



CDPP

Australia's Federal Prosecution Service



PUBLIC INTEREST DISCLOSURE PROCEDURES

February 2020



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MESSAGE FROM THE DIRECTOR

These procedures have been developed under section 59 of the [Public Interest Disclosure Act 2013](#) which came into effect on 15 January 2014. The Act facilitates disclosure and investigation of wrongdoing and maladministration in the Commonwealth public sector.

The CDPP is committed to the highest standards of ethical and accountable conduct, encouraging, supporting and protecting public officials who report disclosable conduct in accordance with the PID Act.

The CDPP recognises that it is important to have an effective system for reporting and investigating disclosable conduct. Some of the potential benefits of such a system are reducing the work health and safety risks to our workers, saving money and making our programs and processes more efficient. Another potential benefit is increasing the confidence of our workers in the way the CDPP is managed.

The CDPP also recognises that a decision by the CDPP not to deal with a report as a disclosure under the PID Act, when as a matter of law that is how the disclosure should have been dealt with, could be seriously detrimental to the discloser and to the effective operation and the good reputation of the CDPP.

I ask that you become familiar with these revised procedures to ensure you are aware of your responsibilities in relation to this important legislative framework.

Robert Bromwich
Director



WHAT ARE PUBLIC INTEREST DISCLOSURES?

Public interest disclosure generally occurs when a current or former public official (the discloser):

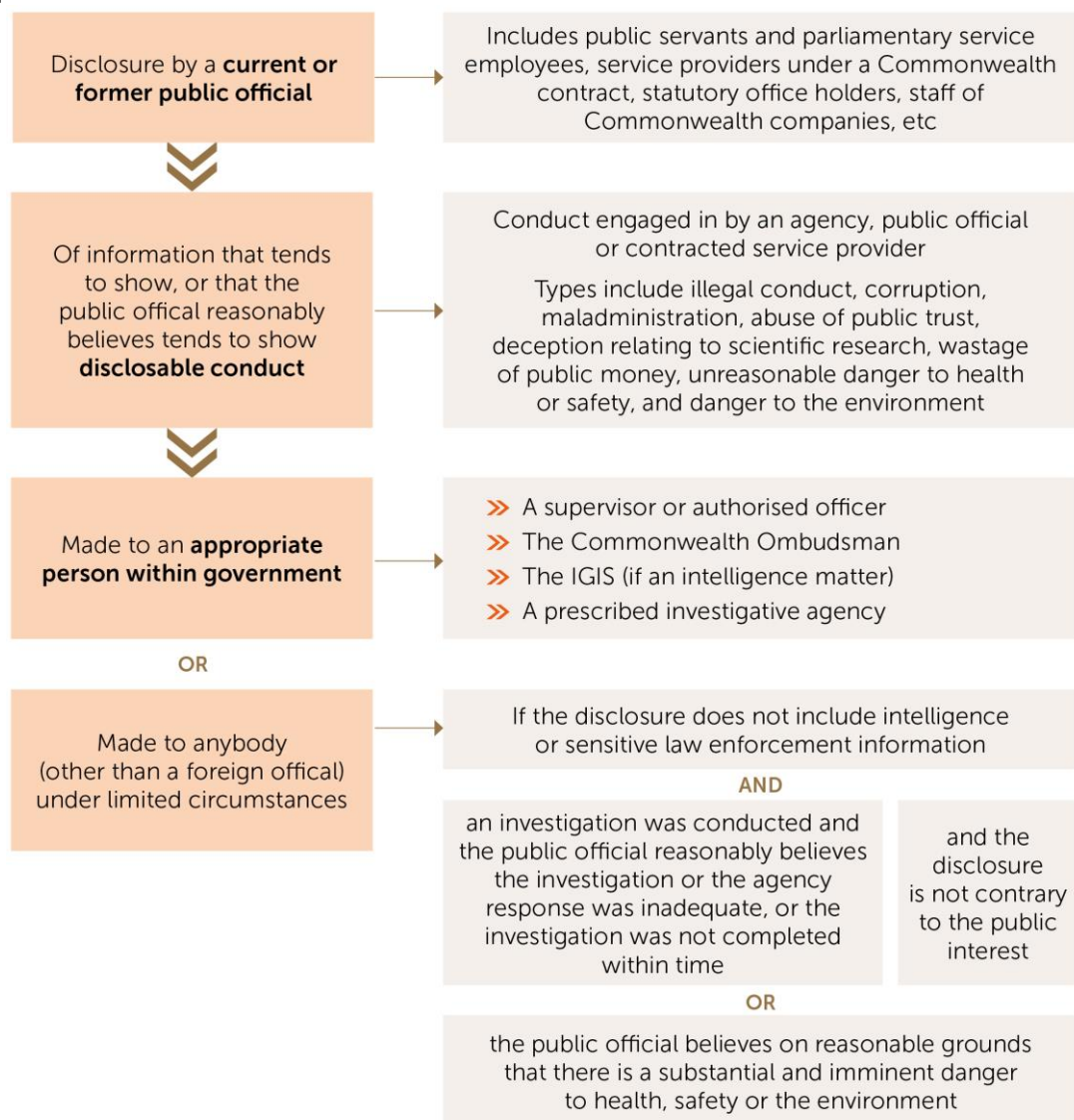
- Discloses to their supervisor or manager, or an authorised officer
- Information which tends to show, or the discloser believes on reasonable grounds tends to show, one or more instances of disclosable conduct

In limited circumstances, a public official may disclose such information to a person outside government – this is known as an external disclosure or emergency disclosure. For more information please refer to the Commonwealth Ombudsman’s Agency [Guide](#) to the PID Act.

To gain the protections the PID Act provides to disclosers, a public official must make a disclosure to an appropriate person. Accordingly, it is important that persons contemplating making a disclosure of information carefully review the contents of the PID Act and seek their own independent legal advice where appropriate in order to determine whether the disclosure can be made in a way that attracts the protections of the PID Act.

Public officials may also make anonymous disclosures.

What is public disclosure?



Source: Commonwealth Ombudsman’s Agency [Guide](#) to the PID Act.

WHAT IS DISCLOSABLE CONDUCT?

