID Officer:</b>
I declare that I understand my obligations as a PID Officer for the above authority: In particular, I am aware that it is an offence to make a disclosure of information that might identify or tend to identify anyone: <ul style="list-style-type: none"><li>• As a person who has made a public interest disclosure under the PID Act; or</li><li>• As a person in respect of whom such a disclosure has been made</li></ul> except in accordance with the PID Act.
<b>Signed by PID Officer</b>
<b>Date:</b>
<b>Signed by CEO or designated officer:</b>
<b>Date:</b>

## ASSESSMENT FORM FOR PUBLIC INTEREST DISCLOSURE

### Part One

Register #

#### Receiving the disclosure - assessment of whether information is a valid disclosure

	Tick Box	Notes
Does the disclosure relate to a public authority, a public officer or a public sector contractor?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does the information relate to the performance of a public function?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does the information tend to show matters which public information can relate to?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does the information tend to show public interest information for which the person receiving the information is the proper authority?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does the discloser believe on reasonable grounds that the information is or may be true?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
After being informed of the consequences, does the discloser wish to disclose the information under the PID Act?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

If any of the “No” boxes have been ticked then the disclosure is unlikely to be one that the Public Interest Disclosure Act 2003 applies to. The PID officer should ensure a proper record is made of the reasons for the “No” response and should provide his or her response to the discloser.

Matter to which public interest information can relate

- Improper conduct
- An offence against State law
- An unauthorised or irregular use of public resources
- A substantial mismanagement of public resources
- Conduct involving a substantial and specific risk of injury to public health, prejudice to public safety or harm to the environment
- Conduct relating to a matter of administration affecting someone in their personal capacity that falls within the jurisdiction of the Ombudsman

**ASSESSMENT FORM FOR PUBLIC INTEREST DISCLOSURE**

**Part Two**

Register #

**Internal quality control**

Does the disclosure meet the manner and form required by the Internal Procedures of the [insert name of public authority]?	<input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	If no, explain why
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**SIGNATURE:**

I, the Public Interest Disclosure Officer for the [insert name of public authority] confirm that the disclosure made to me on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ by \_\_\_\_\_ (discloser's name) is registered as a disclosure under the *Public Interest Disclosure Act 2003* in the Public Interest Disclosure Register of the [insert name of public authority].

Signed:

PID Officer \_\_\_\_\_

Date: \_\_\_\_\_



## ASSESSMENT FORM FOR PUBLIC INTEREST DISCLOSURE

### Part Three

Register #

#### Assessment on whether the disclosure should be investigated

	Tick Box	Notes
Does the disclosure relate to the proper authority, its officers or contractors?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does the disclosure relate to a matter or person that the authority has a function or power to investigate?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

If any of the “No” boxes have been ticked then the disclosure is unlikely to be one that the *Public Interest Disclosure Act 2003* (PID Act) requires be investigated. The PID officer should ensure a proper record is made of the reasons for the “No” response and should provide his or her response to the discloser.

	Tick Box	Notes
Is the matter trivial?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Is the disclosure vexatious?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Is the disclosure frivolous?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

If any of the “Yes” boxes have been ticked then the disclosure is unlikely to be one that the PID Act requires be investigated. The PID officer should ensure a proper record is made of the reasons for the “Yes” response and should provide his or her response to the discloser.

	Tick Box	Notes
Is there a reasonable prospect of obtaining sufficient evidence, having regard to the time that has elapsed since the occurrence of the matter?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

If the “No” box has been ticked then the disclosure is unlikely to be one that the PID Act requires be investigated. The PID officer should ensure a proper record is made of the reasons for the “No” response and should provide his or her response to the discloser.

	Tick Box	Notes
Is the matter being, or has the matter been, adequately or properly investigated by another proper authority under the PID Act?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

If the “Yes” box has been ticked then the disclosure is unlikely to be one that the PID Act requires be investigated. The PID officer should ensure a proper record is made of the reasons for the “Yes” response and should provide his or her response to the discloser.

SIGNATURE:

I, the Public Interest Disclosure Officer for the [insert name of public authority] confirm that the public interest disclosure made to me on the        day of        20    by        (discloser’s name) in my opinion meets/does not meet (delete one) the requirements for a public interest disclosure to be investigated.

I also confirm that I have recorded this opinion in the Public Interest Disclosure Register of the [insert name of public authority].

Signed:

PID Officer \_\_\_\_\_

Date: \_\_\_\_\_

## ASSESSMENT FORM FOR PUBLIC INTEREST DISCLOSURE

### Part Four

Register #

### Investigation

Investigating Officer's Name:
Normal Designation of Investigating Officer:
Address:
Contact Telephone No.
Email Address:
Date Investigation Authorised by the Proper Authority:
Details of Authorisation:

#### Review of the investigation process

	Tick Box	Notes
Has the documentation used in the assessment of the disclosure been reviewed.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Was an investigation plan developed?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Were terms of reference developed?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Were people interviewed?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

<p>Was confidentiality maintained</p> <p>Of the discloser's identity?</p> <p>Of the information disclosed?</p> <p>Of the identity of the subject(s) of the disclosure?</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	
<p>Were natural justice rules followed?</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	
<p>Was a report prepared?</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	

The investigation process is not prescribed under the *Public Interest Disclosure Act 2003* (PID Act), but the above serves as a useful checklist for a proper investigation.

