

Public Interest Disclosure procedure

Issued January 2021

1 Introduction

The [Public Interest Disclosure Act 2018](#) (PID Act) came into effect on 1 July 2019, replacing the *Whistleblowers Protection Act 1993*.

The objective of this procedure is to assist in the protection of integrity in the Environment Protection Authority (EPA) to ensure compliance with the PID Act and informing employees as to the impact and operation of this Act.

The PID Act encourages and facilitates the *appropriate disclosure of public interest information* to certain persons or authorities (a public interest disclosure).

It provides protection for public officers who make an *appropriate disclosure of public administration information* and sets out processes for dealing with such disclosures. It also provides protection for persons who make an *appropriate disclosure of environmental and health information*.

2 Scope

In accordance with the requirements of the PID Act, the EPA Public Interest Disclosure Procedure (procedure) sets out the process for:

- any person who wants to make an *appropriate disclosure of public interest information* concerning an EPA employee or the EPA (see [Appendix 1](#) for details), including *disclosure of public administration information and environmental and health information*, and
- any employee of the EPA dealing with any such appropriate disclosure (see [Appendix 2](#) for details).

The Independent Commissioner Against Corruption (ICAC) has published four sets of guidelines, also known as the [ICAC Public Interest Disclosure Guidelines](#), to provide additional requirements and general information about the PID Act. This procedure has been prepared to comply, and be consistent with, the ICAC Guidelines.

3 Definitions

Informant – A person who makes an *appropriate disclosure of public interest information* is referred to in this procedure and throughout the PID Act as an informant.

public interest information – defined in section 4 of the PID Act as:

- **environmental and health information** – information that raises a potential issue of a substantial risk to the environment or to the health and safety of the public generally or a significant section of the public,

or

- **public administration information** – information that raises a potential issue of corruption, misconduct or maladministration in public administration, whether occurring before or after the commencement of the PID Act. The definitions of corruption, misconduct and maladministration in public administration are the same as those found in the [Independent Commissioner Against Corruption Act 2012](#) (ICAC Act), see ICAC Guidelines.

public officer – defined in Schedule 1 of the ICAC Act. The most common categories of *public officer* can be found in the appendices to the ICAC Guidelines. Public sector employees are *public officers*.

relevant authority – section 5(5) of the PID Act designates certain persons or organisations who can receive an *appropriate disclosure of public interest information*, depending on who or what the information relates to. Where information relates to a substantial risk to the environment, disclosures can be made to the EPA. A list of *relevant authorities* is included in the appendices to the ICAC Guidelines.

responsible officer – under section 12(1) of the PID Act, as *principal officer* of the EPA, the Chief Executive has appointed several senior employees to be *responsible officers* for the EPA.

In accordance with section 13 of the PID Act, the responsible officer must:

- receive *appropriate disclosures of public interest information* relating to the EPA and ensure compliance with the PID Act in relation to such disclosures
 - make appropriate recommendations to the EPA Chief Executive in relation to dealing with such disclosures
- and
- provide advice to officers and employees of the EPA in relation to the administration of the PID Act.

Anyone wanting to disclose *public interest information* relating to the EPA can seek the advice of an EPA *responsible officer*. In addition, information is also available on the [ICAC/Office of Public Integrity \(OPI\)](#) websites.

4 Responsibilities

All employees must comply with the PID Act. Where employees are considering a disclosure of public interest information under the PID Act, they should also consider if they have reporting obligations under the [Directions and Guidelines](#) issued by ICAC.

5 Making an appropriate disclosure of public interest information

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

In order to make an appropriate disclosure of public interest information you need to determine whether the information you have is public interest information and what is the type of public interest information. All persons can receive protections under the PID Act for an appropriate disclosure of environmental and health information, but only public officers receive protections for an appropriate disclosure of public administration information. These terms, and how to make a disclosure, are explained in section 7 of this procedure.

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

Advice can be provided to you by the EPA responsible officers who receive disclosures of public interest information, make recommendations to principal officers in relation to disclosures, and advise fellow staff about the public interest disclosure scheme.

6 Obligations on public sector agencies

In accordance with section 12(5) of the PID Act and the [ICAC Public Interest Disclosure Guideline 4](#), this procedure sets out the following:

- The manner in which the EPA receives disclosures of *public interest information*, including:
 - the way in which a disclosure can be securely received (see [Appendix 3](#) for details)
 - what steps the EPA has put in place to ensure the *public interest information* is securely received and stored,and
 - who is responsible for ensuring compliance with these steps.
- The criteria that will be applied in the assessment of a *public interest disclosure*.
- The manner in which details of the assessment will be securely stored and the person in the EPA who will be advised of the assessment.

