

Table of contents

CHAPTER 1 – INTRODUCTION	PAGE 1
CHAPTER 2 – THE DISCLOSURE PROCESS	PAGE 3
CHAPTER 3 – PROCEDURES FOR SUPERVISORS AND MANAGERS	PAGE 4
CHAPTER 4 – PROCEDURES FOR AUTHORISED OFFICERS	PAGE 4
CHAPTER 5 – ANONYMOUS DISCLOSURES	PAGE 6
CHAPTER 6 – DECIDING WHETHER OR NOT TO INVESTIGATE	PAGE 7
CHAPTER 7 – PROCEDURES FOR INVESTIGATORS	PAGE 9
CHAPTER 8 – REPORTS AND INVESTIGATIONS	PAGE 10
CHAPTER 9 – CONFIDENTIALITY	PAGE 11
CHAPTER 10 –	

CHAPTER 2 – THE DISCLOSURE PROCESS**Making a disclosure under the PID Act**

9. All employees in the Authority and former employees in the Authority are entitled to make a disclosure under the PID Act.
10. All contracted service providers and their employees who provide, or who provided, services to the Authority under a contract with the Authority are entitled to make a disclosure under the PID Act. Temporary agency staff fall within this category through their employment contract with their agency. Seconded employees are also likely to fall within this category and hence also to fit the definition of a public official for the purpose of the PID Act [clause 69 of the PID Act]. The specific circumstances of a seconded employee's engagement will be relevant to determining this. Should an individual seconded employee not meet the definition of a public official, the ACARA CEO or a delegate has the ability to deem them a public official [clause 70] in some circumstances.
11. All public officials and former public officials are entitled to make a disclosure under the PID Act.
12. A public interest disclosure may be made anonymously or openly.
13. A public interest disclosure may be made orally or in writing.
14. Where a public official makes a public interest disclosure, they do not have to state or intend that they are doing so under the PID Act.
15. Where a public official is considering making a disclosure, they should, in the first instance, contact one of the Authority's Authorised Officers to get information about making a public interest disclosure under the PID Act.
16. Employees in the Authority may make a disclosure of disclosable conduct to their supervisor or their manager, or to an Authorised Officer, or in certain circumstances, to the Ombudsman.
17. Employees or former employees or officers of contracted service providers may make a disclosure of disclosable conduct to an Authorised Officer or, in certain circumstances, to the Ombudsman.
18. The names and contact details of the Authority's Authorised Officers are set out on the Authority's external website at

supporting evidence where that is available to the discloser and should, where possible, identify any witness

- a. a person discloses, or is proposing to disclose, information to an Authorised Officer which the Authorised Officer has reasonable grounds to believe may be disclosable conduct, and
- b. the Authorised Officer has reasonable grounds to believe that the person may be unaware of what the PID Act requires for the disclosure to be an internal disclosure, and
- c. the Authorised Officer is aware of the contact details of the person

the Authorised Officer must:

- d. inform the person that the disclosure could be treated as an internal disclosure for the PID Act, and
- e. explain to the person what the PID Act requires for a disclosure to be an internal disclosure
- f. explain to the person the protections provided by the PID Act to persons who make disclosures under the Act, and
- g. advise the person of any orders or directions that may affect disclosure of the information.

Authorised Officer must decide whether or not to allocate a disclosure

- 33. Where a public official, or a person who has been a public official, makes a disclosure of disclosable conduct directly to an Authorised Officer, the Authorised Officer must make a written record of the fact of the disclosure and, if the disclosure is not in writing, they must make a written record of the substance of the disclosure and of the time and date of the disclosure.
- 34. The Authorised Officer must ask the discloser to sign the written record of the disclosure, where this is practicable.
- 35. Where a disclosure has been given to or made to an Authorised Officer, the Authorised Officer must use their best endeavours to decide on the allocation of the disclosure within 14 days after the disclosure is given to or made to the Authorised Officer.
- 36. An Authorised Officer who receives a disclosure must decide whether they are satisfied, on reasonable grounds, that there is no reasonable basis on which the disclosure could be considered to be an internal disclosure.

Note: The bases on which an Authorised Officer could be satisfied of this include: that the disclosure has not been made by a person who is, or was, a public official; that the disclosure was not made to an authorised internal recipient or supervisor; that the disclosure is not about disclosable conduct; that the person who is alleged to have carried out the disclosable conduct was not a public official at the time they are alleged to have carried out that conduct; and that the disclosure is not otherwise a public interest disclosure within the meaning of the PID Act.

