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A. Overview of the Public Interest Disclosure Act

1. Introduction

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

The Act does not confer additional powers on public authorities 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 Act requires a public authority to investigate a matter and to notify the person making the disclosure of the action taken.

The Act also requires the principal executive officer of each public authority to prepare and publish internal procedures relating to their authority’s obligations under the Act. These 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 a public body in the exercise of public functions. In order to be a disclosure to which the 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; and
- made to the appropriate proper authority.

While the 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 of Part I of these guidelines.

3. What is Protection?

When a person makes an appropriate disclosure of public interest information to a proper authority, the 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 of Part I of these guidelines. The 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.

4. Key aspects of the legislation

From the point of view of a public authority developing internal procedures, there are certain aspects of the Act that require careful consideration and a more in-depth understanding:

- Part 2 of the Act is concerned with the action of making a disclosure. It clarifies who may make a disclosure, to whom it can be made and their obligations, including investigation, action and notification.
- Part 3 of the Act deals with protection. It describes the forms of protection available and when protection is lost. It provides for offences relating to the disclosure of the identity of disclosers and those in respect of whom a public interest disclosure is made.
- Part 5 of the Act enumerates the obligations of principal executive officers of public authorities. Of particular importance is the requirement for a principal executive officer to designate a person within the authority who is responsible for receiving disclosures and to provide protection for their employees from detrimental action arising from their making of a disclosure.

B. Making, Receiving and Assessing Public Interest Disclosure

1. What is different about a Public Interest Disclosure?

Not all disclosures about government can be classified as public interest disclosures that are protected by the Act. In order to be a disclosure to which the 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; and
- 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 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 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, public officer or public sector contractor (a public body)
- relate to the performance of a public function of the public body; and
- tend to show that the public body is, has been, or proposes to be, involved in improper conduct.

4. Who are the public bodies to which public interest information must relate?

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

- government or regional local government
- a body established under State law for a public purpose (eg public universities, port authorities, government boards etc.); and
- 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; and
- 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.

5. What is a public function to which public interest information must relate?

The 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, public officer or public sector contractor. So, for example, the Act would not apply to information that an employee of a department had engaged in criminal behaviour unconnected with their employment.

6. What is improper conduct to which public interest information must relate?

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

- improper conduct
- an offence against State law
- a substantial 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; and
- conduct relating to matters of administration affecting someone in their personal capacity falling within the jurisdiction of the Ombudsman.

A public authority can receive many different types of complaints. These can range from workplace disputes, through harassment, bullying or occupational health concerns, to allegations of improper conduct or corruption. Not all of these disclosures will be of public interest information to which the Act will apply. Public authorities should establish a chart or matrix or similar for identifying the nature of a complaint to determine if it is a public interest disclosure. For example, the chart below identifies some of the differences between a grievance to which the Act would not apply and a public interest disclosure.
<table>
<thead>
<tr>
<th><strong>Grievance</strong></th>
<th><strong>Public Interest Disclosure</strong></th>
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<tbody>
<tr>
<td>Aims to resolve a complaint or dispute.</td>
<td>Does not aim to resolve a grievance or dispute.</td>
</tr>
<tr>
<td>Aims to deal with the complaint as close to the source as possible, ie to resolve differences directly between the parties concerned.</td>
<td>This principle is not relevant to the handling of a public interest disclosure.</td>
</tr>
<tr>
<td>Usually a dispute between an employee and management, or between two parties.</td>
<td>More than a dispute between two parties – relates to a matter of public interest.</td>
</tr>
<tr>
<td>A complainant generally ‘owns’ the complaint and can withdraw it at any stage.</td>
<td>The discloser doesn’t ‘own’ the disclosure once it has been made and cannot withdraw it.</td>
</tr>
<tr>
<td>Generally can be resolved by agreement between the parties.</td>
<td>The aim is not to resolve the issue between two or more.</td>
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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.

The Act only applies to disclosures made to an appropriate proper authority. Disclosures to a journalist, the media or other persons who are not specified as proper authorities are not protected by the Act.

A public interest disclosure may be made internally to the public authority concerned or, in appropriate cases, externally to the proper authorities named in the Act. The named proper authorities are listed in the chart on page 4 of the policy.