- The manner in which an informant will be kept informed as to action taken in respect of a disclosure.
- The person in the EPA who can be contacted if an informant believes that their disclosure is not being dealt with appropriately.
- Obligations on the EPA and its officers and employees to take action to protect informants.
- Risk management steps for assessing and minimising detrimental action against people because of *public interest disclosures* and detriment to people against whom allegations are made in a disclosure.

This procedure sets out how you can ensure you are complying with the PID Act and the ICAC Guidelines.

7 What is public interest information

There are two types of public interest information:

- public administration information
- environmental and health information.

7.1 Disclosures of public administration information

What is public administration information

- *Public administration information* means information that raises potential issues of corruption, misconduct of maladministration in public administration (whether occurring before or after the commencement of the PID Act).
- The definitions of corruption, misconduct, and maladministration in public administration are the same as those found in the ICAC Act and can be found in the [ICAC Guidelines](#).

Who can make a disclosure of public administration information

While anyone can make a disclosure of public administration information, only public officers who make such a disclosure are eligible for the protections provided by the PID Act (see the ICAC Guidelines).

Who can receive a disclosure of public administration information

- To gain the protections provided by the PID Act, a public officer must make a disclosure of *public administration information* to a *relevant authority* in circumstances where the public officer reasonably suspects that the information raises a potential issue of corruption, misconduct or maladministration in public administration.
- A disclosure of *public administration information* that is accompanied by such a suspicion is referred to as an *appropriate disclosure* of *public administration information* for the purposes of the PID Act.
- Whether a disclosure of *public interest information* is made to a *relevant authority* depends on the type of information being disclosed and what or who the information relates to.
- Section 5(5) of the PID Act specifies the *relevant authorities* that can receive disclosures relating to *public interest information*.
- The list of *relevant authorities* is included in the appendices to the ICAC Guidelines.
- If the *public administration information* relates to a public officer in the EPA, both an EPA *responsible officer*, or the person responsible for the supervision or management of the public officer the *public administration information* relates to, are *relevant authorities*.
- If the *public administration information* relates to a public sector employee or relates to a public sector agency, both a *responsible officer* of the agency or the Commissioner for Public Sector Employment are *relevant authorities*.
- The OPI is also a *relevant authority* for any *appropriate disclosure* of *public administration information*.

How do I make a disclosure of public administration information

Each *relevant authority* has its own procedures in relation to disclosing and receiving *public administration information*. See Appendices 1–3 for further details.

7.2 Disclosures of environmental and health information

What is environmental and health information

Environmental and health information means information that raises a potential issue of a substantial risk to the environment or to the health and safety of the public generally or a significant section of the public (whether occurring before or after the commencement of the PID Act).

Who can make a disclosure of environmental and health information

- Anyone can make a disclosure of environmental and health information.
- However, to gain the protections provided under the PID Act, a person who makes a disclosure of environmental and health information:
 - must believe on reasonable grounds that the information is true
 - or
 - not being in a position to form such a belief, believes on reasonable grounds that the information may be true and is of sufficient significance to justify its disclosure so that its truth may be investigated.
- A disclosure of *environmental and health information* that is accompanied by either of these beliefs is referred to as an *appropriate disclosure of environmental and health information* for the purposes of the PID Act.

Who can receive a disclosure of environmental and health information

- For a disclosure to be considered an *appropriate disclosure of environmental and health information* it must be made to a *relevant authority*.
- Whether a disclosure of *public interest information* is made to a *relevant authority* depends on the type of information being disclosed and what or who the information relates to.
- Section 5(5) of the PID Act specifies the *relevant authorities* that can receive disclosures of *public interest information*.
- This list of *relevant authorities* is included in the appendices to the ICAC Guidelines.
- Where information relates to a risk to the environment, disclosure may be made to the EPA (see the ICAC Guidelines).
- Where the information relates to a location within the area of a particular local council, you should consider making a disclosure to a member, officer or employee of that council (see the ICAC Guidelines).
- If the *environmental and health information* relates to a public officer in the EPA, both an *EPA responsible officer*, or the person responsible for the supervision or management of the public officer the *environmental and health information* relates to, are *relevant authorities*.
- If the *environmental and health information* relates to a public sector employee in the EPA or relates to the EPA, both the *EPA responsible officer* or the Commissioner for Public Sector Employment are *relevant authorities*.
- OPI is also a *relevant authority* for any *appropriate disclosure of environmental and health information*.