- 37. Where an Authorised Officer receives a disclosure, the Authorised Officer may obtain information and may make such inquiries as they think fit, for the purposes of deciding the allocation of the disclosure, including for the purposes of deciding whether the disclosure is an internal disclosure or not.
- 38. Where an

Officer, advise the discloser in writing that the disclosure is not to be allocated, by sending to them a completed **Form 1**.

39. Where the Authorised Officer is aware of the contact details of the discloser, they must, as soon as practicable after receiving the disclosure and before allocating the disclosure, ask the discloser whether the discloser:
 - a. consents to the Authorised Officer giving the discloser's name and contact details to the principal officer and to the principal officer's delegates, and
 - b. wishes the disclosure to be investigated.
40. The Authorised Officer must make a written record of the discloser's responses (if any) to the questions referred to in paragraph 39.
41. Where a discloser does not respond within 7 days to the question referred to:
 - a. in paragraph 39.a – the discloser is taken not to have consented to the disclosure of their name and contact details to the principal officer and their delegates, and
 - b. in paragraph 39.b – the discloser is taken to wish the disclosure to be investigated.

Where Authorised Officer allocates an internal disclosure

42. An Authorised Officer must obtain the consent of an Authorised Officer in another agency before the first Authorised Officer can allocate an internal disclosure to that agency.
43. Where an Authorised Officer in the Authority allocates a disclosure to an agency (including to the Authority) they must complete **Form 2** and send it to the CEO or to the delegate nominated by the CEO.
44. The Authorised Officer must copy the completed **Form 2** to the relevant contact officer in the Ombudsman's Office.
45. Where the Authorised Officer is aware of the contact details of the discloser the Authorised Officer must inform the discloser of the allocation using

- d. the disclosure is substantially the same as a disclosure that has been investigated under the PID Act, or
- e. the disclosure is substantially the same as a disclosure that has already been investigated, or is currently being investigated, under another law of the Commonwealth, and
 - it would be inappropriate to conduct another investigation at the same time, or
 - the principal officer is reasonably satisfied that there are no matters that warrant further investigation, or
- f. the discloser has informed the principal officer that they do not wish the disclosure to be pursued and the principal officer is reasonably satisfied that there are no further matters concerning the disclosure that warrant investigation, or
- g. it is impracticable to investigate the disclosure because:
 - the discloser has not revealed their name and contact details, or
 - the discloser has refused or has failed or is unable to give the investigator the

- b. the Ombudsman of that decision and the reasons by completing **Form 6A** and sending it to the relevant contact in the Ombudsman's office.

CHAPTER 7 – PROCEDURES FOR INVESTIGATORS

- 65. Where the CEO or delegate has decided under paragraph 63 to commence an investigation into an internal disclosure, they may conduct the investigation as they think fit.
- 66. The CEO or delegate must be independent and unbiased in the matter. They must ensure that they do not have an actual or perceived conflict of interest.
- 67. The CEO or delegate may, for the purposes of the investigation, obtain information from such persons, and make such inquiries, as they think fit.
- 68. When conducting an investigation the CEO or delegate must ensure that a decision whether evidence is sufficient to prove a fact is made on the balance of probabilities.
- 69. Despite paragraphs 65 and 67, the CEO or delegate, in conducting an investigation under these procedures, must comply with:
 - a. the Ombudsman's Standard, and
 - b. to the extent they are relevant to the investigation:
 - the Commonwealth Fraud Control Guidelines¹, and
 - these procedures.

Interviewing witnesses

- 70. Subject to any restrictions imposed by a law of the Commonwealth other than the PID Act, the investigator must ensure that, if a person is interviewed as part of the investigation of an internal disclosure, that person is informed of:
 - a. the identity and function of each person conducting the interview, and
 - b.

72. Where the investigator is aware of the discloser's identity and considers that it is necessary to reveal the discloser's identity to a witness, the investigator must consult with the discloser, where practicable, before proceeding.

- a. the matters considered in the course of the investigation, and
- b. the duration of the investigation, and
- c. the investigator's findings (if any), and
- d. the action (if any) that has been, is being or is recommended to be taken, and
- e. any claims made about, and any evidence of, detrimental action taken against the discloser, and the Authority

CHAPTER 10 – RECORD-KEEPING