Generally, disclosures about a public authority or its officers or contractors should be made to the Public Interest Disclosure Officer, or PID Officer, of the public authority concerned. The Act requires that each public authority specify a position the holder of which is the PID Officer responsible for receiving disclosures of public interest information.

The PID Officer of a public authority is the proper authority for the disclosure of information relating to a matter falling within the sphere of responsibility of that public authority. The PID Officer should become familiar with procedures. Importantly, the PID Officer has a responsibility to keep up to date with all information made available by the Commissioner for Public Sector Standards. The PID Officer must also comply with the Code of Conduct and Integrity made under the 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.
Proper authorities for receiving disclosures of public interest information

Refer to section 4.2.3 of this policy.

8. Can a disclosure of public interest information be made to more than one proper authority?

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

A public authority 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 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 a public authority or its officers or contractors, or a disclosure falling within the sphere of responsibility of a public authority, should in the first instance, be made to the public authority concerned.

9. No time limit on a disclosure

A disclosure may relate to matters that occurred before the commencement of the 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 Act coming into effect on 1 July 2003.

10. Can information protected by legal professional privilege be disclosed?

The Act does not protect disclosures of information protected by legal professional privilege. Legal professional privilege protects confidential communications between public authorities 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 Act does not specify a form in which an appropriate disclosure of public interest must be made. However, each public authority is required to prepare and publish internal procedures relating to the authority’s obligations under the Act. These internal procedures will need to provide for the manner in which disclosures of public interest information may be made to the public authority concerned.
The internal procedures will need to provide for making a written record of the information disclosed, which clearly identifies the disclosure as a public interest disclosure made under the 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. This provision is also necessary to ensure that the information is identified as information to which the protection and confidentiality provisions of the Act apply.

2. Must a public interest disclosure be investigated?

A proper authority is not obliged to investigate every public interest disclosure made to it. Generally, a proper authority must investigate information disclosed under the Act where:

- the disclosure relates to the proper authority, its officers or contractors; and
- the disclosure relates to a matter or person that the proper authority has a function or power to investigate (eg where a police officer may investigate an offence committed in a department).

A proper authority 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; and
- 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 the legislation. The Act does not give proper authorities investigative powers that they do not otherwise have. The proper authority must look to the other legislation which they operate under for their investigative powers.

Where a proper authority lacks sufficient power to effectively investigate the matter, but the information received causes the proper authority to form the opinion that a public body has engaged in improper conduct, the proper authority may need to refer the matter to another investigative body.

3. What action must a proper 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 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 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 the legislation under which the authority operates. The Act does not give the proper authority 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.

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.

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.

The above obligations to take action 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. Provision relating to their actions after investigation is made in their legislation.

4. Is the discloser given details of the investigation and action taken?

Where a proper authority refuses to investigate information disclosed under the 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 Act.

The obligations to report do not apply to the Corruption and Crime Commission or the Ombudsman where they have functions in relation to the public interest disclosure under their own legislation.

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

8. **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.

**D. Confidentiality and Protection for Disclosers**

1. **What protection does the act provide to disclosers?**

The 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; and
- requiring public authorities to provide protection from detrimental action for disclosers who are their employees.

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; and
- 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 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; and
- 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.

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:

- the State, in the case of public service officers
- the public authority which employs the perpetrator; or
- a public sector contractor whose employees engage in victimisation.

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

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

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 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:

- is made with the discloser’s consent
- is made in accordance with section 152 or 153 of the Corruption and Crime Commission Act 2003
- is necessary, having regard to the rules of natural justice (see Section E2 in relation to the rules of natural justice); and
- is necessary to enable the matter to be investigated effectively.

In the case of the last two bullet points, 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.

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 Disclosure

1. **Is the identity of a person about whom a disclosure is made to be kept confidential?**

The protection that the Act gives to the discloser 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 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; and
- 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.

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 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 in a case where there is any doubt as to these requirements.