8 Receiving an appropriate disclosure of public interest information

In order to determine whether an informant has made an *appropriate disclosure of public interest information* to you, you need to assess the information given to you, determine whether it is *public interest information*, and consider whether you are a *relevant authority* for that type of information.

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

Advice can be provided to you by the EPA's *responsible officers*. Further information about the PID Act can also be found on the [ICAC/Office of Public Integrity \(OPI\)](#) websites.

9 False or misleading disclosures

It is an offence against the PID Act, with a maximum penalty of \$20,000 or imprisonment for two years, to make a disclosure of *public interest information* knowing that it is false or misleading in a material particular (whether by reason of the inclusion or omission of a particular).

False or misleading disclosures of *public interest information* are not protected by the PID Act.

A public officer should consult a *responsible officer* if they suspect a disclosure to be false or misleading.

10 What protections are given under the PID Act

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

However, anyone is eligible for the protections provided by the PID Act if they make an *appropriate disclosure of environmental and health information*, provided:

- they believe on reasonable grounds that the information is true

or

- not being in a position to form such a belief, believes on reasonable grounds that the information may be true and is of sufficient significance to justify its disclosure so that its truth may be investigated.

10.1 Confidentiality

A person who makes an *appropriate disclosure of public interest information* is protected and their identity must be kept confidential in accordance with section 8 of the PID Act.

[ICAC Guideline 3: Information Confidentiality](#) sets out some exceptions to maintaining confidentiality, including in cases where it may be necessary to reveal the identity of an informant to prevent or minimise an imminent risk of serious physical injury or death to any person.

Under the PID Act it is a criminal offence to divulge the identity of an informant except in the limited circumstances where that is permitted.

If you receive an *appropriate disclosure of public interest information*, when seeking any advice, for example from OPI or from an EPA *responsible officer*, you must not disclose the identity of the informant unless the informant has consented.

You can only disclose the identity of the informant in accordance with ICAC Guideline 3 or if you have:

- assessed the disclosure
- based on that assessment, you are referring the *appropriate disclosure of public interest information* to OPI or to an EPA *responsible officer* for investigation

and

- based on that assessment, you have concluded that the matter cannot be fully investigated in the absence of the identity of the informant being disclosed.

10.2 Immunity

A person who makes an *appropriate disclosure of public interest information* has the immunity provided for in section 5(1) of the PID Act.

10.3 Victimisation

It is a criminal offence to victimise a person who makes an *appropriate disclosure of public interest information*.

The PID Act provides that a person who personally commits an act of victimisation under the PID Act is guilty of an offence. The offence carries a maximum penalty of a \$20,000 fine or imprisonment for two years.

The PID Act also contains provisions dealing with victimisation of a person who suffers a detriment on the ground, or substantially on the ground, that the person has made (or intends to make) an *appropriate disclosure of public interest information*. This is addressed in section 9 of the PID Act.

10.4 Preventing of hindering disclosures

It is an offence against the PID Act for a person to prevent another person from making an *appropriate disclosure of public interest information* or to hinder or obstruct another person in making such a disclosure.

The offence carries a maximum penalty of \$20,000 or imprisonment for two years.

10.5 I have an obligation to make a report to the OPI. Can I still be protected under the PID Act?

A public officer who makes a report to the OPI under the ICAC Act may also be protected under the PID Act.

Where a public officer makes a report to the OPI about a matter the public officer reasonably suspects involves a potential issue of corruption, misconduct or maladministration in public administration that report will also be an *appropriate disclosure of public administration information* because the OPI is itself a *relevant authority*.

Accordingly, such a report will ordinarily provide the public officer the protections under the PID Act.

The OPI will deal with your report in accordance with the ICAC Act but will also act consistently with the requirements of the PID Act.

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

11 Protecting informants

The EPA is committed to protecting people who make an *appropriate disclosure of public interest information*. The protections afforded under the PID Act have been outlined previously in this document.

