



INFRASTRUCTURE WA

Public Interest Disclosure Procedures

January 2021

Amendment and Review, Distribution, and Authorisation Record

Amendment and Review Record

Revision	Description Details / Location	Effective date	Date of next review
1	First version	20-01-2021	January 2022

Distribution

This document is prepared for distribution to:

Name / Location	Position	Organisation
All Staff and contractors	NA	Infrastructure WA

Authorisation Record

Prepared	by	Satori Healey	Senior Executive Assistant
		Name	Title
Approved	by	Madeleine Pavlinovich	Manager Governance and Support
		Name	Title

Related documentation

Description / Details	Location/ TRIM ID
The Public Information Disclosure Act 2003	https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_767_homepage.html
Public Interest Disclosure Regulations 2003	https://www.slp.wa.gov.au/statutes/regs.nsf/(DownloadFiles)/Public+Interest+Disclosure+Regulations+2003.pdf/\$file/Public+Interest+Disclosure+Regulations+2003.pdf
IWA's Code of Conduct	K:\Governance and Support\Administration\Policies, Procedures, Forms and Templates\Final Policies\2019 08 16 Governance - Code of Conduct - Final Signed.pdf - Shortcut.lnk

These procedures have been adapted from the Public Sector Commission Guidelines for Public Authorities available on the Public Sector Commission website at www.publicsector.wa.gov.au

Purpose and scope

Infrastructure WA (IWA) does not tolerate corrupt or other improper conduct.

IWA is committed to the aims and objectives of the *Public Interest Disclosure Act 2003* (PID Act).

The PID Act recognises the value and importance of reporting as a means to identify and address wrongdoing.

IWA strongly supports disclosures being made by employees, contractors and members of the community about corrupt or other improper conduct.

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

The commitment to effectively manage public interest disclosures extends to a proper authority of IWA. The person responsible for receiving disclosures of public interest information designated under s. 23(1)(a) of the PID Act will abide by the PID Code of conduct and integrity (the PSC Code) in performing their duties.

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

IWA will provide as much information as possible to people considering making a public interest disclosure. These internal procedures are accessible to all employees and contractors. Copies are available from the designated persons appointed as the proper authority (PID Officer).

IWA will consider each matter under the appropriate reporting pathway and make every attempt to protect staff members making reports from any reprisals.

IWA's Chief Executive Officer (CEO) must prepare and publish these internal procedures under s. 23(1)(e) of the PID Act.

These procedures outline how IWA will meet obligations under the PID Act. They cover the roles and responsibilities of the CEO, the person(s) designated as the proper authority in accordance with s. 23(1)(a) and s. 5(3)(h) herein referred to in this document as the PID Officer(s), the discloser, and the subject of the disclosure.

The procedures are to be read in conjunction with the PID Act, *Public Interest Disclosure Regulations 2003*.

These procedures should be read in conjunction with:

- The PID Act;
- *Public Interest Disclosure Regulations 2003*;
- Public Sector Code of Ethics; and
- IWA's Code of Conduct.

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

Overview of roles and responsibilities

Person / role	Responsibility
Principal executive officer (s.23) (the CEO)	<ul style="list-style-type: none"> Designates the occupant of a specified position (a PID Officer) to receive public interest disclosures related to IWA (s. 23(1)(a)). Provides protection from detrimental action or the threat of detrimental action for any employee of IWA who makes a public interest disclosure (s. 23(1)(b)). Ensures IWA complies with the PID Act and the PSC Code established by the Public Sector Commissioner (ss. 23(1)(c) and (d)). Prepares and publishes internal procedures, consistent with those prepared by the Public Sector Commission, detailing how IWA will meet its obligations under the PID Act (s. 23(1)(e)). Provides information (s. 23(1)(f)) to the Public Sector Commissioner on: <ul style="list-style-type: none"> the number of disclosures received by IWA results of any investigations conducted as a result of the disclosures action, if any taken, as a result of each disclosure any matters as prescribed. May have a role in enabling an investigation to be undertaken or taking disciplinary action against individuals under functions and powers separately from the PID Act.
The Proper Authority (s.5(3), s. 7 and s. 18) or PID Officer(s) (s 23(1)(a)):	<ul style="list-style-type: none"> As is designated by ss. 5(3)(a-g) or by the CEO of IWA, under s. 23(1)(a) the PID Officer is to receive disclosures related to IWA. Provides information to potential disclosers about their rights and responsibilities consistent with the PSC Code established under s. 20(1). Receives and manages public interest disclosures in accordance with the PID Act (s. 5(3)). Notifies the discloser within three months of the disclosure being made about what action is planned in dealing with the disclosure (s. 10(1)). Where appropriate, investigates, or causes an investigation of the matters in the disclosures (s. 8(1)). Where appropriate, provides information to subjects of a disclosure about their rights, responsibilities, duties and potential offences (s. 9(2), s. 14, s. 15, s. 16 and s. 24). Where appropriate, takes such action as is necessary and reasonable, within their functions and powers in accordance with s. 9. Maintains confidentiality of the identity of the discloser and subject(s) of disclosures, in accordance with the requirements of the PID Act (s. 11 and s. 16). Provides progress reports where requested and a final report to the discloser in accordance with s. 10. Creates and maintains proper and secure records in relation to the disclosures in accordance with the PSC Code established under s. 20(1) and the <i>State Records Act 2000</i>. Completes a PID Register for each disclosure lodged (s. 23(1)(f)). Acts in accordance with the rules of natural justice (s. 9(2) and s. 16(1)(b)). Acts in accordance with the PSC Code established under s.20(1) and any authority-specific code of conduct established separately from the PID Act.
The discloser	<ul style="list-style-type: none"> Makes a public interest disclosure to a proper authority or a PID Officer if the matter relates to IWA (s. 5(1)).