F. Roles and Responsibilities of Public Authorities

1. What is the role of the Commissioner for Public Sector Standards?

The role of the Commissioner for Public Sector Standards under the 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 Act and Code
- assist public authorities and public officers to comply with the Act and Code
- prepare and publish guidelines on internal procedures relating to the functions of a proper authority under the Act
- report annually to Parliament on the performance of his/her obligations and the compliance or non-compliance with the 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 Act.

2. What are the responsibilities of public authorities?

The principal executive officer of a public authority must ensure that his or her public authority complies with the Act and Code.

In particular, the principal executive officer 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 this Act, which are consistent with the guidelines published by the Commissioner for Public Sector Standards.
The principal executive officer 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 Commissioner for Public Sector Standards annually on:

- the number of disclosures made to the public authority under the 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 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 chart 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.

The discloser:

- Makes a public interest disclosure; and
- maintains confidentiality of the information disclosed and, in particular, the identity of the persons to whom the information relates.

The proper authority:

- receives a public interest disclosure
- considers whether an investigation is required
- carries out, or causes to be carried out, any investigation
- maintains confidentiality of the identity of the discloser and persons subject to the disclosure, in accordance with the requirements of the Act
- takes action following an investigation, where appropriate
- provides appropriate reports of investigation and action taken to discloser
- creates and maintains proper records in relation to disclosure
- keeps statistics of disclosures made; and
- acts in accordance with the rules of natural justice or procedural fairness.
The person about whom the disclosure is made:

- may be subject to investigation and other action if improper conduct is established; and
- maintains confidentiality of the identity of the discloser.

An investigating officer:

- may conduct investigations of public interest information on behalf of a proper authority, within the terms of reference given
- maintains confidentiality of the identity of the public interest discloser and persons subject to the disclosure, in accordance with the requirements of the Act; and
- makes and keeps secure, comprehensive records of any investigation undertaken.
G. Further Information

For information about agency roles generally, contact:

Office of the Commissioner for Public Sector Standards
GPO Box 2581
PERTH WA 6001
Level 12, St Martins Tower
44 St Georges Terrace
PERTH WA 6000

PID Advice and Referral Line: 1800 355 835
Facsimile: (08) 9260 6611
National Relay Service: 13 25 44 (city callers)
(Quote 9260 6600) 1800 067 167 (country callers)
Website: www.opssc.wa.gov.au/pid
Email: pid@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
186 St Georges Terrace
PERTH WA
Telephone: 9215 4888
Outside Metro: 1800 809 000
Facsimile: 9215 4884
Website: www.ccc.wa.gov.au

Commissioner of Police
Police Headquarters
2 Adelaide Terrace
EAST PERTH WA 6004
Telephone: 9223 1000
Facsimile: 9223 1010
Website: 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: 9222 7500
Facsimile: 9322 5664
Website: www.audit.wa.gov.au
Appendix 2 – Flowchart for Receiving and Assessing Disclosures

Public Interest Disclosure Act 2003

When a person calls or sends written information, advise them of the provisions of the Act, the relevant proper authorities for their disclosure and the consequences of making a disclosure.

After obtaining relevant information does the discloser wish to use the Act to make a disclosure?

Yes

Assess the disclosure to determine whether the Act applies based on the following questions.

Does the information relate to a public authority, a public officer or a public sector contractor?

Yes

Does the information relate to the performance of a public function?

Yes

Does the Act authorise you to handle the kind of information in the disclosure? (See table)

Yes

Is the information protected by legal professional privilege?

Yes

The disclosure is not one to which the Act applies. Advise the person and give reasons. Inform them of other avenues that may be available to them.

No

No

No

No

No

The disclosure is not one to which the Act applies. Advise the person and give reasons. Inform them of other avenues that may be available to them.

Register the disclosure in the authority’s records as a public interest disclosure made under the Act and take the action identified in the following sheets.

No

Note:
If the information is of a kind that the PID Act allows you to handle but you do not have sufficient powers under your own legislation to investigate, you should advise the person to make the disclosure to the appropriate proper authority.

However, if they still wish to make the disclosure to you, you should assess it and, if it is a public interest disclosure, register the disclosure and refer it to the appropriate authority for investigation.
Appendix 3 – Flowchart for investigating information disclosed

**Public Interest Disclosure Act 2003**

Does the disclosure relate to the proper authority, its officers or contractors?