In order to ensure that informants are protected, the EPA will:

- provide support and information on the PID Act protections to the informant.
- adopt and apply internal procedures that require compliance with section 8(1) of the PID Act in relation to confidentiality.
- store information about *appropriate disclosures* securely.
- proactively recognise and address any potential detrimental outcomes that may be caused from the disclosure.

12 Other related policies or procedures

- [EPA Public Interest Disclosure procedure](#)
- [Public Interest Disclosure Act 2018](#)
- [Public Interest Disclosure Regulations 2019](#)
- [ICAC Directions and Guidelines](#)
- [ICAC Public Interest Disclosure Guidelines](#)
- [ICAC website](#)

Appendices

- 1 [Making an appropriate disclosure of public interest information](#)
- 2 [Receiving and dealing with an appropriate disclosure of public interest information](#)
- 3 [How informants can contact the EPA](#)

Further information

Legislation

[Online legislation](#) is freely available. Copies of legislation are available for purchase from:

Service SA Government Legislation Outlet
Adelaide Service SA Centre
108 North Terrace
Adelaide SA 5000

Telephone: 13 23 24
Facsimile: (08) 8204 1909
Website: shop.service.sa.gov.au
Email: ServiceSAcustomerservice@sa.gov.au

General information

Environment Protection Authority
GPO Box 2607
Adelaide SA 5001

Telephone: (08) 8204 2004
Facsimile: (08) 8124 4670
Freecall: 1800 623 445 (country)
Website: <https://www.epa.sa.gov.au/>
Email: epainfo@sa.gov.au

Appendix 1 Making an appropriate disclosure of public interest information

Step 1

Before making a disclosure

To make an *appropriate disclosure of public interest information* you need to determine whether the information you have is *public interest information* and who you should disclose the information to (ie who the *relevant authorities* are).

Whether you receive protection under the [Public Interest Disclosure Act 2018](#) (PID Act) will depend in part on who you are and the subject matter of the disclosure. Anyone can receive the protection of the PID Act if an appropriate disclosure is made of environmental and health information in accordance with the PID Act. Only public officers are eligible for the protections under the PID Act if making an appropriate disclosure of public administration information.

Step 2

Making a disclosure

If you want to make an *appropriate disclosure of public interest information* related to the EPA or an EPA public officer you have a number of options including:

- **Contact the [Office for Public Integrity \(OPI\)](#) and speak to them**

The OPI is a *relevant authority* to receive disclosures of *public administration information* or *environmental and health information* regarding the EPA, EPA public officers and EPA public sector employees.

- **Contact an EPA responsible officer**

An EPA *responsible officer* can provide you with advice and assistance. The EPA *responsible officers* are a *relevant authority* to receive disclosures of *public administration information* or *environmental and health information* regarding the EPA and EPA public sector employees. You can follow the steps in [Appendix 3](#).

- **Contact the person's manager or supervisor**

If your disclosure of *public administration information* or *environmental and health information* relates to an EPA public officer, the person responsible for the management or supervision of that EPA public officer is also a *relevant authority* and you can disclose to them.

- **Contact the [Office of the Commissioner for Public Sector Employment](#)**

The Commissioner for Public Sector Employment is a *relevant authority* to receive disclosures of *public administration information* or *environmental and health information* regarding the EPA and EPA public sector employees.

The person receiving the *appropriate disclosure of public interest information* is required to comply with a number of requirements set out under the PID Act and this procedure.

When making the disclosure, if you are revealing your identity, you have rights set out below about being kept informed. Please speak to the *relevant authority* about how you wish to be contacted by them. It is important that keeping you informed is done in a way that maintains strict confidentiality. Decide together how they will keep you informed.

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

Step 3**Assessment of disclosure**

Once you make an appropriate disclosure of public interest information in accordance with section 5 of the PID Act, the person to whom you made the *appropriate disclosure* must take certain steps as set out in section 7 of the Act.

This includes (among other things) taking reasonable steps to notify you (as the informant; provided your identity is known) that an assessment of the information has been made and to advise you (as the informant) of either:

- the action being taken in relation to the information [section 7(1)(b)(i)]

or

- if no action is being taken in relation to the information, the reasons why no action is being taken in relation to the information [section 7(1)(b)(ii)].

The action being taken in relation to the information can include referring it to another person. If the action being taken is referring it to another person, then your identity may be disclosed as part of that referral, provided divulging your identity is necessary for the purpose of investigating the disclosure.