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

IWA Management of Public Interest Disclosure process

Overarching requirements of the Public Interest Disclosure Act 2003

The PID Act has overarching requirements for handling disclosures. These requirements separate the public interest disclosure process from other reporting or complaint handling processes. The PID Act does not displace the notification or reporting requirements of the *Corruption, Crime and Misconduct Act 2003* (CCM Act).

The following section outlines how IWA will meet these requirements, as well as expectations of the discloser, and any subject(s) of the disclosure.

What is 'public interest information'?

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

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

Confidentiality

Maintaining confidentiality is an important part of managing a disclosure. The confidentiality requirements do not apply to all information in a disclosure, although IWA are committed to maintaining confidentiality around:

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

Throughout the disclosure process and after its completion, the PID Act provides for the disclosers identity and the identity of any persons, that is, any subject of the disclosure, to be kept confidential, except in certain circumstances.

Disclosing information which might identify, or tend to identify the disclosers (s. 16(1)) or any person, that is, the subject(s) (s. 16(3)) of a disclosure, except in accordance with the PID Act, is an offence punishable with a penalty of a \$24 000 fine or imprisonment for two years.

Confidentiality regarding the discloser

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

If the discloser consents to having their identity revealed to assist in dealing with the disclosure, the PID Officer will record this using the Consent to Disclosure of Identifying Information form.

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

- it is necessary to do so having regard to the rules of natural justice; or
- it is necessary to do so to enable the matter to be investigated effectively; or
- IWA are ordered by a court or any other person or body having authority to hear, receive or examine evidence; or
- IWA are required by ss.152 or 153 of the CCM Act.

Before IWA identify the discloser for any of the reasons above, the PID Officer will take all reasonable steps to inform the discloser that this will happen and the reasons why. The PID Officer will use the Notification of disclosure of identifying information form to do this.

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

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

Confidentiality plan

If confidentiality cannot be maintained, IWA will develop a plan to support and protect the discloser from any potential risks of detrimental action.

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

The subject of a disclosure may consent to having their identity revealed to assist with the disclosure process (s. 16(3)(a)). A PID Officer will use the Consent to disclosure of identifying information form to record this.

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

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

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

Protections

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

IWA are committed to ensuring that no detrimental action, including workplace reprisals by managers or other employees, occurs as a result of a person making a disclosure. If any of the above does occur, the discloser can request that we take action to protect them. Tell the PID Officer who is handling the disclosure immediately.

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

Notification requirements

The PID Officer will ensure that IWA complete all reporting in accordance with the legislative and administrative requirements of the PID Act.

Provided it is not an anonymous disclosure, the PID Officer will provide the following reports:

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

The PID Officer may also provide a progress report during any investigation, either on their initiative or upon the discloser's request (ss. 10(2) and (3)).

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

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

The PID Officers are also prevented from giving any information they must not disclose under ss. 151, 152 or 153 of the CCM Act.

Record Keeping

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

How to make a public interest disclosure

1. Before you make the disclosure

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

At IWA the occupant(s) of the following designated position(s) are specified with the authority as the person(s) responsible for receiving disclosures of public interest information. For the

purposes of this procedure a PID Officer is the proper authority designated for dealing with information that falls within the sphere of responsibility for IWA.

Their names and contact details are:

Position	Name of PID Officer	Contact details
CEO	Phil Helberg	Email: phil.helberg@infrastructure.wa.gov.au Phone: (08) 6552 5229
Manager Governance and Support	Madeleine Pavlinovich	Email: madeleine.pavlinovich@infrastructure.wa.gov.au Phone: (08) 6552 5229
Senior Governance and Support Officer	Claire Ellis	Email: Claire.ellis@infrastructure.wa.gov.au Phone: (08) 6552 5178

Initial discussions between the discloser and the PID Officer should be general in nature and should not discuss the specific details of the disclosure until the discloser understands their rights and responsibilities under the PID Act.