**Recommendation**

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**SIGNATURE:**

I, the investigating officer appointed by [insert name of public authority] to investigate the public interest disclosure No \_\_\_\_\_ (file reference number) confirm that the above is a summary of my investigation undertaken as a result of a disclosure made in accordance with the PID Act.

Signed:  
 (investigating officer  
 for public authority) \_\_\_\_\_

Date: \_\_\_\_\_

**ASSESSMENT FORM FOR PUBLIC INTEREST DISCLOSURE**

**Part Five**

Register #

**Further action**

	Tick Box	Notes
Does the proper authority accept the recommendation contained in Part Four?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

If the “Yes” box has been ticked, please indicate action to be taken by proper authority.

**Action taken by the proper authority**

	Tick Box	Notes
Action taken necessary, reasonable and within functions and powers of proper authority to prevent matter continuing or occurring.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Referred matter to another body with power to investigate the matter.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Taken disciplinary action, or commenced disciplinary proceedings, against person involved, within power of proper authority.	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Reported to discloser on outcome of investigation and action taken, or to be taken consistent with confidentiality obligations. Recorded action(s) in records for reporting.

SIGNATURE:

I, the Public Interest Disclosure Officer for the [insert name of public authority] confirm that the above action was taken or will be taken following the public interest disclosure made by (discloser’s name) and that I have recorded the outcome of the investigation and the PID Action taken or to be taken in the Public Interest Disclosure Register of the [insert name of public authority].

Signed:

PID Officer \_\_\_\_\_

Date: \_\_\_\_\_

## PUBLIC INTEREST DISCLOSURE LODGEMENT FORM

This is an official lodgement form for a disclosure made under the *Public Interest Disclosure Act 2003* (PID Act). A discloser should ensure that they fully understand the rights and responsibilities required under the legislation before the form is completed and signed. Appropriate advice should be gained before any disclosure is made.

### Personal Details

Family Name:	
Given Name:	Gender (please circle):
	M / F
Address:	
Home Telephone No:	Work Telephone No:
Mobile:	Email address:
<b>Disclosure details</b>	
Name of the Public Authority(ies) the disclosure relates to:	
Do you work for a public authority? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span>	
If Yes, which public authority and what is your position title?	
Does the disclosure relate to one or more individuals? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span>	
If yes, please provide names and positions held by person(s) in the public authority.	

Please tick box(es) on the area relevant to your disclosure:

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

When did the alleged events occur?

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Summary of disclosure:

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Description of any documentation provided or names of witnesses:

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Have you reported this information to any other person or agency?

Yes  No

If yes, please provide details

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You should read the following information and sign at the end of this form

**Acknowledgement**

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

I have been informed and am aware that:

I will commit an offence if I know that the information contained in this disclosure is false or misleading in a material particular, or 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 protection provided by the PID Act if I fail, without reasonable excuse, to assist a person investigating the matter by supplying requested information.

I will forfeit the protection provided by the PID Act if I subsequently disclose this information to any person other than a proper authority under the PID Act.

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 that Act.

Penalty: \$24,000 or imprisonment for two (2) years.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

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**For Office Use Only:**

Register Number: \_\_\_\_\_



**CONSENT TO DISCLOSURE OF IDENTIFYING INFORMATION**  
**Personal Details**

Family Name:	
Given Name:	Gender (please circle):
	M / F
Title (please circle):	Date of Birth:
Mr, Ms, Mrs, Miss	
Address:	
Home Telephone No:	Work Telephone No:
Mobile:	Email address:

Please tick relevant box(es):

**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 the *Public Interest Disclosure Act 2003* (PID Act).

**Consent to disclosure of identifying information by person in respect of whom a public interest disclosure has been made**

- 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 under the PID Act.

**Limitations on consent (optional)**

- This consent only applies to disclosures made to the following persons:

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- This consent only applies to the following information:

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Signed: \_\_\_\_\_  
 Date: \_\_\_\_\_

**NOTIFICATION OF DISCLOSURE OF IDENTIFYING INFORMATION**

**To:**

<b>Title (please circle):</b>	<b>Gender (please circle):</b>
Mr, Ms, Mrs, Miss	
<b>Name (in full):</b>	
<b>Address:</b>	

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 information under the *Public Interest Disclosure Act 2003*.

The disclosure of this information:

[Please tick relevant box(es)]

- Is necessary, having regard to the rules of natural justice.
- Is necessary to enable the matter to be investigated effectively.
- Is made in accordance with a order issued by a Court or another person/body with the authority to make such an order

The reason(s) why the disclosure of this information is necessary for these purposes / this purpose is that (specify reason):

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Important: A person making an identifying disclosure for these reasons must take all reasonable steps to provide this information to the discloser a reasonable time before making the disclosure.

Signed:  
(person proposing to make disclosure) \_\_\_\_\_

Name: \_\_\_\_\_  
Position: \_\_\_\_\_

Date: \_\_\_\_\_

Contact Details: \_\_\_\_\_

## APPENDIX 8

### 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.