If any action is being taken in relation to the information, then the person you disclosed the information to (or the person it has been referred to) must take reasonable steps to notify you (as the informant; if your identity is known) of the outcome of that action [section 7(3)(a)].

However, if you make an *appropriate disclosure of public interest information* to a Minister of the Crown, the requirements set out above from section 7 do not apply. The following provisions apply instead:

- the Minister must, as soon as practicable, refer the disclosure to a *relevant authority*

and

- the *relevant authority*:
 - must deal with the information in accordance with section 7 (as if the disclosure had been made to the *relevant authority* in the first place)

and

- must ensure that the Minister is notified of the action taken under section 7 in relation to the information and the outcome of such action.

Step 4**Action to be taken**

Section 7 of the PID Act requires the person to whom an *appropriate disclosure of public interest information* is made to take certain actions and notify OPI in accordance with the [ICAC Guidelines](#). This is set out in more detail in [Appendix 2](#) under 'Receipt, assessment and notification of appropriate disclosures of public interest information'.

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

- does not justify the taking of further action

or

- relates to a matter that has already been investigated or acted upon by a *relevant authority* and there is no reason to re-examine the matter or there is other good reason why no action should be taken in respect of the matter.

The requirements set out above from section 7 do not apply where an *appropriate disclosure of public interest information* is made to a journalist or a Member of Parliament (see below).

Concerns about the action taken

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

- If your *appropriate disclosure of public interest information* was made to a *relevant authority* in the EPA other than a responsible officer, please contact one of the EPA's responsible officers (see contact details in Appendix 3). *Responsible officers* have obligations under the PID Act and will be able to assist you.
- If your *appropriate disclosure* was made to an EPA *responsible officer*, you can contact other *relevant authorities* such as the [OPI](#) or [Office of the Commissioner for Public Sector Employment \(OCPSE\)](#).

If you are concerned or suspect (as an informant) that you may have been, or will be, the subject of detriment on the grounds of having made, or being about to make, an *appropriate disclosure of public interest information*, you are encouraged to report that suspicion:

- Please raise your concerns or suspicions with one of the EPA's *responsible officers* who have obligations under the PID Act and will be able to assist you.
- If your concerns relate to the way in which an EPA *responsible officer* is handling your matter, you may wish to raise your concerns with a different *responsible officer*.
- Alternatively, you might prefer to contact other *relevant authorities* such as the OPI or OCPSE.

Disclosure to a journalist or Member of Parliament

You have certain rights if you have:

- made an *appropriate disclosure of public interest information* in accordance with section 5 of the Act
- believe on reasonable grounds that the information is true

and

- made your identity known to the person to whom that *appropriate disclosure* was made (ie they can contact you).

You should receive notification of the action being taken (or the reason for no action being taken) within 30 days after making that disclosure.

You should also receive notification of the outcome of the action within 90 days after making that disclosure. However, the person whom you notified can give you a written notice saying that this period of time will be longer.

These notifications can be either verbal or in writing. Under this procedure the *relevant authority* is directed to provide the notification in writing, but under the PID Act this is not a requirement.

If the above applies and if, after 30 days or 90 days (or such other longer period specified in writing), you have not been notified as required, you are entitled to receive the protections under the PID Act if you make an *appropriate disclosure* of the *public interest information* to a journalist or Member of Parliament (other than a Minister of the Crown, as Ministers of the Crown are already *relevant authorities* under the PID Act). See section 6 of the PID Act.

Under the PID Act, journalist means a person engaged in the profession or occupation of journalism in connection with the publication of information in a news medium.

Other information

As set out in this procedure, the EPA has an obligation to protect informants. The EPA *responsible officers* are directed to ensure matters are kept strictly confidential, for example all printed materials are stored securely and any conversations with an informant are to be held in private. In addition, emails sent to and from the EPA *responsible officers* are managed confidentially.

The EPA is committed to minimising any risk that an informant might be victimised as a consequence of making, or intending to make, a *public interest disclosure*. The EPA's *responsible officers* will provide support and information about the PID Act protections to informants, and encourage informants to raise any concerns they have about potential detrimental outcomes that may be caused from the disclosure.

Appendix 2 Receiving and dealing with an appropriate disclosure of public interest information

In order to determine whether someone has made an *appropriate disclosure of public interest information* to you, you need to assess the information given to you and consider whether you are a *relevant authority* for the particular information.