- **Yes**
  - Does the disclosure relate to a matter or person that the authority has a function or power to investigate?
    - **No**
      - Is there another authority that may have the power to investigate any aspect that the authority receiving the disclosure does not have the power to investigate?
        - **No**
          - Is the matter trivial, or the disclosure, vexatious or frivolous?
            - **Yes**
              - Is there a reasonable prospect of obtaining sufficient evidence, having regard to the time that has elapsed since the occurrence of the matter?
                - **Yes**
                  - May refuse to investigate the matter, or discontinue the investigation. Provide reasons for doing so to the discloser. Record action for reporting.
                - **No**
                  - Conduct an investigation, having regard to confidentiality provisions and notify discloser of progress and/or final outcome. Record outcome for reporting.
            - **No**
              - Is the matter being, or has the matter been, adequately or properly investigated by another proper authority under the Act.
                - **Yes**
                  - For parts of the disclosure where you have no power to investigate, refer the matter to an authority that does have that power, advise the discloser and record this action in the register.
                  - The discloser may need to lodge a disclosure with that authority as well to obtain the protection from them.
                - **No**
                  - Conduct an investigation, having regard to confidentiality provisions and notify discloser of progress and/or final outcome. Record outcome for reporting.
Appendix 4 – Flowchart for taking action

Has the proper authority made an assessment that a person may be, may have been, or may in the future be involved in improper conduct?

Yes

Take initial action necessary, reasonable and within functions and powers of proper authority to prevent matter continuing or occurring.

Does the public authority have the power to investigate?
(An authority may assess a matter as a public interest disclosure but not have sufficient power to investigate all or part of the disclosure eg if it is a criminal matter).

Yes

Investigate the information in the disclosure.

No

Refer all or part of the matter to an authority with power to investigate taking into account confidentiality provisions.

Does the investigation substantiate improper conduct?

Yes

Take disciplinary action, or commence disciplinary proceedings, against person involved that is within power of proper authority.

Take any other action necessary, reasonable and within functions and powers of proper authority to prevent matter continuing or occurring.

Refer any matter which arises during the course of the investigation which is outside your power to an appropriate authority eg for investigation of an offence.

No

Take initial action necessary, reasonable and within functions and powers of proper authority to prevent matter continuing or occurring.

Report to discloser on referral or outcomes of investigation and action taken, consistent with confidentiality obligations and subject to provisions under Section 11 of the Act. There is no obligation to report on the outcome or action taken from a matter referred to another authority. Record action in records for reporting.

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 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 in the new authority if they wish to extend the legal protections available to them under the Act and receive reports from the new authority on the outcome and action taken.
Appendix 5 – Public Interest Disclosure Register

This register is used to record public interest disclosures. All information required for reporting to the Commissioner for Public Sector Standards will be able to be extracted from this draft register.

Proper authorities should ensure that the Public Interest Disclosure Register, both in electronic and hardcopy forms, is kept strictly confidential and in a secure place.

This register is also provided in electronic format on the website. In the electronic version most of these fields will have drop down menus with choices from which to select. If you wish to use a hard copy of the electronic format it is advised that you obtain a list of choices from the website.

- Disclosure Number: _______________________________________
- Disclosure Code (Unique Register No): _______________________

Person Making the Disclosure (Discloser):
Name of discloser: _________________________________________
Gender of discloser: _________________________________________
Name of public authority employing the discloser (if applicable): _____________
Relationship of discloser to public authority about which disclosure is made: ______

- First Public Authority about which the Disclosure is made:
Name of public authority: _________________________________________
Individuals named in the disclosure: _______________________________________

- Second Public Authority about which the Disclosure is made:
Name of public authority: _________________________________________
Individuals named in the disclosure: _______________________________________

- Nature of Disclosure:
Type of disclosure: _________________________________________
Brief description of nature of disclosure: ________________________________
• Investigation Process and Action Taken:
  Investigation undertaken: □ Yes □ No
  Reason if no investigation or investigation discontinued: 
  ________________________________

  Outcome of investigation: 
  ________________________________

  Brief description of results of investigation: 
  ________________________________

