

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 you need determine who you should disclose the information to (i.e. who the *relevant authorities* are).

Whether you receive protection under the 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 AGD or an AGD *public officer* you have a number of options including:

1. **You can contact the [OPI](#) and speak to them.**

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

2. **You can contact the [AGD responsible officer](#).**

The AGD *responsible officer* can provide you with advice and assistance. The AGD *responsible officer* is a *relevant authority* to receive disclosures of *public administration information* or *environmental and health information* regarding AGD and AGD public sector employees.

You can follow the steps at Appendix 3.

3. **Contact the person's manager or supervisor**

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

4. **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 AGD and AGD 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 these Procedures.

When making the disclosure of information, 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, the person to whom you made the *appropriate disclosure* must take certain steps as set out in section 7 of the PID Act.

This includes (amongst 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, of 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 below in more detail below 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
- the 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.

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 AGD appropriately:

- If your *appropriate disclosure of public interest information* was made to a *relevant authority* in AGD other than an *responsible officer*, please contact one of the [AGD responsible officers](#) (see contact details at 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 AGD *responsible officer*, contact other relevant authorities such as [OPI](#) or the [Office of the Commissioner for Public Sector Employment](#).

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 AGD *responsible officers*. *Responsible officers* have obligations under the PID Act and will be able to assist you.
- If your concerns relate to the way in which an AGD *responsible officer* is handling your matter, you might want to raise your concerns with a different AGD *responsible officer*.
- Alternatively, you might prefer to contact other *relevant authorities* such as [OPI](#) or the [Office of the Commissioner for Public Sector Employment](#).

Disclosure to a journalist or member of Parliament

If you have:

- made an *appropriate disclosure of public interest information* in accordance with section 5; and
- believe on reasonable grounds that the information is true, and
- if you have made your identity known to the person to whom that *appropriate disclosure* was made (that is, they can contact you);

you have certain rights.

You should receive notification of the action being taken (or the reasons for no actions 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 these Procedures 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 these Procedures, AGD has an obligation to protect informants.

AGD *responsible officers* are directed to ensure matters are kept strictly confidential, for example, all printed materials are kept in a locked cupboard or drawer that only the AGD *responsible officer* can access and any conversations with an informant are to be held in private. In addition, the emails sent to and from AGD *responsible officers* are kept secure and are not accessed by other staff members.

AGD 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*.

AGD *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.

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 [AGD responsible officer](#) 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*. The first is *environmental and health information*. The second is *public administration 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 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 the [AGD responsible officer](#).

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.

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 that 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.

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 person to whom an *appropriate disclosure of public interest information* is made, then you should consider seeking the advice of an *AGD responsible officer* immediately. Your legal obligations will be numerous and complicated, and the *AGD responsible officer* will be able to assist you.

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 Guideline One applies (see below).

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

a) *Does the information disclosed raise a potential issue of:*

- i) Corruption in public administration
- ii) Misconduct in public administration
- iii) Maladministration in public administration?

b) *Does the information disclosed raised 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 Guideline One:

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

If the obligation to report under the ICAC Act does not arise, assess whether this is information in relation to which no action need be taken seeking the advice of the *responsible officer*.

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
- the 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)).

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 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.

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:

- a) If investigation of the information may be warranted, who has the skills, resources and powers to investigate the matter?
- b) If the information is substantiated following an investigation, what action would be appropriate? Who has the skills, resources and powers to take appropriate action in relation to the matter arising from the information, if the information is substantiated?

Having identified the appropriate person or authority to take action in relation to the matter raised by the information, 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, please refer the *appropriate disclosure of public interest information* to an AGD *responsible officer*.

For example, an appropriate disclosure of public interest information would not be referred to an AGD *responsible officer* if the information related to them.

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

- assessed the disclosure; and
- based on that assessment, you are referring the *appropriate disclosure of public interest information* to the AGD *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, please omit the informant's identity from your referral. If the AGD *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 AGD *responsible officer* then you must still:

- take action in relation to the information in accordance with the [ICAC Guideline One](#) set out below (as required by section 7(1)(a)); and
- provide OPI with information relating to the disclosure in accordance with the [ICAC Guideline One](#) (as required by section 7(1)(c)).

The AGD *responsible officer* can assist you.

You must ensure that you are complying with [ICAC Guideline One](#) entitled *Receipt, assessment & notification of appropriate disclosures*.

ICAC Guideline One 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, Environment Protection Authority).
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) assesses 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,
 1. the date of the referral;
 2. the identity of that *relevant authority, public authority or public officer* or another person to whom the disclosure was referred;
 3. the manner of referral; and
 4. the 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 of Informant

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

The AGD *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*. Make this notification in writing. However before emailing an informant, please ensure they have agreed to an appropriate email address to be used.

If you take longer than 30 days, 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, and the disclosure will 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* (see below).

If you or the AGD *responsible officer* form the view that it will take longer than 90 days from the *appropriate disclosure of public interest information* for an outcome, 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 of Informant

It is recommended that you refer any *appropriate disclosure of public interest information* to an AGD *responsible officer*. 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) of the PID Act).

If you don't refer the matter to an AGD *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) of the PID Act).

If you refer the *appropriate disclosure of public interest information* to an AGD *responsible officer*, or to another person, then the AGD *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) of the PID Act).

Please make this notification in writing; however before emailing an informant, please ensure they have agreed to an appropriate email address to be 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 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, and the disclosure will be considered to be an *appropriate disclosure of public interest information*.

Outcomes of Action: Notification of 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 Two](#) entitled *Notification of action taken* 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 *appropriate disclosure of public interest information* 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 Two](#) (see section 7(3)(b) of the PID Act).

ICAC 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 One above), the OPI must also be notified of any action taken in relation to the disclosure.

ICAC Guideline Two 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](#) the following:

- a. the unique identification number issued by the OPI upon notification of the original disclosure
- b. the name and contact details of the informant
- c. the name and contact details of the person or authority responsible for taking the action
- d. what (if any) findings were made in respect of the disclosure
- e. the nature of the action taken (if any)
- f. the outcome of any action taken (if applicable)
- g. whether the identity of the informant was disclosed to a person other than the original recipient of the disclosure, and
- h. 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 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
 - must 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.

AGD *responsible officers* will have access to a secure positional mailbox through their email account. The mailbox will only be accessed by the *responsible officers* and has appropriate ICT security measures in place.

AGD *responsible officers* are directed to ensure matters are kept strictly confidential, for example, all printed materials are kept in a locked cupboard or drawer that only the AGD *responsible officer* can access and any conversations with an informant are to be held in private. In addition, the emails sent to and from AGD *responsible officers* are kept secure and are not accessed by other staff members.

AGD 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*.

AGD *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.

How informants can contact AGD

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

- Email: AGD_PID@sa.gov.au, or
- Telephone: 1800 177 076 (freecall), or
- Post: **Mark the envelope private and confidential*
Public Interest Disclosure, Attorney-General's Department
GPO Box 464
Adelaide SA 5001.

You can contact the *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 AGD *responsible officer*, will ensure:

- that the information is securely received and not divulge to other parties;
- only *responsible officers* will be able to access the AGD_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 the section 'Receiving and dealing with an appropriate disclosure of public interest information').

Accessibility and assistance

For customers who do not have English as their first language or customers who are hearing impaired or mute, the Australian Government provides the following services:

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

Customers using these services can request to be put through to AGD via telephone on 1800 177 076 to provide a *disclosure* or to make an enquiry.