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

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

There are two types of *public interest information* – *public administration information* and *environmental and health information*. Whether you are a *relevant authority* will depend on the subject matter of the information being received.

Once you have determined that you are a *relevant authority* who has received an *appropriate disclosure of public interest information* you must take certain steps to comply with the [Public Interest Disclosure Act 2018](#) (PID Act) and the [ICAC Guidelines](#).

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

When receiving the disclosure of information please speak to the informant about how they wish to be contacted by you. It is important that, if the informant has provided their identity, they be kept informed as set out below, but that it is done in a way that maintains strict confidentiality. Decide together how you will keep them informed. It is better they be kept informed in writing, although this is not a requirement.

If you are not a *relevant authority* under the PID Act, you still have obligations:

- you should advise the informant to report the information to a *relevant authority*
- and
- you must keep details of the informant and the disclosure confidential.

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

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

If you are a person to whom an *appropriate disclosure of public interest information* is made, you should consider seeking the advice of an EPA *responsible officer* immediately who will be able to assist you to understand your legal obligations.

Step 1

Assessment

Section 7 of the PID Act requires a person to whom an *appropriate disclosure* is made to assess the information as soon as practicable after the disclosure is made.

Assess for imminent risk

Immediately assess the disclosure to ascertain whether the 'imminent risk' provision of [ICAC Guideline 1](#) applies. If the content of the disclosure suggests that there is an imminent risk of serious physical injury or death to any person or the public generally, you should immediately communicate such information as may be necessary to mitigate that risk to the most appropriate agency (eg South Australia Police, SafeWork SA, SA Ambulance, EPA responsible officers).

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

- 1 Does the information disclosed raise a potential issue of:

- a corruption in public administration
 - b misconduct in public administration
 - c maladministration in public administration?
- 2 Does the information disclosed raise a potential issue of a substantial risk to the environment or to the health or safety of the public generally or a significant section of the public?

If the disclosure assessed has the character of *public interest information* you have an obligation to report that matter to the OPI, applying the criteria in the ICAC Act, and in accordance with [ICAC Guideline 1](#):

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

Assess for no further action

Assess whether this is information in relation to which no action need be taken, seeking the advice of the *responsible officer*.

Note that the recipient of the disclosure **must** notify the OPI of the *appropriate disclosure* as soon as reasonably practicable after the receipt of the *appropriate disclosure*.

Otherwise, no action need be taken in relation to an *appropriate disclosure* of *public interest information* if the:

- information disclosed does not justify the taking of further action

or

- information disclosed relates to a matter that has already been investigated or acted upon by a *relevant authority* and there is no reason to re-examine the matter, or there is other good reason why no action should be taken in respect of the matter. See section 7(2) of the PID Act.

No action required – notification of informant

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

The *responsible officer* can assist you but you must take reasonable steps to notify the informant (if the informant's identity is known):

- that an assessment of the information has been made
- that no action is being taken in relation to the information

and

- the reasons why no action is being taken in relation to the information.

You must make this notification within 30 days of receiving the *appropriate disclosure* of *public interest information*.

If you take longer than 30 days and if the informant believes on reasonable grounds that the information is true, the informant is entitled to disclose the *public interest information* to a journalist or a Member of Parliament other than a Minister of the Crown, and the disclosure will be considered to be an *appropriate disclosure* of *public interest information*.

Assess for further action required

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

- 1 If investigation of the information may be warranted, who has the skills, resources and powers to investigate the matter.

- 2 If the information is substantiated following an investigation, what action would be appropriate and who has the skills, resources and powers to take appropriate action in relation to the matter arising from the information.

Having identified the appropriate person or authority to take action in relation to the matter raised by the informant, the information should be further assessed to determine what information should be communicated to that person or authority to enable the information to be properly addressed.

Action required – provide information to OPI

If action needs to be taken, unless good reasons exist for not doing so, refer the *appropriate disclosure of public interest information* to an EPA *responsible officer*. For example, a disclosure would not be referred to an EPA *responsible officer* if the information related to them.

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

- assessed the disclosure
- based on that assessment, you are referring the *appropriate disclosure of public interest information* to an EPA *responsible officer* for investigation

and

- based on that assessment, you conclude that the matter cannot be fully investigated in the absence of the identity of the informant being disclosed.

If you do not have enough information to draw that conclusion, omit the informant's identity from your referral. If the EPA *responsible officer* considers that they need the informant's identity to properly investigate, they will tell you.