  Brief description of action taken if investigation has substance: 
  ________________________________

• Key Dates:
  Date lodged: 
  ________________________________

  Date of decision on whether to investigate: 
  ________________________________

  Date investigation completed or discontinued: 
  ________________________________

  Date of decision on action to be taken: 
  ________________________________

• Communication with Discloser:
  Total number of written progress reports to discloser: 
  ________________________________

| First advice to discloser of action taken or proposed within three months. | Yes/No | Date |
| Reasons given if no investigation or investigation discontinued. | |
| Final report requested by discloser. | |
| Final report provided to discloser. | |

• Disclosure of Identity of Discloser

| Discloser's identity disclosed | Yes/No | Date |
| Discloser advised of reasons for disclosure | |
| Claim of unlawful disclosure made | |
| Reason for disclosure of identity | |
• Disclosure of Identity of Persons Named in the Disclosure:

<table>
<thead>
<tr>
<th></th>
<th>Yes/No</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Person's identity disclosed.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Person advised of reasons for disclosure.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Claim of unlawful disclosure made.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reason for disclosure of identity.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

• 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: ________________________________

• Claim of Victimisation:

Claim of victimisation made: □ Yes □ No Date ________________________________

Brief description of nature of claim of victimisation: ________________________________

Internal or Equal Opportunity Commission Investigation: ________________________________
• **Internal Handling of Victimisation Claim (if applicable):**

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

The Department of Corrective Services 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 regarding corrupt or other improper conduct.

What Do I need to know before making a disclosure?

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

<table>
<thead>
<tr>
<th>Improper conduct</th>
<th>Irregular or unauthorised use of public resources</th>
</tr>
</thead>
<tbody>
<tr>
<td>An offence under State law, including corruption</td>
<td>Substantial unauthorised or irregular use of, or substantial mismanagement of, public resources</td>
</tr>
<tr>
<td>Administration matter(s) affecting you</td>
<td>Conduct involving a substantial and specific risk of injury to public health, prejudice to public safety or harm to the environment</td>
</tr>
</tbody>
</table>

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 Act.

Before making a disclosure it is important that you are aware of the rights and responsibilities imposed on disclosers and others under the 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 Act and may commit an offence under the Act.

The 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 Officer of the Department of Corrective Services is:

Manager
Central Investigations

Telephone: 9264 9682

Address: Level 8
141 St Georges Terrace
Perth 6000

This officer is responsible for receiving disclosures of public interest information relating to matters falling within the sphere of responsibility of the Department of Corrective Services.
**Proper Authorities for Receiving**

**Disclosures of Public Interest Information**

<table>
<thead>
<tr>
<th>When the disclosure relates to…</th>
<th>the proper authority is…</th>
</tr>
</thead>
<tbody>
<tr>
<td>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).</td>
<td>The Public Interest Disclosure Officer (PID Officer) of the public authority.</td>
</tr>
<tr>
<td>Offences under State law.</td>
<td>A police officer or the Corruption and Crime Commission.</td>
</tr>
<tr>
<td>Substantial unauthorised or irregular use of, or substantial mismanagement of, public resources.</td>
<td>The PID Officer of the public authority concerned or the Auditor General.</td>
</tr>
<tr>
<td>Matters of administration affecting someone in their personal capacity falling within the jurisdiction of the Ombudsman.</td>
<td>The PID Officer of the public authority concerned or the Ombudsman.</td>
</tr>
<tr>
<td>A police officer.</td>
<td>The Commissioner of Police or the Corruption and Crime Commission.</td>
</tr>
<tr>
<td>A Member of the Legislative Council.</td>
<td>The President of the Legislative Council.</td>
</tr>
<tr>
<td>A Member of the Legislative Assembly.</td>
<td>The Speaker of the Legislative Assembly.</td>
</tr>
<tr>
<td>A public officer who is not a member of Parliament, a Minister, a judicial officer or a Commissioner or other officer specified in schedule 1 of the <strong>Parliamentary Commissioner Act 1971</strong>.</td>
<td>The PID Officer of the public authority concerned, the Ombudsman or the Commissioner for Public Sector Standards.</td>
</tr>
<tr>
<td>A person or a matter of a prescribed class.</td>
<td>A person declared by the regulations to be a proper authority.</td>
</tr>
</tbody>
</table>

Important Note: In addition, the information disclosed must be public interest information as defined in the 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 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 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 Act requires confidentiality to be maintained on:

• the identity of the person making the disclosure; and
• 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 OPSSC on these prior to making a disclosure.
A person making a disclosure is provided with protection under the 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.