The full definition of disclosable conduct is set out in [section 29 of the PID Act](#). That definition applies for the purposes of these procedures. In summary, disclosable conduct is conduct by an agency, a public servant or a government contractor that:

- Contravenes an Australian law
- In a foreign country, contravenes a foreign law that applies to the agency, official or service provider
- Perverts the course of justice
- Is corrupt
- Constitutes maladministration, including conduct that is based on improper motives or is unreasonable, unjust, oppressive or negligent
- Is an abuse of public trust
- Involves fabrication, plagiarism or deception relating to scientific research, or other misconduct in relation to scientific research, analysis or advice
- Results in wastage of public money or property
- Unreasonably endangers health and safety
- Endangers the environment
- Is prescribed by the PID Rules
- Involves abuse of the public official's position, or could, if proved, give reasonable grounds for disciplinary action against the public official

It does not matter whether disclosable conduct occurred before or after 15 January 2014. Nor does it matter whether the public official who carried out the alleged conduct has ceased to be a public official since the time the conduct is alleged to have occurred, but it is necessary that they carried out the conduct in connection with their position as a public official.

WHAT IS NOT DISCLOSABLE CONDUCT?

Individual grievances or workplace conflicts would generally be appropriately dealt with by other existing agency and public sector mechanisms rather than be the subject of investigation under the PID Act.

Conduct that is wholly private and has no bearing on the position as a public official is not disclosable conduct. Matters that reflect private or personal interest are generally not matters of public interest. For example:

- Personal disagreement with a government policy or proposed policy
- Personal disagreement with an action or proposed action by a minister, the speaker of the house of representatives or the president of the senate
- Expenditure or proposed expenditure related to such policy or action

If a staff member has a complaint that does not fall within the definition of "disclosable conduct" but nevertheless wishes to raise the issue with management or if the staff member simply wishes to raise a matter informally, depending on the nature of the issue, the staff member should approach whichever of the following positions is most appropriate:

- The Manager, People Services



- The Manager, Governance
- The Work Health and Safety Manager
- Direct supervisor

HOW DO I MAKE A DISCLOSURE?

Public interest disclosures (PID) can be made internally to the appropriate CDPP official; your supervisor/manager or an Authorised Officer. The CDPP Authorised Officers are:

Andrea Pavleka, Scott Bruckard, Martyn Plummer, Roberta Devereaux, Rebecca Ogden.

A PID may be made in person, by telephone or in writing, including by email. The CDPP email address for making a disclosure is pid@cdpp.gov.au.

A discloser can remain anonymous. However, in some circumstances this may make it difficult, or even impracticable for the agency to investigate a disclosure. If the discloser does not provide a means of contact, it will be difficult for the agency to communicate with the discloser throughout the process.

A potential discloser should not investigate a matter themselves before making a disclosure. Once a public interest disclosure has been made, it cannot be withdrawn.

A person who has made a disclosure under the PID Act should not discuss the details of their disclosure with anyone who does not have a need to know about it. Discussions with these people will not be protected by the PID Act.

In certain circumstances, disclosures can also be made to the Commonwealth Ombudsman. Please refer to the Commonwealth Ombudsman's website for more details.

RECEIPT AND ALLOCATION OF A DISCLOSURE

The PID email box is monitored by the Governance Team, who are the only employees in CDPP to have access to this source of information.

WHAT ARE MY ROLES AND RESPONSIBILITIES AND WHAT RESOURCES ARE THERE TO HELP ME FULFIL THEM?

Position or Person / PID Role	PID Responsibilities	PID Resources
Discloser (former or current 'public official' - may be anonymous)	<ul style="list-style-type: none"> • Be clear and accurate in disclosing suspected wrongdoing and provide any supporting evidence (don't knowingly or recklessly make false or misleading statements) • Make your disclosure to an appropriate person (an Authorised Officer or supervisor/manager) to gain the protections available under the PID Act • Make disclosures in good faith • Do not make frivolous, vexatious, false, fabricated or malicious disclosures • Be familiar with these procedures, what action to take, how disclosures will be handled and the protections available • Make disclosures about other agencies to the relevant agency • Be discreet about your internal PID • Provide reasonable assistance as required during the investigation • Seek advice about the process and your rights and responsibilities • Alert your supervisor or the authorised officer to any problems that you may be facing or possible reprisal action in relation to your internal PID 	<ul style="list-style-type: none"> • NEW - Public Interest Disclosure Scheme Reference Guide - setting out key actions for officers with a role in the PID scheme • FAQs
Director / Principal Officer	<ul style="list-style-type: none"> • Appoint a sufficient number of authorised officers to receive disclosures in the agency • Ensure the authorised officers are readily accessible to current and former public officials and contracted service providers who belong to the agency 	<ul style="list-style-type: none"> • Information sheet - Responsibilities of principal officers