Even if you refer the *appropriate disclosure of public interest information* to an EPA *responsible officer*, you must still:

- take action in relation to the information in accordance with [ICAC Guideline 1](#) as required by section 7(1)(a) of the PID Act)

and

- provide OPI with information relating to the disclosure in accordance with Public Interest Disclosure Guideline One as required by section 7(1)(c) of the PID Act.

The EPA *responsible officer* can assist you.

You must ensure that you are complying with [ICAC Guideline 1](#) entitled *Receipt, Assessment & Notification of Appropriate Disclosures*.

Has an appropriate disclosure of public interest information been made to you?

[ICAC Guideline 1](#) applies in respect of the action to be taken by a **person to whom an *appropriate disclosure of public interest information* has been made** (the recipient of the disclosure) and in respect of the notification to the OPI of the receipt of the *appropriate disclosure*.

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

- 1 If the content of the disclosure suggests that there is an imminent risk of serious physical injury or death to any person or the public generally, you (as the recipient of the disclosure) should immediately communicate such information as may be necessary to mitigate that risk to the most appropriate agency (eg South Australia Police, SafeWork SA, SA Ambulance, EPA responsible officers).
- 2 If you (as the recipient of the disclosure) form a reasonable suspicion that the matter(s) the subject of the disclosure involve(s) corruption in public administration, or serious or systemic misconduct or maladministration in public administration, you must comply with your reporting obligations under the [ICAC Act](#).
- 3 If you (as the recipient of the disclosure) assess the content of the disclosure as requiring further action, you must, unless the matter is reported to the [OPI](#) as a potential issue of corruption in public administration, ensure that:

- a such action as may be appropriate in the circumstances is taken by you to ensure the matter the subject of the disclosure is properly addressed
 - or
 - b such information as is necessary to enable action to be taken is communicated to the most appropriate person or *relevant authority* to take such action.
- 4 You (as the recipient of the disclosure) must notify the OPI of the *appropriate disclosure* as soon as reasonably practicable after the receipt of the *appropriate disclosure* by making an electronic notification via the dedicated notification form on the [ICAC website](#) and must include in that notification:
- a the date the disclosure was received
 - b your name and contact details
 - c a summary of the content of the disclosure
 - d the assessment made of the disclosure
 - e the action taken by you (as the recipient of the disclosure) including:
 - i whether the disclosure was referred to another *relevant authority*, public authority, public officer or another person

and

 - ii if the disclosure was referred to another *relevant authority*, public authority or public officer or other person the,
 - o date of the referral
 - o identity of that *relevant authority*, public authority or public officer or another person to whom the disclosure was referred
 - o manner of referral

and

 - o action to be taken by that *relevant authority*, public authority or public officer or another person (if known).
 - f if no action was taken by you (as the recipient of the disclosure) the reason why no action was taken
- and
- g whether the identity of the informant is known only to you (as the recipient of the disclosure) or if the identity of the informant has been communicated to a *relevant authority*, public authority or public officer or another person (and if so, the reasons why such communication was made).
- 5 As the recipient of the disclosure you must retain the unique reference number issued by the OPI after the making of a notification and must ensure that that unique reference number is provided to any other person or authority to whom the disclosure is referred.

Step 2

Action required – notification to informant

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

An EPA *responsible officer* can assist you.

You must take reasonable steps to notify the informant (if the informant's identity is known) that an assessment of the information has been made and to advise the informant of the action being taken in relation to the information.

Make this notification within 30 days of receiving the *appropriate disclosure of public interest information* and do so in writing. If considering contacting the informant by email, first ensure they have agreed to an appropriate email address being used.

If you take longer than 30 days, and if the informant believes on reasonable grounds that the information is true, then they are entitled to disclose the *public interest information* to a journalist or a Member of Parliament (other than a Minister of the Crown). The disclosure will then be considered to be an *appropriate disclosure of public interest information*.

As set out below, later on either you or a person to whom you have referred the disclosure to, will also need to notify the informant of the outcomes of the action. This needs to be done within 90 days of receiving the *appropriate disclosure of public interest information*.

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

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

Step 3

Outcomes of action – notification to informant

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

If you do not refer the matter to an EPA *responsible officer*, you must take the appropriate action as decided through the assessment of the information. You must take reasonable steps to notify the informant (if the informant's identity is known) of the outcome of that action. See section 7(3)(a).

