

A Guide to Public Interest Disclosures

What is a Public Interest Disclosure?

If you believe that a government official, public authority or government contractor is acting or going to act in an illegal or improper manner, it is in the public interest that you speak to someone who can do something about it. The *Public Interest Disclosure Act 2003* (Act) facilitates the disclosure of public interest information by providing protection for those who make disclosures and those who are the subject of disclosures.

You can make a public interest disclosure (PID) about improper conduct in public authorities that include state government agencies and departments, local governments and bodies established under a written law for a public purpose, such as a public university.

What do I need to know before making a disclosure?

The Act deals with disclosure by anyone, but the information must be specific to the following areas:

- Improper conduct.
- An act or omission that constitutes an offence under State law, including corruption.
- Substantial unauthorised or irregular use of, or substantial mismanagement of, public resources.
- Conduct involving a substantial and specific risk of injury to public health, prejudice to public safety or harm to the environment.
- A matter of administration that can be investigated under section 14 of the *Parliamentary Commissioner Act 1971*.

Before making a disclosure, it is important that you are aware of the rights and responsibilities imposed on disclosers and others under the Act:

- It is an offence to make a disclosure if you know, or are reckless about it, it being false and misleading.
- With some exceptions, the proper authority will investigate your information and you will be expected to cooperate.
- You will have to keep your information confidential or else you may lose protection and commit an offence under the Act.

What you should ask yourself

Making a disclosure is a serious matter and needs to be fully thought through. You should question:

- Whether you have reasonable grounds to believe the information you are thinking of disclosing is true, or otherwise you believe it to be true.
- If the information is something that you think is important to be disclosed because it is in the public interest.
- If you have sought proper advice.
- If you fully understand your responsibilities under the Act if you make a disclosure.

How do I make a disclosure?

Before making a formal disclosure to a PID Officer, you should contact the PID Officer to discuss the proposed disclosure, whether alternative means of dealing with the matter might be more appropriate, and to obtain information regarding your rights and responsibilities as a discloser.

What is next once I've made a disclosure?

After assessing your information, the proper authority will have to investigate unless it considers:

- The matter to be trivial, vexatious or frivolous.
- There is no reasonable prospect of obtaining enough evidence, due to the lapse of time.
- The matter is being or has already been adequately or properly investigated by a proper authority.
- The information does not relate to a matter, which the proper authority has the function or power to investigate.

Will I be kept informed as to progress / outcome?

The proper authority must inform you within three months of what has been done or they intend to do about your disclosure. You are entitled to a report on the outcome and any action taken when the investigation is complete.

What about confidentiality and my protection?

As the disclosure is about a public interest matter rather than a specific complaint, the Act required confidentiality to be maintained on:

- The identity of the person making the disclosure.
- The information disclosed, including the identity of any person named in the disclosure.

There are exceptions to these rules and anyone thinking of making a disclosure should seek advice from the proper authority on these prior to making a disclosure.

A person making a disclosure is provided with protection under the Act from:

- Any reprisals.
- Civil and criminal liability in the event of making a disclosure.
- Dismissal or having services dispensed with.
- Breach of confidentiality or secrecy agreements.

A person alleging victimisation as a result of a disclosure can complain to the Equal Opportunity Commission or may be able to take civil action. The Equal Opportunity Commission is at Level 2 Westralia Square, 141 St Georges Terrace and can be contacted by calling **(08) 9216 3900** or toll free on **1800 198 149** or via their website at eoc.wa.gov.au

Reprisals and Victimisation

The Shire will take all reasonable steps to provide protection to employees who make such disclosures from any detrimental action in reprisal for the making of a disclosure.

The Shire does not tolerate any of its Elected Members, employees or contractors engaging in acts of victimisation or reprisal against those who make public interest disclosures. These acts should be reported immediately to the PID Officer or the Chief Executive Officer.

Shire of Merredin PID Officer

The person holding or acting in the position of Governance Officer is designated as the PID Officer of the Shire. The PID Officer is responsible for receiving disclosures of public interest information relating to matters falling within the sphere of responsibility of the Shire.

The contact details of the PID Officers are as follows:

Public Interest Disclosure Officer:

Anke Bryuns

T: (08) 9041 1611

E: go@merredin.wa.gov.au