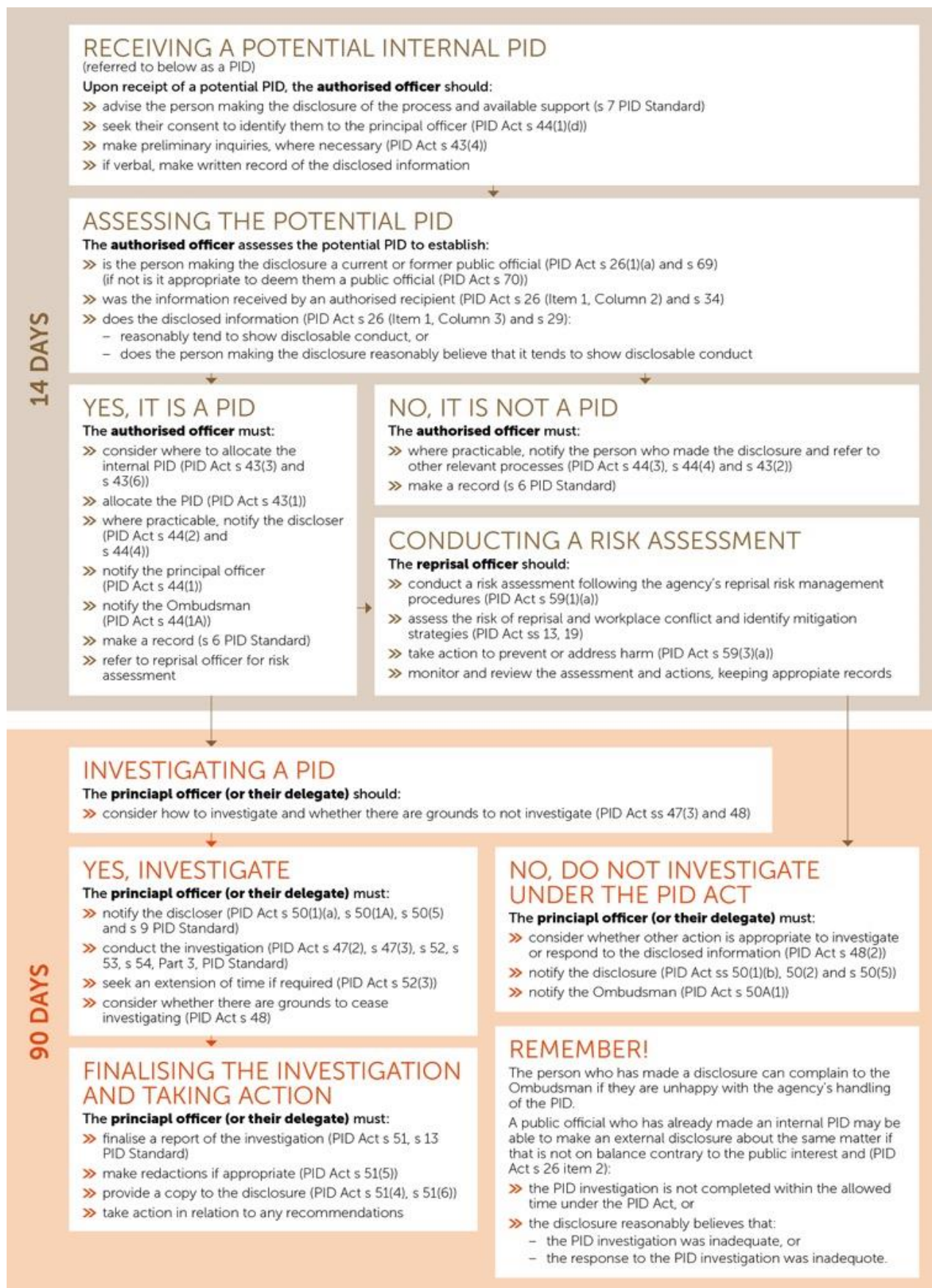
Position or Person / PID Role	PID Responsibilities	PID Resources
	<ul style="list-style-type: none"> Establish written PID procedures for the agency and ensure these are accessible for current and former public officials and contractors who belong to the agency Broadly promote the PID scheme to public officials and contracted service providers as a safe and effective way to speak up about wrongdoing Promptly act to address allegations of wrongdoing by public officials Delegate only those powers and responsibilities as are necessary for the effective operation of the PID scheme Influence an organisational culture that supports public officials who speak up about wrongdoing and does not tolerate reprisal against them Drive change to address problems uncovered through the investigation of disclosures made under the PID Act 	<ul style="list-style-type: none"> Guide - Agency guide to the Public Interest Disclosure Act NEW - Public Interest Disclosure Scheme Reference Guide - setting out key actions for officers with a role in the PID scheme FAQs
Director / PID Investigation Officer (may delegate to a public official within CDPP)	<ul style="list-style-type: none"> Promptly inform the discloser that their PID is being investigated and the estimated length of the investigation, and explain the investigation powers and discretions to not investigate in the PID Act Identify and address any possible conflict of interests Investigate and make appropriate inquiries in relation to the disclosable conduct Ensure their investigation complies with the PID Act (Part 3) and the PID Standards (Part 3) <ul style="list-style-type: none"> Comply with procedures under s 15(3) of the Public Service Act 1999 or s 15(3) of the Parliamentary Service Act 1999 if investigating alleged breaches of the relevant code of conduct Comply with the Commonwealth Fraud Control Policy and Australian Government Investigation Standards if investigating allegations of fraud in non-corporate Commonwealth entities Ensure procedural fairness is observed Adhere to the PID Act confidentiality and secrecy requirements Alert the responsible officers if they become aware of any reprisal risks Communicate with the discloser about the investigation process and keep them informed of progress, particularly if there are delays Comply with the time frame of 90 days to complete a PID investigation (or seek an extension of time if required from the commonwealth ombudsman or IGIS) Produce a written report on outcome of the investigation Advise the monitoring delegate (CCO) of every decision made by the investigator to investigate a disclosure during the financial year Prepare a copy of the report for the discloser - consider whether deletions are appropriate (s 51(5) of the PID Act) Provide a copy of the report to the discloser - within a reasonable period after the investigation was finalised Ensure appropriate records are made throughout the investigation process Ensure records are appropriately classified and stored so that only officers that are authorised either by the PID Act or another law of the Commonwealth can access the PID information 	<ul style="list-style-type: none"> Legislation - Public Interest Disclosure Act 2013 Legislation - Public Interest Disclosure Standard Guide - Agency guide to the Public Interest Disclosure Act NEW - Public Interest Disclosure Scheme Reference Guide - setting out key actions for officers with a role in the PID scheme Forms - notification of decision not to investigate Forms - request for extension of time FAQs
Andrea Pavleka; Scott Bruckard; Martyn Plummer; Roberta Devereaux; Rebecca Ogden / Authorised Officers (appointed)	<ul style="list-style-type: none"> Responsible for receiving, assessing and allocating PIDs Provide advice to public officials about the PID process, including how to make a PID, how the protections and immunities apply, and the reprisal risk assessment process Assess all allegations of wrongdoing under the PID Act and decide if they constitute a PID (making preliminary inquiries to inform decision making as appropriate) Obtain consent to disclose the public official's name and contact details for the purpose of handling the PID and adhere to the PID Act confidentiality and secrecy requirements Identify and address any possible conflict of interests that may affect the handling of the PID 	<ul style="list-style-type: none"> Information sheet - Role of Authorised Officers Guide - Agency guide to the Public Interest Disclosure Act Forms - notification of allocation form FAQs