The PID Officer will also let the discloser know that they need to make the disclosure voluntarily and consciously – we will never force a person to make a disclosure. This is because they cannot withdraw the disclosure once it is made.

Once IWA receive a disclosure, the PID Officer are obliged to take action and we may continue to look into the matters within a disclosure irrespective of continued approval.

These initial discussions with a PID Officer may help in deciding whether to make a public interest disclosure and also enable the PID Officer to ascertain if the information would be covered by the PID Act. If the information appears not to be the type covered by the PID Act, the PID Officer will discuss other mechanisms through which issues may be made, for example, our general complaints or grievance resolution process.

The PID Officer will be able to provide more detailed information about IWA's disclosure process and what people can expect from it.

The Public Sector Commission Advisory Line can also be contacted on (08) 6552 8888 (or 1800 676 607 for country callers) for general information about the disclosure process.

Sphere of responsibility

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

- matters that relate to IWA; or
- a public officer or public sector contractor of IWA; or
- a matter or person that IWA has a function or power to investigate.

The proper authority to which a disclosure should be made depends on the type of disclosure information. Where the information is outside of the PID Officer's sphere of responsibility, it may need to be made to another proper authority for it to be considered as a public interest disclosure and for the discloser to receive the protections of the PID Act.

Proper authority

The proper authority for a disclosure will depend on the information or 'matter' in the disclosure. In some cases, a public interest disclosure may be made to an external 'named' proper authority, as outlined in s. 5(3).

Corruption and Crime Commission

The PID Act also provides for the Corruption and Crime Commission (CCC) to receive public interest disclosures of information relating to an offence under State law.

WA Police

The PID Act also provides for any police officer to receive public interest disclosures of information relating to an offence under State law.

Parliamentary Commissioner (Ombudsman Western Australia)

The PID Act also provides for the Ombudsman to receive public interest disclosures of information relating to matters of administration within the jurisdiction of the Ombudsman, and matters relating to most public officers.

Auditor General

The PID Act also provides for the Auditor General to receive public interest disclosures of information relating to substantial unauthorised or irregular use or substantial mismanagement of public resources.

Public Sector Commission

The PID Act also provides for the Public Sector Commissioner to receive public interest disclosures of information that relates to a Public Officer (other than a Member of Parliament, a Minister of the Crown, a judicial officer or an officer referred to in Schedule 1 to the *Parliamentary Commissioner Act 1971*).

2. Making the disclosure

A discloser needs to clearly identify that they are making a public interest disclosure. For the purposes of accountability and certainty, persons wishing to make a disclosure of public interest information under the PID Act are encouraged to do so in writing.

IWA accept anonymous disclosures, but if a discloser decides to make an anonymous disclosure they should understand that it may be more difficult for a PID Officer to investigate or take action about the disclosure. This is because they cannot come back to seek any further information. IWA are also not required to provide any reports about the progress or final outcome of the disclosure, if the discloser chooses to remain anonymous.

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

3. Determining whether your matter is an appropriate disclosure

Once a PID Officer has received the disclosure they will assess whether it meets the requirements under the PID Act. It may be that a PID Officer undertakes initial inquiries and decides not to take the matter any further, as it does not constitute an appropriate public interest disclosure.

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

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

The PID Officer will notify the discloser within three months about what they plan to do in dealing with the disclosure, unless it is an anonymous disclosure.

4. Determining whether your public interest disclosure will be investigated

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

- 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 matter(s) occurred; or
- the matter is being, or has been, adequately or properly investigated by another proper authority, s. 5(3).

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

5. Referring public interest matters

Where the PID Officer assesses the disclosure as one to which the PID Act applies, but they do not have the functions or power to investigate one or more matters within the disclosure, they will refer the information to the appropriate authority for investigation as provided for under the PID Act.

Alternatively, a discloser may also be able to make a disclosure directly to this new authority, if they wish to receive reports from them about the disclosure. For example, the PID Officer may need to refer an allegation of an offence supported by evidence to the Western Australia Police for investigation.

6. Investigating the disclosure

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

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

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

If you are an employee, you are expected to cooperate with any investigation into the disclosure to maintain the protections under the PID Act. A discloser is also expected to act in accordance with the PSC Code at all times.