After the 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 authorities response to your disclosure there is no right of appeal under the Act to challenge the public authority’s actions. However, you may be able to make another disclosure to a different proper authority.

Victimisation and reprisals

The Department of Corrective Services 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.

The Department of Corrective Services 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 Department of Corrective Services.

Named proper authorities

When a public authority deals with a relevant disclosure it is referred to in the Act as a proper authority. There are some public authorities that are named as proper authorities in the 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

The Ombudsman will be able to provide advice on matters of administration.

Telephone (08) 9220-7555 Website 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
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

The Office of the Public Sector Standards Commissioner will be able to provide assistance to public authorities and public officers to comply with the Code of Conduct and Integrity and with the Act

PID Advice and Referral Line 1800 355 835 Website www.opssc.wa.gov.au/pid
Public Interest Disclosure Act 2003

Public Interest Disclosure Officer’s Declaration

To: The Office of The Public Sector Standards Commissioner
17th Floor St Martins Tower
44 St Georges Terrace
PERTH WA 6000

Facsimile: (08) 9260 6611
Email pssc@opssc.wa.gov.au

Name of PID Officer: 
Position of PID Officer in Public Authority: 
Name of Public Authority: 
Address: 
Telephone: 
Facsimile: 
Email: 
Date of Commencement as PID Officer: 

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:

- as a person who has made a public interest disclosure under the Act
- as a person in respect of whom such a disclosure has been made; or
- except in accordance with the Act.

Signed: 
Date:
Public Interest Disclosure Act 2003

Public Interest Disclosure Lodgement Form

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

1. Personal Details

Family Name:

Given Name: Gender (please circle): M / F

Title (please circle): Mr, Ms, Mrs, Miss Date of Birth:

Address:

Home Telephone No: Work Telephone No:

Mobile: Email address:

2. Disclosure Details

Name of the Public Authority(ies) the Disclosure relates to:

<table>
<thead>
<tr>
<th>Do you work for a public authority?</th>
<th>□ Yes □ No</th>
</tr>
</thead>
<tbody>
<tr>
<td>If yes, which public authority and what is your position title?</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Does the disclosure relate to one or more individuals?</th>
<th>□ Yes □ No</th>
</tr>
</thead>
<tbody>
<tr>
<td>If yes, please provide names and positions held by person(s) in the public authority</td>
<td></td>
</tr>
</tbody>
</table>
Please tick box(es) on the area relevant to your disclosure:

Improper conduct.  
Irregular or unauthorised use of public resources.

An offence under State law, including corruption.  
Substantial unauthorised or irregular use of, or 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.

Administration matter(s) affecting you.  

When did the alleged events occur?

Summary of disclosure:

Description of any documentation provided or names of witnesses:

<table>
<thead>
<tr>
<th>Have you reported this information to any other person or agency?</th>
<th>☐ Yes  ☐ No</th>
</tr>
</thead>
<tbody>
<tr>
<td>If yes, please provide details.</td>
<td></td>
</tr>
</tbody>
</table>
You should read the following information and sign at the end of this form

3. Acknowledgment

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 Public Interest Disclosure Act 2003 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 Public Interest Disclosure Act 2003 if I subsequently disclose this information to any person other than a proper authority under the 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 Public Interest Disclosure Act 2003, except in accordance with section 16(3) of that Act.

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

Signed: 

Date: 

For Office Use Only:

Register Number: __________________________
Public Interest Disclosure Act 2003

Consent to disclosure of identifying information

Personal Details

Family Name:

Given Name: Gender (please circle): M / F

Title (please circle): Mr, Ms, Mrs, Miss Date of Birth:

Address:

Home Telephone No: Work Telephone No:

Mobile: Email address:

Please tick relevant box(es):

Consent to disclosure of identifying information by Informant

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.

