



PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWER) POLICY

1. Purpose

If you become aware of a situation where you suspect serious wrongdoing within the Commonwealth public sector (including in connection with our organisation) and you are a former or current Public Official, you can report your concerns under the PID Act.

This Policy sets out our approach to dealing with these disclosures.

2. When will this policy apply?

This policy applies to all Public Officials under the PID Act (see section 3.1) and includes all current and former employees of our organisation. The policy sets out:

- who can make a Public Interest Disclosure (**PID**);
- what can be reported;
- how a PID can be made; and
- our approach to investigations.

3. What is a Public Interest Disclosure?

3.1. Who can make a Public Interest Disclosure?

A **Public Official** can make a PID, which includes any person who is, or was:

- employed by the Australian Government, or a Commonwealth entity, company or agency (such as our Staff);
- a service provider (or an employee of a service provider) under a Commonwealth contract;
- a person taken to be a Public Official;
- a Parliamentary Service employee; or
- a statutory officeholder.

3.2. What can be reported?

A current or former Public Official can disclose information that they believe on reasonable grounds tends to show Disclosable Conduct.

3.3. How do I make a Public Interest Disclosure?

There are 4 types of PID under the PID Act:

- disclosures to our organisation (**Internal Disclosures**);
- disclosures to other parties external to our organisation (**External Disclosures**);
- Emergency Disclosures; and
- Legal Practitioner Disclosures.

It is important to note that if you make a disclosure that you intend to be a PID, but not in the above circumstances, your disclosure may not be categorised as a PID and you may not be protected from the consequences of breaching any privacy or confidentiality requirements that apply to the disclosed information.

If you, as a Discloser, believe on reasonable grounds that it is appropriate for the Commonwealth Ombudsman to investigate instead of our organisation, you can make their PID directly to the Ombudsman.

More information on the PID types are found below.

Internal Disclosures

- Generally, disclosures should be made to our organisation at first instance.
- Our PID Procedures provide the means by which these Disclosures can occur (this includes communication with supervisors and Executives).
- A Discloser can remain anonymous, however this may prevent a full investigation of the Disclosure.

External Disclosures

- An External Disclosure will only be justified where:
 - an Internal Disclosure has previously been made to us;
 - a Discloser believes that the investigation or its outcome was inadequate;
 - on balance, the disclosure would not be contrary to the public interest;
 - it does not relate to intelligence information or an intelligence agency; and
 - only information reasonably necessary to identify wrongdoing is disclosed.

Emergency Disclosures

- In certain circumstances, a Discloser can make an Emergency Disclosure to an external party, where they believe on reasonable grounds the information concerns a substantial and imminent danger to the health or safety of a person, people or the environment.

Legal Practitioner Disclosures

- A disclosure can be made to an Australian Legal Practitioner for the purpose of obtaining legal advice in relation to making a PID.

General information on the Public Interest Disclosure scheme is also available on the [Commonwealth Ombudsman's website](#).

4. Roles and responsibilities

Responsibilities include the following:

Board	<ul style="list-style-type: none">• Approve this policy.
Principal Officer (Managing Director and CEO)	<ul style="list-style-type: none">• Establishes procedures to deal with PIDs;• Ensures appropriate systems and strategies are in place to support Disclosers and to minimise any risks of reprisal or detrimental action against them;• Ensures Staff are aware of the procedures and protections available;• Appoints Authorised Officers to receive PIDs;• Ensures PIDs are properly investigated, and appropriate action is taken in response to an investigation report;• Keeps records in relation to the handling of PIDs as set out in our Procedures; and• Provides information to the Ombudsman.
Authorised Officers (Members of the Executive)	<ul style="list-style-type: none">• Receive PIDs;• Determine where a person will be considered a Public Official to facilitate the making of a PID;

	<ul style="list-style-type: none"> • Inform a person who may be unaware of the PID Act requirements that information could be treated as an Internal Disclosure, explaining the requirements of the PID Act and advising the person of any designated publication restrictions that may affect their PID; • Assess reported information to determine if there are reasonable grounds to believe the information could be considered to be a PID; • Make any preliminary inquiries necessary to make a decision about if and who will investigate a PID (Allocation Decision); • Allocate all or part of the PID to our Principal Officer and/or another agency (with that agency's consent) within 14 days of becoming aware of the disclosure; • Inform the Principal Officer of each relevant agency of Allocation Decisions and associated information; • Inform the Discloser of the Allocation Decision; • Consent to the allocation of a PID by an authorised officer of another agency; • Advise the Discloser of a decision not to allocate, the reasons why and any other course of action that may be available under Commonwealth law; and • Keep records relating to the handling of PIDs in accordance with our procedures.
<p>Managers and supervisors</p>	<ul style="list-style-type: none"> • If a manager or supervisor believes that the information given to them concerns, or could concern, Disclosable Conduct, they must give that information to an Authorised Officer as soon as reasonably practicable; • The supervisor should obtain the person's consent before passing on their personal information. If the Discloser wishes to remain anonymous, the supervisor must pass on as much of the information contained in the Disclosure as possible and in a manner that does not reveal the identity of the Discloser; • Managers and supervisors should also: <ul style="list-style-type: none"> • educate themselves about the PID Act and agency procedures, particularly in relation to confidentiality requirements; • be approachable to Staff who wish to raise concerns; • ensure Staff complete relevant training as required; • confront any workplace prejudices about making a PID; • support a Staff member who they know has made a PID and ensure that they are protected from reprisal; • increase management supervision of the workplace if necessary (for example, if workplace conflict occurs because a PID has been made or an investigation is under way); • ensure identified problems in the workplace are corrected; and • set an example for Staff.

Staff	<ul style="list-style-type: none"> • Comply with this policy; • Use best endeavours to assist the Principal Officer in the conduct of an investigation; • 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, procedures or controls, and proactively raise identified issues; • Support Staff who they know have made a PID; • Keep the identity of a Discloser and anyone against whom an allegation has been made confidential; and • Complete relevant training as may be required from time to time.
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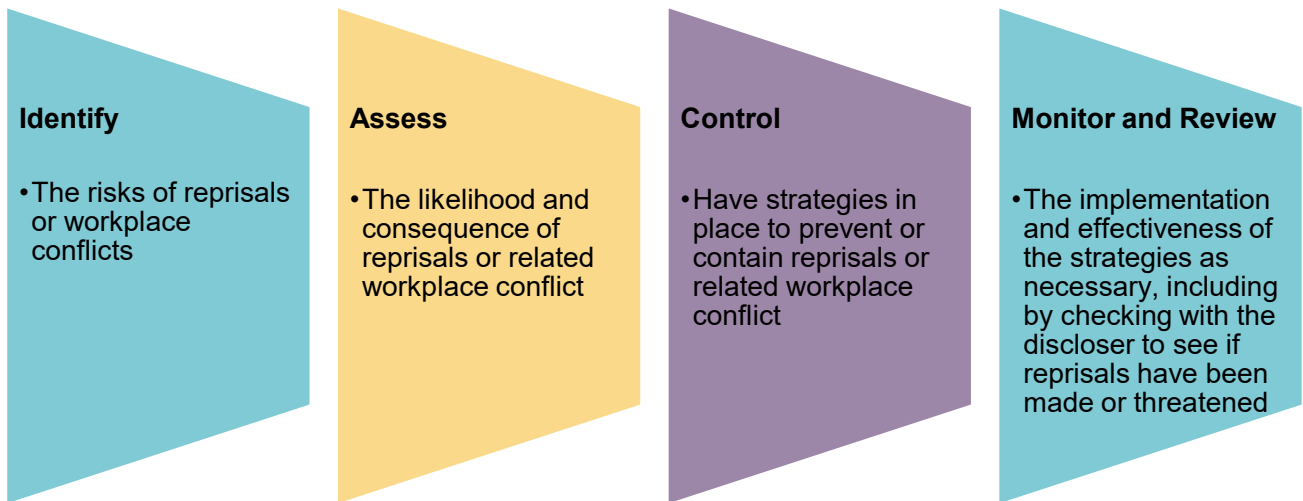
5. Assessment of risks of reprisal

When a PID is received, the risk of reprisals being taken against the Discloser will be assessed. This assessment involves looking at the specific behaviour and circumstances which may result in reprisals and then putting appropriate strategies in place to prevent or contain them.

This risk assessment will be undertaken as soon as possible after a PID is received and will be conducted by the Authorised Officer who received the PID.

If, however, a PID is made to a manager or supervisor, and the Discloser wishes their identity to remain anonymous, the manager or supervisor will conduct the risk assessment.

The risk assessment should cover the following four steps:



The person assessing the risk will consult with Compliance to plan and implement strategies to control the risks of reprisals or related workplace conflict. Where possible, the Discloser will be consulted before any decision is made.

6. Confidentiality

We make every reasonable effort to protect a Discloser’s identity where requested to do so.

It is a criminal offence for a Public Official who is involved in handling a PID to reveal the Discloser’s identifying information to anyone else without their consent or to use it for another purpose, other than:

- under the PID Act;
- an investigation by the Ombudsman;

- another Commonwealth or prescribed law; or
- if the information has already lawfully been published in the public domain.

However, the Discloser's identity, or information that would effectively identify them, may need to be disclosed to certain other people. This includes in the below circumstances:

- to investigate the PID effectively (for example, if the wrongdoing that was reported was directed solely against the Discloser); or
- to protect them against reprisals (for example, if there are concerns that it is impossible for them to remain in their current workplace).

If it is necessary or highly likely that the Discloser's identity will be revealed, the Discloser will be made aware of this, unless it is not reasonably practicable to do so.

7. Protections provided to the Discloser

There are legislative protections available to persons who make a PID in compliance with the PID Act, including:

- protection of a Discloser's identity (see above);
- immunity from civil, criminal or administrative liability;
- no contractual or other remedy may be enforced against, or sanction imposed on the person on the basis of making the PID;
- the person has absolute privilege (for the purpose of defamation proceedings);
- a contract to which the person is a party must not be terminated on the basis that the PID constitutes a breach of contract; and
- support and protection from reprisal.

These protections do not necessarily protect a Discloser in relation to their own wrongdoing, where they have been involved in the misconduct they are reporting.

These protections are also not available to persons who knowingly make false or misleading PIDs.

8. Investigation

We investigate all PIDs which contain enough information to support further enquiry.

Our Principal Officer is responsible for conducting an investigation and may delegate those powers and functions by an instrument. There is currently a delegation in place under an Instrument of Appointment signed by our Principal Officer.

Investigations under the PID Act will be conducted by an independent investigator skilled in conducting investigations, and familiar with the PID Act and any standards as required, especially the confidentiality requirements and the protections for the Discloser.

The Principal Officer must take appropriate action in response to a recommendation and other matters contained in the investigation report.

9. Record keeping and reporting

The Authorised Officer must securely keep records of how and when a PID was made. Each PID should be given a unique reference number. Details of the risk assessment of reprisal, allocation, the investigation, notification to the Discloser and others will also be kept.

Reporting on the number of PIDs received, investigated and their subject matter and any other requested information will be provided to the Ombudsman as part of reporting requirements.

9.1. Keeping the Discloser informed

The Discloser will be notified at various stages in the process, provided the person's contact details are available. The Discloser must be advised:

- when the PID is either allocated for investigation, or not allocated because it has been

determined not to be an Internal Disclosure;

- of information about our Principal Officer's discretionary powers to not investigate within 14 days of the PID being allocated;
- if our organisation decide to investigate under the PID Act, the estimated length of the investigation;
- if our organisation decide not to investigate, the reasons for the decision and any action that might be available to the Discloser under other Commonwealth laws;
- if an investigation is conducted under the PID Act and an extension of time is granted by the Ombudsman, the progress of the investigation; and/or
- when the investigation report is completed, and provided with a copy of the report.

Definitions

In this Policy:

Authorised Officer means an Authorised Officer as authorised by the Principal Officer under the PID Act. Our Managing Director & Chief Executive Officer (**CEO**) has appointed as Authorised Officers of our organisation the members of the Executive (including persons from time to time holding, occupying or performing the duties of the offices of the Executive) under an Instrument of Appointment.

Disclosable Conduct is conduct by an agency, a Public Official or a contracted Commonwealth service provider (in connection with the contract) that:

- contravenes the law;
- is corrupt;
- perverts the course of justice;
- results in wastage of public funds;
- is an abuse of public trust;
- unreasonably endangers health and safety or endangers the environment;
- is maladministration, including conduct that is unjust, oppressive or negligent; or
- conduct by a Public Official that, if proved, would give rise to disciplinary conduct against the official,

but excludes disagreeing with government policy, action or expenditure.

Discloser means an individual who makes or intends to make a PID.

Executive means collectively the Managing Director & CEO, and/or the persons from time to time holding, occupying or performing the duties of the offices of the Executive of Export Finance Australia.

PID Act means the *Public Interest Disclosure Act 2013* (Cth).

Principal Officer means the Managing Director & CEO, or their delegate as appointed from time to time.

Public Interest Disclosure (PID) means information disclosed by a Discloser who is or was a Public Official to an Authorised Officer or a supervisor of the Discloser, being information which tends to show, or the Discloser believes on reasonable grounds that the information tends to show one or more instances of Disclosable Conduct.

Public Official is defined in section 3.1 of this Policy.

Staff means persons employed by, or operating under, an employment or similar contract with Export Finance Australia, full time or part time employees, consultants and contractors of Export Finance Australia.