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

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

If it takes longer than 90 days (or the alternative longer period of time as notified above) to notify the informant of the outcomes of the action, and if the informant believes on reasonable grounds that the information is true, then they are entitled to disclose the *public interest information* to a journalist or a Member of Parliament (other than a Minister of the Crown). The disclosure will then be considered to be an *appropriate disclosure of public interest information*.

Step 4

Outcomes of action – notification to OPI

If you take action in relation to an *appropriate disclosure of public interest information*, you must provide OPI with information relating to the outcome of that action in accordance with [ICAC Guideline 2](#) entitled *Notification of Action Taken*, as set out below. See section 7(3)(b) of the PID Act.

If you take action in relation to an *appropriate disclosure of public interest information*, and if such action consists of referring the disclosure to another person, then that other person to whom it is referred must provide OPI with information relating to the outcome of that action in accordance with [ICAC Guideline 2](#). See section 7(3)(b).

Guideline Two provides that, in addition to the requirement for OPI to be notified when an *appropriate disclosure of public interest information* is received (see Guideline 1), the OPI must also be notified of any action taken in relation to the

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

If you have received an *appropriate disclosure of public interest information*, or if you have received a referral of such a disclosure from someone else, you must notify the OPI, as soon as reasonably practicable via the [online notification form](#), of the following:

- 1 the unique identification number issued by the OPI upon notification of the original disclosure
- 2 the name and contact details of the informant
- 3 the name and contact details of the person or authority responsible for taking the action
- 4 what findings were made in respect of the disclosure (if any)
- 5 the nature of the action taken (if any)
- 6 the outcome of any action taken (if applicable)
- 7 whether the identity of the informant was disclosed to a person other than the original recipient of the disclosure and
- 8 whether the informant was notified of the action taken and, if so, when and how that notification was made.

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

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

- the Minister must, as soon as practicable, refer the disclosure to a *relevant authority*
- and
- the *relevant authority* must:
 - deal with the information in accordance with this section (as if the disclosure had been made to the *relevant authority*)
 and
 - ensure that the Minister is notified of the action taken under this section in relation to the information and the outcome of such action. See section 7(5) of the PID Act.

Keeping the information safe

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

EPA *responsible officers* will have access to a secure mailbox through their email account. The mailbox will only be accessed by the *responsible officers*, Manager Risk, Procurement and Business Administration, and Manager People and Capability, and has appropriate ICT security measures in place.

EPA *responsible officers* are directed to ensure matters are kept strictly confidential. For example, all printed materials are stored securely and any conversations with an informant are to be held in private. In addition, emails sent to and from EPA *responsible officers* are managed confidentially.

The EPA is committed to minimising any risk that an informant might be victimised as a consequence of making, or intending to make, a *public interest disclosure*.

EPA *responsible officers* will provide support and information about the PID Act protections to informants and encourage informants to raise any concerns they have about potential detrimental outcomes that may be caused from the disclosure.

Appendix 3 How informants can contact the EPA

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

Email: epa.pid@sa.gov.au

Post: *Mark the envelope 'Private and confidential'*

Responsible Officer, Public Interest Disclosure
Environment Protection Authority
GPO Box 2607
Adelaide SA 5001

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

Upon receiving the disclosure, the EPA *responsible officer* will ensure:

- that the information is securely received and not divulged to other parties
- only *responsible officers*, Manager Risk, Procurement and Business Administration, and Manager People and Capability will be able to access the EPA.PID mailbox (with appropriate ICT security measures)
- the Chief Executive is responsible for ensuring compliance with these steps.

When making the disclosure of information, if you are revealing your identity, you have rights about being kept informed. Please speak to the *responsible officer* about how you wish to be contacted by them.

The person receiving the *public interest information* must comply with the requirements set out under the PID Act and must also follow the procedures outlined in this document (see [Appendix 2](#)).

Accessibility and assistance

If you do not have English as your first language or you are hearing impaired or mute, the Australian Government provides the following services:

- Translating and Interpreting Service (TIS): 131 450
- National Relay Service (Speak and Listen): 1300 555 727
- National Relay Service (TTY users): 133 677
- Internet relay users can make an online call at: <https://nrschat.nrscall.gov.au/nrs/internetrelay>

Customers using these services can request to be put through to the EPA general enquiries number on (08) 8204 2004 to make an enquiry about a public interest disclosure.