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 Public Interest Disclosure Act 2003.

Limitations on consent (optional)

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

This consent only applies to the following information:

Signed:

Date:
Public Interest Disclosure Act 2003

Notification of disclosure of identifying information

To:

Title (please circle):  Mr, Ms, Mrs, Miss  Gender (please circle):  M / F

Name (in full):

Address:

I intend to make a disclosure of information that might identify or tend to identify you as a person who has made an appropriate disclosure of public interest information under 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.

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

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

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

Signed:

(person proposing to make disclosure)

Name:

Position:

Date:

Contact details:
**Public Interest Disclosure Act 2003**

**Assessment Form for Public Interest Disclosure**

**Part One**

**Receiving the Disclosure – Assessment of whether information is a valid disclosure**

<table>
<thead>
<tr>
<th>Does the disclosure relate to a public authority, a public officer or a public sector contractor?</th>
<th>Tick Box</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Yes</td>
<td>□ No</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Does the information relate to the performance of a public function?</th>
<th>Tick Box</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Yes</td>
<td>□ No</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Does the information tend to show matters which public information can relate? ¹</th>
<th>Tick Box</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Yes</td>
<td>□ No</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Does the information tend to show public interest information for which the person receiving the information is the proper authority?</th>
<th>Tick Box</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Yes</td>
<td>□ No</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Does the informant believe on reasonable grounds that the information is or may be true?</th>
<th>Tick Box</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Yes</td>
<td>□ No</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>After being informed of the consequences, does the informant wish to disclose the information under the Act?</th>
<th>Tick Box</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Yes</td>
<td>□ No</td>
<td></td>
</tr>
</tbody>
</table>

If any of the ‘no’ boxes have been ticked then the disclosure is unlikely to be one that the Public Interest Disclosure Act 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 informant.

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.

Register # __________
**Part Two**

**Internal Quality Control**

<table>
<thead>
<tr>
<th>Does the disclosure meet the manner and form required by the Internal Procedures of the Department of Corrective Services?</th>
<th>☐ Yes</th>
<th>☐ No</th>
<th>If no, explain why</th>
</tr>
</thead>
</table>

**Signature:**

I, the Public Interest Disclosure Officer for the Department of Corrective Services confirm that the disclosure made to me on the [date] day of [year] 2003 by [informant’s name] is registered as a disclosure under the *Public Interest Disclosure Act 2003* in the Public Interest Disclosure Register of the Department of Corrective Services.

Signed:

PID Officer

Date:
**Public Interest Disclosure Act 2003**

Assessment Form for Public Interest Disclosure

**Part Three**

Assessment of whether the disclosure should be investigated

<table>
<thead>
<tr>
<th>Tick Box</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Does the disclosure relate to the proper authority, its officers or contractors?</strong></td>
<td>□ Yes □ No</td>
</tr>
<tr>
<td><strong>Does the disclosure relate to a matter or person that the authority has a function or power to investigate?</strong></td>
<td>□ Yes □ No</td>
</tr>
</tbody>
</table>

If any of the ‘no’ boxes have been ticked then the disclosure is unlikely to be one that the Public Interest Disclosure 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 informant.

<table>
<thead>
<tr>
<th>Tick Box</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Is the matter trivial?</strong></td>
<td>□ Yes □ No</td>
</tr>
<tr>
<td><strong>Is the disclosure vexatious?</strong></td>
<td>□ Yes □ No</td>
</tr>
<tr>
<td><strong>Is the disclosure frivolous?</strong></td>
<td>□ Yes □ No</td>
</tr>
</tbody>
</table>

If any of the ‘yes’ boxes have been ticked then the disclosure is unlikely to be one that the Public Interest Disclosure 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 informant.
**Public Interest Disclosure Act 2003**

**Assessment Form for Public Interest Disclosure**

**Part Three (continued)**

**Assessment of whether the disclosure should be investigated**

<table>
<thead>
<tr>
<th></th>
<th>Tick Box</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is there a reasonable prospect of obtaining sufficient evidence, having regard to the time that has elapsed since the occurrence of the matter?</td>
<td>□ Yes □ No</td>
<td></td>
</tr>
</tbody>
</table>

If the ‘no’ box has been ticked then the disclosure is unlikely to be one that the Public Interest Disclosure 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 informant.