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

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

Typical procedures for an investigation

In conducting an investigation, typical steps may include:

- developing the terms of reference for the investigation and clarifying the key issues in the disclosure.
- ensuring the objectives of the investigation include:
 - collecting and collating information related to the disclosure;
 - considering the information collected; and
 - drawing conclusions objectively and impartially
- specifying a date by which the investigation should be completed and a report provided to the discloser about the final outcome, bearing in mind that the discloser may be able to disclose to a journalist if:
 - the PID Officer does not notify the discloser within three months of them making their disclosure about how they plan to deal with the disclosure; or
 - the PID Officer discontinues an investigation; or
 - the PID Officer does not complete the investigation within six months; or
 - completed an investigation but recommended no action be taken; or
 - the PID Officer does not provide a final report to the discloser about the outcome and any action taken, including the reasons for that action.
- informing the subject of the disclosure about their rights and obligations under the PID Act, the PSC Code, any agency code of conduct and the law
- maintaining procedural fairness for the person who is the subject of the disclosure
- the investigator making contemporaneous notes of discussions and interviews and, where practicable and appropriate, recording discussions and interviews on audio or videotape (ensuring people are made aware they are being recorded)
- ensuring strict security to maintain the confidentiality requirements of the PID Act.

What are your rights and responsibilities if you are the subject of a disclosure?

A subject of a disclosure is a person of interest about whom an allegation of a public interest disclosure has been made.

IWA will treat the person fairly and impartially throughout the process, and inform them of their rights and obligations. IWA will keep the parties involved informed during any investigation, although we cannot release any information to the person that may prejudice our investigation. As an employee it is expected you will act in accordance with the PSC Code at all times.

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

- the subject consents to his/her identity being disclosed
- it is necessary to enable the matter to be investigated effectively
- it is necessary to do so in taking action within s. 9
- there are reasonable grounds to believe that it is necessary to prevent or minimise the risk of injury to any person or damage to any property
- is made in accordance with a court order or other body having authority to hear evidence
- it is made in accordance with ss. 152 or 153 of the CCM Act.

IWA will also provide appropriate natural justice. This means that, before any disciplinary or other action against the person under s. 9, IWA will give the subject the opportunity to:

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

If you are the subject of a disclosure, you must not identify or tend to identify the identity of the discloser or a person you think might be the discloser, as the discloser also has rights to confidentiality under the PID Act. It is an offence under s. 16 to identify or tend to identify any person who has made a disclosure under the PID Act.

Also, you must not engage in reprisal action, threaten anyone with reprisal action or have someone else conduct this action on your behalf because someone has made, or intends to make, a disclosure.

It is still an offence to conduct this action against any person you believe has made the disclosure even if they were not the individual who actually made the disclosure. This is an offence under s. 14(1) of the PID Act.

7. Taking action

The PID Officer will take action where they form the opinion that a person may be, may have been, or may in the future be involved in conduct which may be the subject of a public interest disclosure.

Usually the PID Officer will form this opinion at the conclusion of an investigation, although there may be instances where they need to take immediate action and the PID Act enables them to do this.

Action a PID Officer may take under s. 9 includes, but is not limited to:

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

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

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

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

Confidentiality and record keeping when taking action

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.

8. After the public interest disclosure process has been finalised

The PID Act places no further obligations on IWA or our PID Officers after the disclosure process is complete. The confidentiality requirements of the PID Act, however, continue to apply to all people involved with the disclosure.

The PID Act does not provide for a discloser to appeal the outcome of the disclosure process. A discloser may be able to make another disclosure to another proper authority, if the information relates to their functions or sphere of responsibility (s. 5).

It should be noted this 'new' proper authority may be able to decline to investigate the disclosure under s. 8, if they consider the matter(s) has already been properly or adequately investigated (as a public interest disclosure).

9. Making a disclosure to a journalist

The PID Act provides for certain circumstances where a discloser may be able to make a protected disclosure to a journalist (s. 7A(d)). These circumstances apply where the discloser has first made a disclosure to the PID Officer or another proper authority named in the PID Act (see pages 15-16).

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

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

IWA are committed to ensuring that notifications are provided that are required under the PID Act and that the discloser understands the reasons for our decisions and actions. If a discloser is considering making a disclosure to a journalist because they believe their circumstances meet one or more of the requirements outlined above, we would encourage the discloser to discuss this with the PID Officer prior to disclosure to a journalist.

It is also recommended that the discloser seek their own legal advice before taking any action in relation to matters that have been disclosed under the PID Act.

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

10. Contact details and further information

For contact details of PID Officers outside IWA please refer to the PID Officer register at the Public Sector Commission's website www.publicsector.wa.gov.au. The Public Sector Commission's website also contains further information regarding the PID Act and public interest disclosure considerations.

Other Relevant Legislation, Regulations, Industrial Instruments, Policies, Guidelines and Procedures

[Public Information Disclosure Act 2003](#)

[Public Interest Disclosure Regulations 2003](#)

Guidelines Review

These guidelines will be reviewed as and when required to ensure it meets the needs of the users and complies with relevant legislation and policies.



Chief Executive Officer

Date: 22/02/2021

Next review date: ____/____/____