Position or Person / PID Role	PID Responsibilities	PID Resources
in writing by Director)	<ul style="list-style-type: none"> Allocate the PID to the Principal Officer or an appropriately delegated PID investigator Must provide a quarterly report to the Governance Team as well as 'by exception' at any time, when, and as soon as, a disclosure is received Notify the public official, the Commonwealth Ombudsman and the Principal Officer if the matter is a PID and of the allocation decision Make appropriate records of their decision making. May also have a role in conducting a reprisal risk assessment - this should be outlined in an agency's PID procedures 	
Supervisors / Managers	<ul style="list-style-type: none"> Facilitate their staff to make PIDs: Where a staff member discloses to their supervisor information about suspected wrongdoing within the public sector, the PID Act may be triggered. It is not necessary for the public official to assert to their supervisor, or even intend, that the information be disclosed for the purposes of the PID Act. Clarify the claims or allegations about wrongdoing being made by their staff member (preferably, by putting them into writing and agreeing it with the staff member) Explain the PID process to the staff member and the supervisor's obligations to pass the information to an authorised officer Obtain the staff member's consent to disclose their name and contact details to the authorised officer Report the matter to an authorised officer in a timely and confidential manner (avoiding any authorised officers who may have a conflict of interest) Support the staff member and monitor the situation for any reprisal or workplace conflict (taking action or escalating to an appropriate officer where appropriate) 	<ul style="list-style-type: none"> Information sheet - About the Public Interest Disclosure Act 2013 Information sheet - How to make a public interest disclosure Guide - Agency guide to the Public Interest Disclosure Act NEW - Public Interest Disclosure Scheme Reference Guide - setting out key actions for officers with a role in the PID scheme FAQs
Chief Corporate Officer / Monitoring Delegate (appointed in writing by Director)	<ul style="list-style-type: none"> Ensure adequate record keeping related to the PID Scheme at the CDPP Prepare the CDPP's report for the Director's consideration within the time specified by the Director Receive reports on any PIDs Ensure compliance with the Act in the carrying out of PIDs at the CDPP Receive advice from investigators of every decision made by the investigator to investigate a disclosure during the financial year Receive reports from delegates of the Director on action taken in response to a recommendation made in an investigation report 	<ul style="list-style-type: none"> Guide - Agency guide to the Public Interest Disclosure Act NEW - Public Interest Disclosure Scheme Reference Guide - setting out key actions for officers with a role in the PID scheme FAQs
Officers responsible for reprisal risk assessment	<ul style="list-style-type: none"> Act promptly and confidentially to conduct the reprisal risk assessment Inform themselves of the risk of reprisal or workplace conflict by making appropriate inquiries including by talking to the discloser Broaden their assessment to look at others who may be at risk, including supervisors and colleagues Communicate with the discloser to monitor their wellbeing Mitigate harm and nominate a support person if appropriate Reassess the risk throughout the PID process and apply further support and mitigations as necessary (e.g. When key witnesses are interviewed) Take proactive action to prevent or address reprisal or workplace conflict Adhere to the PID Act confidentiality and secrecy requirements 	<ul style="list-style-type: none"> Guide - Agency guide to the Public Interest Disclosure Act NEW - Public Interest Disclosure Scheme Reference Guide - setting out key actions for officers with a role in the PID scheme FAQs
Contracted service providers	Contractors and subcontractors, their officers and employees, can make a PID and will receive the protections and immunities available under the Act: they are considered to be public officials belonging to the agency that is the other party to the contract; may make a PID to that agency or to the Commonwealth Ombudsman; If the PID is about a different agency, it can be made to an authorised officer in that other agency or to the Commonwealth Ombudsman. PIDs can also be	<ul style="list-style-type: none"> NEW - Public Interest Disclosure Scheme Reference Guide - setting out key actions for officers

Position or Person / PID Role	PID Responsibilities	PID Resources
	<p>made about disclosable conduct on the part of contractors to Australian Government agencies and their officers and employees. However, the conduct must be related to the entering into or performance of the contract with the agency.</p> <ul style="list-style-type: none"> • Be aware of the PID procedures within the agency to which they are contracted and how their staff can make a PID • Cooperate with, and provide assistance, as required in relation to any PID investigations the agency may conduct 	<p>with a role in the PID scheme</p>
Governance Team	<ul style="list-style-type: none"> • Records Management • Annual Review of Procedures • Maintain PID information page on Governance portal • Organise training for Authorised Officers and others who may require it • Staff awareness program • Monitor, record, coordinate and allocate PID disclosures in the pid@cdpp.gov.au inbox 	<ul style="list-style-type: none"> • NEW - Public Interest Disclosure Scheme Reference Guide - setting out key actions for officers with a role in the PID scheme
All staff and other public officials	<ul style="list-style-type: none"> • Report serious wrongdoing by another public official in the course of, or in connection with, their APS employment • Make any report on the basis of information that they believe on reasonable grounds may provide evidence of behaviour that is disclosable conduct • Use best endeavours to assist the principal officer and Ombudsman in the conduct of an investigation • Ensure the PID Act works effectively including: <ul style="list-style-type: none"> ○ Report matters where there is evidence that shows or tends to show disclosable conduct ○ Identify areas where there may be opportunities for wrongdoing to occur because of inadequate systems or procedures ○ Proactively raise those with management ○ Support staff who they know have made PIDs ○ Keep confidential the identify of a discloser and anyone against whom an allegation has been made, if they become aware of those matters 	<ul style="list-style-type: none"> • Guide - Agency guide to the Public Interest Disclosure Act • NEW - Public Interest Disclosure Scheme Reference Guide - setting out key actions for officers with a role in the PID scheme • FAQs

PROCEDURES

The CDPP follows the process and procedures provided by the Commonwealth Ombudsman in the [Agency Guide](#) and summarised in its flowchart. Source: Commonwealth Ombudsman in the [Handling a PID Flowchart](#).



CDPP FORMS

The CDPP has the below listed forms for use during the PID process, which are also available on the Governance site on e-hub. Please note that these CDPP forms will be reviewed and reissued annually by the Governance Team. The notification forms for the Ombudsman that are a requirement of the PID Act, are maintained by the Ombudsman's Office and are listed separately.