<table>
<thead>
<tr>
<th></th>
<th>Tick Box</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is the matter being, or has the matter been, adequately or properly investigated by another proper authority under the Act?</td>
<td>□ Yes □ No</td>
<td></td>
</tr>
</tbody>
</table>

If the ‘yes’ box has been ticked then the disclosure is unlikely to be one that the Public Interest Disclosure 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 informant.

**Signature:**

I, the Public Interest Disclosure Officer for the Department of Corrective Services confirm that the public interest disclosure made to me on the ……………………(date) by ………………………………………………….(informant’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 Department of Corrective Services.

Signed:

(PID Officer)

Date:
## Public Interest Disclosure Act 2003

### Assessment Form for Public Interest Disclosure

#### Part Four

### Investigation

Investigating Officer’s Name:

Normal Designation of Investigating Officer:

Address:

Contact telephone number:

Email address:

Date investigation authorised by the proper authority:

Details of authorisation:

### Review of the investigation process

<table>
<thead>
<tr>
<th></th>
<th>Tick Box</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Has the documentation used in the assessment of the disclosure been reviewed?</td>
<td>[ ] Yes [ ] No</td>
<td></td>
</tr>
<tr>
<td>Was an investigation plan developed?</td>
<td>[ ] Yes [ ] No</td>
<td></td>
</tr>
<tr>
<td>Were terms of reference developed?</td>
<td>[ ] Yes [ ] No</td>
<td></td>
</tr>
<tr>
<td>Were people interviewed?</td>
<td>[ ] Yes [ ] No</td>
<td></td>
</tr>
<tr>
<td>Was confidentiality maintained: of the informant’s identity? of the information disclosed? of the identity of the subject(s) of the disclosure?</td>
<td>[ ] Yes [ ] No</td>
<td></td>
</tr>
<tr>
<td>Were natural justice rules followed?</td>
<td>[ ] Yes [ ] No</td>
<td></td>
</tr>
<tr>
<td>Was a report prepared?</td>
<td>[ ] Yes [ ] No</td>
<td></td>
</tr>
</tbody>
</table>

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

Investigation

Recommendation

It is recommended that the proper authority form the opinion that:

________________________________________

________________________________________

________________________________________

________________________________________

________________________________________

Signature:

I, the investigating officer appointed by the Department of Corrective Services 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 Public Interest Disclosure Act 2003.

Signed:

(investigating officer for public authority)

Date:
Public Interest Disclosure Act 2003

Assessment Form for Public Interest Disclosure

Part Five

Further Action

<table>
<thead>
<tr>
<th>Does the proper authority accept the recommendation contained in Part Four?</th>
<th>Tick Box</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Yes</td>
<td>☐ No</td>
<td></td>
</tr>
</tbody>
</table>

If the ‘yes’ box has been ticked, please indicate action to be taken by proper authority.

Action taken by the proper authority

<table>
<thead>
<tr>
<th>Take action necessary, reasonable and within functions and powers of proper authority to prevent matter continuing or occurring.</th>
<th>Tick Box</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Yes</td>
<td>☐ No</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Refer matter to another body with power to investigate the matter.</th>
<th>Tick Box</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Yes</td>
<td>☐ No</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Take disciplinary action, or commence disciplinary proceedings, against person involved, within power of proper authority.</th>
<th>Tick Box</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Yes</td>
<td>☐ No</td>
<td></td>
</tr>
</tbody>
</table>

Report to informant on outcome of investigation and action taken, or to be taken consistent with confidentiality obligations. Record action(s) in records for reporting.

Signature:

I, the Public Interest Disclosure Officer for the Department of Corrective Services confirm that the above action was taken or will be taken following the public interest disclosure made by _________________ (informant’s name) and that I have recorded the outcome of the investigation and the action taken or to be taken in the Public Interest Disclosure Register of the Department of Corrective Services.

Signed:

(PID Officer)

Date: