

Public Interest Disclosure

This document sets out how a public officer can make a public interest disclosure relating to public administration information. For all other public interest disclosures, refer to the Public Interest Disclosure Act 2018.

A full list of public officers can be found under Schedule 1 of the Independent Commission Against Corruption Act, 2012. These include, but are not limited to, the Governor; a member of Parliament; a judicial officer; a chief executive of an administrative unit of the Public Service; a public service employee (other than a CE); a police officer etc.

How to make a public interest disclosure

A discloser can make a public interest disclosure in any way, including anonymously, verbally or in writing. To assist in assessment, and any subsequent investigation, disclosers are requested to:

- provide contact details (this could be an email address that is created for the purpose of making the disclosure or a telephone number)
- provide as much information as possible about the suspected wrongdoing, including:
 - who was involved
 - what happened
 - when it happened
 - where it happened
 - whether there were any witnesses, and if so who they are
 - any evidence that supports the PID, and where the evidence is located
 - any further information that could help investigate the PID.

Who can receive a disclosure of public administration information

To access the protections offered under the PID Act, a public officer must make their disclosure to a relevant authority. Under Section 5(5) of the PID Act there are several definitions of relevant authorities. In the case of the Board (being a public sector agency), the relevant authority is the responsible officer for the Board, the Chairman. If the disclosure is related to the Chairman, then the remaining Commissioners of the Board jointly.

Protection provided under the PID Act

Protection provided under the PID Act includes:

- **Confidentiality:** the discloser's name and other identifying information will be protected to the extent possible;
- **Protection against reprisal:** the discloser is protected from unfair treatment as a result of making the public information disclosure;
- **Immunity from liability:** the discloser cannot be prosecuted for disclosing the information but is not exempt from action if they have engaged in wrongdoing; and
- **Protection from defamation:** the discloser has a defence against an accusation of defamation by the subject officer.

Assessment of a PID

The disclosure will be assessed in accordance with Sections 5 and 7 (as well as others of relevance) of the PID Act. Once the matter has been assessed as a PID, the Chairman will advise the discloser:

- that their information has been received and will be assessed as a public interest disclosure;
- that the action to be taken by the Chairman in relation to the disclosure may include referring the matter to an external agency, or investigating the matter itself;
- the likely timeframe involved for assessment;
- the name and contact details of the Chairman (as principal officer) for updates;
- the discloser's obligations regarding confidentiality;
- the protections the discloser has under the PID Act;
- the commitment by the Board to keep appropriate records and maintain confidentiality; except where permitted under the PID Act; and
- how updates regarding intended actions and outcomes will be provided to the discloser.

If the PID has been made anonymously and the discloser has not provided any contact details, the Chairman will not be able to acknowledge the PID or provide any updates.

If the Chairman decides there is another proper authority that is better able to deal with the PID, the PID may be referred to that agency. This may be because:

- the PID concerns wrongdoing by that agency or an employee of that agency; or
- that agency has the power to investigate or remedy the matter.

Before referring the PID to another agency, the Chairman will conduct a risk assessment, and will not proceed with the referral if there is an unacceptable risk of reprisal.

It may also be necessary to refer the PID to another agency because of a legislative obligation, for example, refer a matter to the Crime and Corruption Commission where there is a reasonable suspicion that the matter involves or may involve corrupt conduct (as required by section 38 of the [Crime and Corruption Act 2001](#)).

The confidentiality obligations of the PID Act permit the Chairman to communicate with another agency about the referral of a PID. The Chairman will exercise discretion in their contacts with any other agency.

Risk assessment and protection from reprisal

The Chairman will conduct a risk assessment to assess the likelihood of the discloser (or witnesses or affected third parties) suffering reprisal action as a result of having made the disclosure. This assessment will take into account the actual and reasonably perceived risk of the discloser (or witnesses or affected third parties) suffering detriment and will include consultation with the discloser.

In the event of reprisal action being alleged or suspected, the Chairman will:

- attend to the safety of the discloser (or witnesses or affected third parties) as a matter of priority;
- review its risk assessment and any protective measures needed to mitigate any further risk of reprisal; and
- manage any allegation of a reprisal as a PID in its own right.

Declining to take action on a PID

Under the PID Act, the Chairman may decide not to investigate or deal with a PID in various circumstances.

If a decision is made not to investigate or deal with a PID the Chairman will give the discloser written reasons for that decision.

If the discloser is dissatisfied with the decision, they can request a review by writing to the Minister for Health and Wellbeing within 28 days of receiving the written reasons for decision.

Communication with disclosers

Under the PID Act, the Chairman must give reasonable information to a discloser.

The Chairman will acknowledge receipt of the PID in writing within 30 days of receiving the disclosure. The discloser will be provided with information that meets the requirements of the PID Act.

In accordance with the PID Act, after finalising action in response to the PID, the Chairman will advise the discloser in writing of the action taken and the results of the action.

Investigating a PID

If a decision is made to investigate a PID, this will occur taking in to account the requirement that:

- the PID will be dealt with impartially, fairly and reasonably in accordance with the principles of natural justice;
- there is an obligation under the PID Act to protect confidential information;
- until information or evidence obtained through an investigation substantiates the allegation, the PID is an allegation only; and
- the disclosure will be provided with information about their rights and the progress and outcome of any investigation.

If as a result of investigation, the information about wrongdoing provided in the PID is substantiated, appropriate action will be taken.

Where the investigation does not substantiate wrongdoing, the Chairman will review systems, policies and procedures to identify whether there are improvements that can be made and consider if staff training is required.