[Form 1 – Notice to discloser – Decision not to allocate \(s 44\(2\)\)](#)

[Form 2 – Notice to Principal Officer/s – Notification of allocation of disclosure \(s 44\(1\)\)](#)

[Form 3 – Notice to discloser of allocation \(s 44\(2\)\)](#)

[Form 4 – Notice to discloser – Investigation powers \(s 9, Public Interest Disclosure Standard 2013\)](#)

[Form 5 – Notice to discloser – Decision not to investigate \(s 50\(2\)\)](#)

[Form 6 – Notice to discloser – Decision to cease investigation \(s 50\(2\)\)](#)

[Form 7 – Notice to discloser – Investigation of your disclosure \(s 50\(1\)\)](#)

[Form 8 – Notice to discloser of completion of investigation](#)

WHEN AND WHAT DO WE TELL THE OMBUDSMAN?

The PID Act requires that the CDPP notify the Ombudsman of an allocation of a disclosure, and whenever it makes a decision not to investigate a disclosure, or to stop investigating a disclosure. Where an investigation cannot be completed within 90 days of allocation, agencies can request the Ombudsman grant an extension time to carry out a PID investigation.

The Commonwealth Ombudsman provides the following forms to facilitate these notifications and requests:

[Notice to Ombudsman - Notification of allocation](#)

[Notice to Ombudsman – Decision to cease or not investigate](#)

[Notice to Ombudsman - Request extension of time](#)

WHAT PROTECTION IS THERE FOR DISCLOSERS?

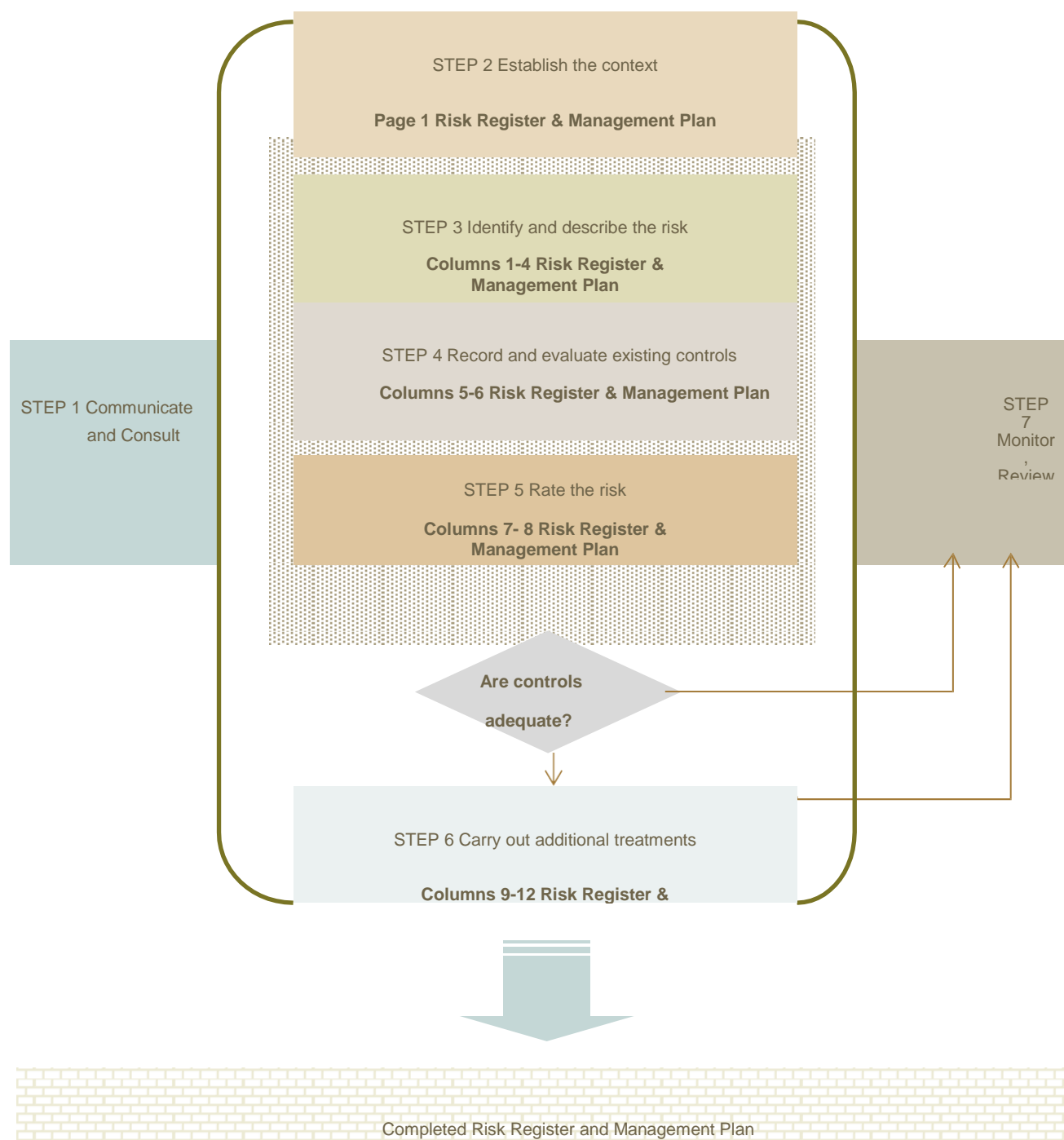
A discloser is subject to protection from reprisal under the PID Act unless such a disclosure does not fall within the Act, or these procedures do not apply. Those protections include confidentiality and immunity from criminal and civil liability or disciplinary action.

However, making a disclosure under the PID Act does not protect a discloser from their own wrongdoing. A person who intentionally makes a false or misleading disclosure will not receive protection under the PID Act.

When a disclosure is made, the CDPP will conduct a risk assessment that considers the risk of reprisal action being taken against the discloser. The CDPP will provide support to disclosers, regardless of the result of that risk assessment, and where the risk of reprisals is greater than 'low' the department will take steps to mitigate that risk. For more detail on the risk management process see below.

Even where a disclosure is made, but is later determined not to be a public interest disclosure under the PID Act and instead dealt with under other complaint handling processes, the CDPP will provide disclosers with the protections offered by the Act. For example, where a person reports misconduct under the PID process but an Authorised Officer determines that the report should be dealt with as a Code of Conduct investigation, the CDPP will still maintain that person's confidentiality and take steps to reduce the risk of reprisals against that person. [A guide for Managing the Risk of Reprisal](#) is available on the Ombudsman's internet site.

CDPP RISK MANAGEMENT PROCESS



HOW DO WE ENSURE CONFIDENTIALITY?

Disclosures should be assessed and investigated in as confidential a manner as is possible. In particular, the identity of both the discloser and the person alleged to have engaged in the disclosable conduct should not be revealed except where this is reasonably necessary for the effective investigation of the disclosure (including because of the need to afford procedural fairness).

Any interviews conducted by an Authorised Officer or delegates (including investigators) should be conducted in private.

Any interviews with the discloser should be arranged so as to avoid the identification of the discloser by other staff of the CDPP. The Authorised Officer should assure the discloser that their identity will be protected as much as possible at all times and of the procedures that are in place to ensure confidentiality. However, the discloser must also be made

aware that, to investigate a matter, their identity will quite possibly be revealed. While confidentiality may not be able to be maintained, the discloser is still afforded protection against reprisal.

It is an offence for a person who has information obtained in the course of conducting a disclosure investigation or in connection with their powers and functions under the PID Act to disclose or use the information. The penalty is imprisonment for two years or 120 penalty units, or both. No offence is committed if:

- The disclosure or use of the information is for the purposes of the PID ACT or in connection with the person's powers and functions under the PID Act
- The disclosure or use is for the purposes of, or in connection with, taking action in response to a disclosure investigation
- The information has previously been lawfully published and is not intelligence information, or if it is intelligence information, the principal officer of the source agency's for the information has consented to the disclosure or use

HOW DOES THE CDPP MANAGE THE RISK OF REPRISAL?

An accurate and objective risk assessment allows the agency to put suitable strategies in place to control the risks and defend itself against any allegations of having failed to protect a discloser.

The CDPP has put in place procedures to assess the risk of reprisal action against a person who makes a PID (a discloser), or who may be suspected to have made a PID. This involves assessing the specific behaviour and circumstances that may result in reprisals, and then putting in place appropriate strategies to prevent or contain them. Inappropriate workplace behaviour, including harassment, intimidation, undermining of authority, ostracism, humiliation, questioning of motives and heavier scrutiny of work, can greatly increase stress and can result in serious injury to someone who has made a disclosure. The risk assessment can include not only the risk of direct reprisal against the discloser, but also the risk of related workplace conflict or difficulties.

When should a risk assessment be done?

- As soon as possible after a disclosure is received OR
- After the agency is notified that a disclosure concerning their agency has been received; for example, if the ombudsman, IGIS or investigative agency decides to investigate a disclosure made directly to them

Who should undertake the assessment?

- The authorised officer should conduct the assessment based on this section OR
- If the disclosure is first made to a manager or supervisor and the person wishes their identity to remain anonymous, the manager or supervisor should conduct the risk assessment

Who should be consulted?

- The best sources of information about potential risks are people who are involved in the particular workplace, especially the discloser and their supervisor or manager provided that person is not involved in the alleged wrongdoing
- Asking the discloser why they are reporting wrongdoing and who they might fear a reprisal from can be helpful in:
 - Assessing likely perceptions amongst staff as to why the discloser came forward and how colleagues may respond if the discloser's identity becomes known
 - Managing the discloser's expectations about how other staff might perceive their disclosure
 - Reducing the potential for future conflict between the discloser and management about whether effective support was provided
 - Identifying the motives of staff allegedly involved in reprisals if a later investigation becomes necessary

- The supervisor or manager may also be a valuable source of information about these matters

How should a risk assessment be conducted?

- Use Steps 3-7 of the CDPP [Risk Management Process Guideline](#) as follows:

Step 3 IDENTIFY

- Are reprisals or related workplace conflict problems in the workplace, or do they have the potential to be problems?
- The person doing the risk assessment should clearly define the individual factors affecting the particular discloser and the specific workplace when determining if there are factors that make it likely that reprisals or related workplace conflict will occur
- If the risk assessment identifies that the likelihood of reprisal is of a serious nature and not contained in the workplace, seek advice from the Police
- Refer to the list of indicators below

STEPS 4 and 5: RECORD, EVALUATE AND RATE THE RISK

- What is the likelihood and consequence of reprisals or related workplace conflict?
- Assess the likelihood of reprisals or related workplace conflict occurring – this may be high if:
 - There have already been threats
 - There is already conflict in the workplace
 - A combination of circumstances and risk factors indicate reprisals or related workplace conflict are likely
- Assess the potential consequences if they do occur – both to the discloser's immediate and long term wellbeing and the cost to the agency.

STEP 6 ADDITIONAL TREATMENTS

- What strategies should be put in place to prevent or contain reprisals or related workplace conflict?
- If the risk is assessed as sufficiently high, the CDPP will prepare a plan to prevent and contain reprisals against the discloser or related workplace conflict
- If it has been determined that a discloser will require support, the CDPP will develop a strategy for providing an appropriate level of support, such as appointing a support person
- If the discloser's identity is likely to be known or become known in their workplace, the CDPP will adopt a proactive approach, for example, by raising the matter with staff, reiterating the CDPP's commitment to encouraging and where appropriate investigating PIDs, and reminding staff that taking or threatening a reprisal is a criminal offence

STEP 7 MONITOR, REVIEW AND REPORT

- Have the strategies been implemented and were they effective?
- Check with the discloser to see if reprisals have been made or threatened

Indicators of a higher risk of reprisals or workplace conflicts

Source: Commonwealth Ombudsman, [Agency guide to the Public Interest Disclosure Act](#), Adapted from NSW Ombudsman, *Managing risk of reprisals and conflict*, Public Interest Disclosure Guideline C4, p. 3.



Threats or past experience	<ul style="list-style-type: none"> • Has a specific threat against the discloser been received? • Is there a history of conflict between the discloser and the subjects of the disclosure, management, supervisors or colleagues? • Is there a history of reprisals or other conflict in the workplace? • Is it likely that the disclosure will exacerbate this?
Confidentiality unlikely to be maintained	<ul style="list-style-type: none"> • Who knows that the disclosure has been made or was going to be made? • Has the discloser already raised the substance of the disclosure or revealed their identity in the workplace? • Who in the workplace knows the discloser's identity? • Is the discloser's immediate work unit small? • Are there circumstances, such as the discloser's stress level, that will make it difficult for them to not discuss the matter with people in their workplace? • Will the discloser become identified or suspected when the existence or substance of the disclosure is made known or investigated? • Can the disclosure be investigated while maintaining confidentiality?
Significant reported wrongdoing	<ul style="list-style-type: none"> • Are there allegations about individuals in the disclosure? • Who are their close professional and social associates within the workplace? • Is there more than one wrongdoer involved in the matter? • Is the reported wrongdoing serious? • Is or was the reported wrongdoing occurring frequently? • Is the disclosure particularly sensitive or embarrassing for any subjects of the disclosure, senior management, the agency or government? • Do these people have the intent to take reprisals – for example, because they have a lot to lose? • Do these people have the opportunity to take reprisals – for example, because they have power over the discloser?
Vulnerable discloser	<ul style="list-style-type: none"> • Is or was the reported wrongdoing directed at the discloser? • Are there multiple subjects of the disclosure? • Is the disclosure about a more senior officer? • Is the discloser employed part-time or on a casual basis? • Is the discloser isolated – for example, geographically or because of shift work? • Are the allegations unlikely to be substantiated – for example, because there is a lack of evidence? • Is the disclosure being investigated outside your organisation?

SUPPORT FOR DISCLOSERS

Regardless of the outcome of the risk assessment, the department will take all reasonable steps to protect public officials who have made a public interest disclosure from detriment or threats of detriment relating to the disclosure. This may include taking one or more of the following actions:

- appointing a support person to assist the discloser, who is responsible for checking on the wellbeing of the discloser regularly;
- informing the discloser of the progress of the investigation;
- where there are any concerns about the health and wellbeing of the discloser, liaising with officers responsible for work health and safety in the department; or
- transferring the discloser to a different area within the workplace or approving remote/teleworking (with the consent of the discloser). This is only likely to be appropriate in cases involving very major or extreme risk.

SUPPORT FOR PERSON AGAINST WHOM DISCLOSURE HAS BEEN MADE



The department will also take steps to support any employee who is the subject of a PID. This may include taking one or more of the following actions:

- advising the employee of his or her rights and obligations under the PID Act and about the department's investigation procedures, including the employee's rights to procedural fairness;
- informing the employee of the progress of the investigation;
- ensuring that the identity of the employee is kept confidential as far as reasonably practicable; or
- where there are any concerns about the health and wellbeing of the employee, liaising with officers responsible for work health and safety in the department;
- transferring the employee to a different area within the workplace or approving remote/teleworking (with the consent of the employee). This is only likely to be appropriate in cases involving very major or extreme risk; or
- advising the employee that they should seek their own independent legal advice on the impact of the PID Act and their rights and responsibilities.

PITFALLS TO AVOID

- Significant delay in completing investigations
- Lack of awareness of legislation, procedures and guidance material
- Not maintaining confidentiality in investigations
- Conflicts of interest
- Giving witnesses the opportunity to collude
- Not pursuing obvious lines of enquiry
- Poor quality of investigation reports, with findings lacking sufficient substantiating evidence
- Investigators having little or no experience or training in conducting investigations

HOW SHOULD RECORDS BE KEPT?

Good records ensure that all actions taken regarding a PID is reviewable. Details about how and when a PID was made must be recorded and kept in a secure place and each PID given a unique reference number. These records will be maintained by the Governance Team.

Where an Authorised Officer is required to keep a record under these procedures, the record may be kept in hard copy or in an electronic form or in both. Access to these records must be restricted to the Authorised Officers, delegates (including investigators) or other employees in the CDPP who require access in order to perform some function under the PID Act or for the purposes of another law of the Commonwealth (for example, under the [Work Health and Safety Act 2011](#) or the [Public Service Act 1999](#)).

Where a form is required to be sent under these procedures, a copy of the form must be kept.

All records made for the purposes of the PID Act in accordance with these procedures must be marked with a DLM of 'Sensitive: Personal' and hard copies stored in the appropriate storage container.

Any email messages sent by Authorised Officers or delegates that contain identifying information must be clearly marked 'to be read by named addressee only – Public Information Disclosure'.

A person who ceases to be an Authorised Officer in the CDPP (including because of resignation or movement to another agency), must transfer their PID records to another Authorised Officer in the CDPP.

WHAT IS THE MONITORING AND EVALUATION PLAN?



Each Authorised Officer must provide a quarterly report to the Governance Team as well as 'by exception' at any time, when, and as soon as, a disclosure is received. The report should specify the number of public interest disclosures received by the Authorised Officer, the nature of the disclosable conduct for each disclosure (by reference to the relevant item or paragraph in the definition) and the stage the disclosure is at. The report must also include any disclosures that have been allocated to the CDPP by another agency's Authorised Officer.

The Director has appointed the Chief Corporate Officer as delegate to collate the CDPP's report to the Ombudsman on disclosures made during the financial year (the monitoring delegate).

Each investigator must advise the monitoring delegate of every decision made by the investigator to investigate a disclosure during the financial year.

Each delegate of the Director who takes action in response to a recommendation made in an investigation report must make a report of this action to the monitoring delegate.

The monitoring delegate must prepare the agency's report for the Director's consideration within the time specified by the Director.

The Director will send the CDPP's report to the Ombudsman within the time requested by the Ombudsman or as otherwise agreed with the Ombudsman.

HOW DO WE ENSURE STAFF AWARENESS?

The Governance Team is responsible for ensuring staff:

- Are aware of what a PID is
- Know what action to take if they suspect a wrongdoing
- Know how disclosures will be dealt with
- Know the protections available to them

Awareness strategies include:

- Using existing communication channels including the DPPNet, staff circulars and bulletin boards
- Developing and distributing themed brochures, posters and screen savers
- Public statements of commitment from the Director and Executive
- Managers and supervisors briefing staff on key points in staff meetings, including communicating the message that it is safe and acceptable to report wrongdoing
- Providing opportunities for staff at meetings with management to discuss practical situations
- Requiring staff to sign an undertaking that they have read and understood the agency's public interest disclosure procedures during the induction process
- If appropriate, openly acknowledging and discussing any wrongdoing that was reported, informing staff of changes that resulted and acknowledging (with their consent) staff who made disclosures

WHO NEEDS TRAINING IN PID?

The Governance Team is responsible for organising training in specific skills for the following positions:

Authorised officers - specific responsibilities under the PID Act, including making allocation decisions, notification requirements, conducting risk assessments and supporting disclosers, and awareness of other avenues for staff to take action (such as bullying and harassment)



Staff - general training about how to make a disclosure, rights and obligations, the investigative process and outcomes. A [guide](#) for disclosers is available

Managers and supervisors - recognising when a matter may be a public interest disclosure and what action to take, including ensuring that staff are supported and protected against reprisals. This type of training is recognised as part of general management competency requirements

Investigators - conducting investigations, including investigation planning, procedural fairness

WHERE CAN I FIND OUT MORE?

The **Commonwealth Ombudsman's** [website](#) contains a wealth of up to date information which explain the PID system, sets out the obligations of agencies and suggests best practice for handling public interest disclosures. The key publication is the [Agency guide to the Public Interest Disclosure Act 2013](#).

LEGISLATION

[Public Interest Disclosure Act 2013](#)

[Public Interest Disclosure Standard 2013](#)

[Commonwealth Fraud Control Policy](#)

[Commonwealth Risk Management Policy](#)

[Freedom of Information Act 1982](#)

[Public Service Act 1999](#)

[Public Interest Disclosure \(Consequential Amendment\) Act 2013](#)

[Work Health and Safety Act 2011](#)

The Ombudsman's report into the operation of the *Public Interest Disclosure Act 2013* - [Extract from the Commonwealth Ombudsman's 2013-14 Annual Report](#).

[Public Governance Performance and Accountability Act 2013](#) and [Rule 2014](#)

GUIDES

[Agency guide to the Public Interest Disclosure Act 2013](#)

[Guide to making a disclosure under the Public Interest Disclosure Act 2013](#)

[Public Interest Disclosure Scheme Reference Guide - setting out key actions for officers with a role in the PID scheme](#)

[Public Interest Disclosure Scheme Reference Guide - Brochure](#)

[PID Flowchart \(A3\)](#)

Guide to delegating the principal officers powers under the PID Act (Coming soon)

INFORMATION SHEETS & FAQs

[About the Public Interest Disclosure Act 2013](#)

[How to make a public interest disclosure](#)

[Responsibilities of principal officers](#)

[Role of authorised officers](#)

[Roles of the Ombudsman and the Inspector-General of Intelligence and Security](#)

[Supervisors and the PID scheme](#)

[Investigations](#)

[Managing the risk of reprisal](#)

[Frequently asked questions](#)



RELATIONSHIP TO OTHER CDPP POLICIES

To obtain a full picture of your rights and responsibilities under the CDPP's governance framework, these procedures should be read in conjunction with related procedures and policies including:

[APS Values and Code of Conduct](#)

[Fraud Control Plan](#)

DEFINITIONS

Term / PID Act Reference	Explanation
Authorised internal recipient / 34	An authorised officer of the agency to which the conduct in the disclosure relates An authorised officer of the agency to which the discloser belongs or last belonged An authorised officer in the Commonwealth Ombudsman's office (or IGIS if it relates to an intelligence agency) if the discloser believes on reasonable grounds that it would be appropriate for the disclosure be investigated by the Ombudsman (or IGIS if it relates to an intelligence agency)
Authorised officer / 36	A public official appointed by the head of an agency to receive, assess and allocate internal PIDs; or the principal officer of an agency
Contracted service provider / 30	A person or entity that provides goods or services to or on behalf of an Australian government agency under a Commonwealth contract
Delegate of the principal officer / 77	A public official with written authority to exercise any or all of the principal officer's functions and powers under the PID Act
Discloser / 26	A public official who has made a PID
Disclosable conduct / 29, 31, 32, 33	Conduct engaged in by an agency, public official (in connection with their position), or a contracted service provider (or their staff) in connection with the contract, that: <ul style="list-style-type: none"> • contravenes a law • is corrupt • perverts the course of justice • is an abuse of public trust • unreasonably endangers health and safety or the environment • is misconduct relating to scientific research, analysis or advice • results in wastage of public money or property • is maladministration, including conduct that is unjust, oppressive or negligent • is an abuse of a public official's position • if proved, would result in disciplinary action against a public official Excluded: <ul style="list-style-type: none"> • proper activities of intelligence agencies • conduct connected to court or tribunals • disagreements that relate only to government policy (and related expenditure) • actions of parliamentarians
PID investigator / 8	A public official with written authority to exercise any or all of the principal officer's functions and powers in connection with investigating a PID
Principal officer / 73	CDPP Director
Public official / 69, 70	A person who is one of the following: <ul style="list-style-type: none"> • a public servant or parliamentary service officer • a contracted service provider (see above), or its employee or subcontractor • a Defence force member • an Australian Federal Police appointee • a statutory office holder

Term / PID Act Reference	Explanation
	<ul style="list-style-type: none"> an employee of a Commonwealth company an individual that an authorised officer deems to be a public official
Reprisal officer / 59	A person who has been given responsibility for assessing and managing the risk of reprisal or workplace conflict, either generally in an agency's procedures, or in the case of a particular PID
Supervisor / 8	A person who supervises or manages a public official

APPROVAL FOR RELEASE/DOCUMENT OWNER

Name	Gaby Medley-Brown
Position	Chief Corporate Officer
Date	2015



VERSION CONTROL

Version	Date	Author	Description	Next Review
1.1	6/1/14	W Clayton	Draft for Comment	
1.2	10/1/14	W Clayton	Incorporated feedback for Director's sign off	10/1/15
1.3	4/11/15	Margaret Coaldrake	Revised	GWG / ELG November 2015
1.4	22/3/16	A Vogt	Updated with additional AOs and pid email address	November 2016
1.5	29/4/16	P. Dinan-Knight	Updated and all links operable	April 2017
1.6	5/7/16	P. Dinan-Knight	Updated Authorised Officers	July 2017
1.7	21/7/16	P. Dinan-Knight	Revised	July 2017
1.8	3/8/16	P. Dinan-Knight	Updated with additional AO, reporting and monitoring protocols	August 2017
1.9	17/11/16	P. Dinan-Knight	Updated all links	November 2017
2.0	23/01/17	P. Dinan-Knight	Updated due to other document updates	January 2018
2.1	XX/02/17	P. Dinan-Knight.	Updated links, content, forms and section numbers to correspond with amended PID Act	February 2018
2.2	11/06/19	C Smith	Updated list of CDPP Authorised Officers	December 2019
2.3	19/02/2020	C Smith	Updated list of CDPP Authorised Officers	December 2020