



PARLIAMENT OF AUSTRALIA  
DEPARTMENT OF PARLIAMENTARY SERVICES



# PID and NACC Procedures

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**Approved:** Secretary

**Contact:** Director, Legal and Conduct

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## Declaration pursuant to section 59 of the *Public Interest Disclosure Act 2013*

I, Rob Stefanic, Secretary of the Department of Parliamentary Services and Principal Officer for the purposes of the *Public Interest Disclosure Act 2013*, hereby establish these procedures for handling public interest disclosures by the Department of Parliamentary Services pursuant to section 59 of the *Public Interest Disclosure Act 2013*. These procedures supersede any previous procedures made under section 59 of the *Public Interest Disclosure Act 2013* and take effect upon execution.

Separately, these procedures also deal with the Department of Parliamentary Services' obligations under the *National Anti-Corruption Commission Act 2022*.



Rob Stefanic  
Secretary, Principal Officer  
Department of Parliamentary Services

Date: 27 October 2023

## Overview

### Purpose

1. The purpose of these procedures is to provide advice and guidance to employees of the Department of Parliamentary Services (**DPS**) about the management of the legislative framework set out by:
  - a. *Public Interest Disclosure Act 2013 (Cth) (PID Act)*, and
  - b. *National Anti-Corruption Commission Act 2022 (Cth) (NACC Act)*.
2. These procedures apply to any disclosure or information provided after 1 July 2023.
3. These procedures apply to public interest disclosures (**PIDs**) made by a discloser that relate only to internal disclosures, and do not apply to:
  - a. external disclosures,
  - b. emergency disclosures, or
  - c. disclosures to legal practitioners.
4. These procedures apply to allegations of disclosable conduct and set out:
  - a. what a PID is,
  - b. who can make PIDs,
  - c. how can PIDs be made, and
  - d. DPS's management and investigations of PIDs.
5. These procedures set out how DPS will comply with the NACC Act.

### Statement of commitment

6. DPS is committed to the highest standards of integrity, ethical and accountable conduct and will ensure that those who report, or are considering making a report about disclosable conduct, are properly supported and protected from any adverse consequences relating to the disclosure.
7. DPS will ensure that any disclosures made under the PID Act are properly investigated where appropriate and dealt with confidentially.
8. Public officials who are aware of suspected wrongdoing in DPS (or elsewhere in the Commonwealth public sector, including by contractors) are encouraged to report such instances in accordance with the provisions set out in these procedures, in order to uphold the good reputation of DPS and to provide a safe and ethical workplace.
9. DPS will ensure that it complies with its obligations under the NACC Act. This includes referring matters to the National Anti-Corruption Commission (**NACC**) that may also be handled as an internal PID.
10. DPS has used its best endeavours to meet the *Public Interest Disclosure Standard 2013*.

### Definitions

11. The terms used in this procedure insofar as it relates to the PID Act have the same meaning as defined terms in the PID Act. A table of definitions is set out at **Attachment B** to these procedures.

## Making a public interest disclosure

### Who can make a PID?

12. A current or former public official can make a PID under the PID Act. The definition of a public official is set out at **Attachment B**.

### What can be disclosed?

13. A current or former public official can disclose information that shows, or that he or she believes on reasonable grounds tends to show disclosable conduct, which is defined at **Attachment B**.
14. The disclosable conduct must have been committed by a former or current public official.
15. There may be some overlap between individual grievances or workplace conflicts with disclosable conduct. However, matters that reflect private or personal interests are generally not matters of public interest and therefore do not constitute disclosable conduct. These include:
- personal disagreement with a government or proposed policy,
  - personal disagreement with an action or proposed action by a Minister or Presiding Officer, and
  - expenditure or proposed expenditure relating to such policy or action.
16. From 1 July 2023, personal work-related conduct will not be covered by the PID Act unless
- the conduct constitutes reprisal action, or
  - the conduct is of such a significant nature it would undermine public confidence in, or has other significant implications for, an agency.
17. Employees who wish to make a complaint about non-disclosable conduct and who cannot raise it with their supervisor may do so using the *Internal Complaints Management Procedure*.
18. A disclosure can be made about conduct that occurred at any time, including historical conduct. Historical conduct is that which occurred before the PID Act commenced on 15 January 2014.
19. If, however, the age of the disclosed information makes an investigation impracticable, the Principal Officer (or delegate) may decide not to investigate the disclosure.

### How can a public interest disclosure be made?

20. A discloser can make a disclosure to:
- an Authorised Officer, or
  - the discloser's supervisor (**Supervisor**).
21. DPS's Authorised Officers are listed on the [DPS Intranet page](#) and on the [Australian Parliament House website](#).
22. A disclosure can be made verbally or in writing. This includes in person, by email, by letter, or by telephone.
23. A discloser does not need to expressly state or have the intention that their disclosure is a PID. Simply conveying information about suspected wrongdoing to their supervisor or an Authorised Officer entitles the discloser to certain protections provided by the PID Act. This is subject to paragraph 41.
24. Disclosures can be made anonymously. Disclosures are considered anonymous if the identity of the discloser is not revealed, whether or not the discloser's contact details are provided.

25. Disclosers may request that their disclosure is not handled by a particular Authorised Officer. This should be stated from the outset when the disclosure is made, e.g. in the subject line or an email, or opening paragraph of the disclosure.

## Managing potential PIDS – Supervisors

26. If a discloser conveys information to their supervisor, and the supervisor is unsure whether the information constitutes a PID, supervisors should refer the information to an Authorised Officer to determine whether it constitutes a PID.
27. If the discloser's supervisor believes that the discloser has made a PID, then the supervisor should refer the disclosure to an Authorised Officer as soon as reasonably practicable.
28. Supervisors should advise disclosers, at the time that the disclosure is made, that:
- they intend on referring the information to an Authorised Officer for assessment,
  - as soon as practicable, inform the discloser as to their protections under the PID Act, or refer the discloser to an Authorised Officer who can inform them.

## Protections for disclosers

29. If a discloser makes a disclosure that constitutes a PID, they are entitled to:
- protection against reprisal,
  - confidentiality, and
  - immunity against criminal and civil liability.
30. Upon receipt of a PID, the Authorised Officer or Supervisor must conduct a risk assessment (**Attachment A**) that considers the risk of reprisal action being taken against the discloser.
31. DPS will provide support to disclosers and, where the risk assessment identifies a risk of reprisal action, develop a mitigation strategy.

## Roles and Responsibilities

### Principal Officer

32. The Principal Officer of DPS is responsible for:
- establishing procedures for managing PIDs,
  - investigating and providing reports on disclosures,
  - undertaking risk assessment, and
  - ensuring that appropriate action is taken in relation to recommendations arising from an investigation.
33. The Principal Officer may delegate all or some of these powers. These delegations are set out in the HR Delegations.
34. The Principal Officer must also comply with their obligations under the NACC Act. See paragraphs 129 to 135 for further information.

### Authorised Officers

35. DPS's Authorised Officers and their details are available on the [DPS Intranet](#) and on the [APH website](#).



36. Authorised Officers have a range of decision-making, notification and reporting responsibilities under the PID Act, including:
- a. receiving disclosures from current or former DPS public officials,
  - b. receiving disclosures from current or former public officials about conduct concerning DPS,
  - c. deeming a person a public official to allow them to make a PID,
  - d. explaining the requirements and protections under the PID Act to disclosers,
  - e. advising disclosers of any designated publication restrictions that apply to the information they have disclosed,
  - f. assessing reported information to assess whether it constitutes a PID,
  - g. making any preliminary inquiries necessary to make an allocation decision,
  - h. allocating all or part of the disclosure to the Principal Officer for handling and/or another Commonwealth agency where the other agency's authorised officer has agreed to handle the disclosure,
  - i. notifying the Principal Officer of the allocation decision, the details of the disclosure and, if the discloser consents, the discloser's identity,
  - j. if any other Commonwealth agency has agreed to handle the disclosure, notifying the principal officer of that Commonwealth agency of the allocation decision, the details of the disclosure, and if the discloser consents, the discloser's identity,
  - k. notifying the Ombudsman (or Inspector General of Intelligence and Security where appropriate) of the allocation decision, the details of the disclosure and, if the discloser consents, the discloser's identity,
  - l. informing the discloser of the allocation decision,
  - m. consenting to the allocation of a disclosure to DPS by an authorised officer of another Commonwealth agency, and
  - n. advising the discloser of a decision not to allocate, the reasons why and any other course of action that may be available under Commonwealth law.
37. Further information on specific procedures that Authorised Officers must follow are set out at paragraphs 35 to 38.
38. Authorised Officers must also comply with obligations under the NACC Act. This includes considering whether a PID triggers their mandatory referral obligations (see paragraph 136).

## Supervisors

39. For the purposes of the PID Act, a Supervisor is a public official who supervises or manages the discloser.
40. Supervisors have a specific obligation under the PID Act to refer a disclosure to an Authorised Officer where:
- a. a Supervisor believes, on reasonable grounds, that the information given to them concerns, or could concern, disclosable conduct,
  - b. the Supervisor is not an Authorised Officer, and
  - c. the discloser consents to having their identifying particulars disclosed,
- the Supervisor must give that information to an Authorised Officer as soon as reasonably practicable.

41. Disclosures made in the course of performing one's ordinary functions as a public official are not PIDs. Routine discussions where everyday functions involve investigation of wrongdoing do not constitute a PID and do not require referral to an Authorised Officer.
42. If a Supervisor receives an anonymous disclosure, the Supervisor must refer it to an Authorised Officer as soon as it is reasonably practicable.
43. Before referring the disclosure to an Authorised Officer as above, the Supervisor must:
  - a. make a written record of the facts of the disclosure, including the time and date that the disclosure was made,
  - b. if the discloser wishes to remain anonymous, the Supervisor should conduct a risk assessment of any reprisal action that might be taken against the discloser (see **Attachment A**),
  - c. seek express consent from the discloser to include the discloser's name and contact details in the written record,
  - d. seek express consent from the discloser to pass on the information, including the discloser's identifying particulars, to an Authorised Officer, and
  - e. request the discloser to sign the record of disclosure, where practicable.
44. At the time that the Supervisor gives information to an Authorised Officer, the Supervisor must:
  - a. give the Authorised Officer all records relating to the disclosure,
  - b. where the discloser wishes to remain anonymous, give the Authorised Officer the risk assessment they conducted, and
  - c. inform the discloser that they have given the information to an Authorised Officer, and provide the name and contact details of that Authorised Officer.
45. Additionally, Supervisors are responsible for ensuring that DPS's workplace culture supports the making of a PID by providing a safe environment to do so. This includes:
  - a. by being knowledgeable about the PID Act and these procedures, particularly in relation to confidentiality requirements,
  - b. being approachable to staff who wish to report serious misconduct,
  - c. ensuring staff attend available training,
  - d. confronting any workplace prejudices about making a disclosure,
  - e. supporting a staff member who they know has made a PID and ensuring they are protected from reprisal action,
  - f. increasing management supervision of the workplace if necessary (for example, if workplace conflict occurs because a disclosure has been made or an investigation is under way),
  - g. ensuring identified problems in the workplace are corrected, and
  - h. leading by way of example for their staff.
46. Supervisors should refer to paragraphs 110 to 114 for further information on their obligations.

## Public Officials and all employees

47. Under the PID Act, all public officials are required to:
  - a. use their best endeavours to assist the Principal Officer (or their delegate) in the conduct of an investigation,

- b. use their best endeavours to assist the Commonwealth Ombudsman in their functions under the PID Act,
- c. report matters where there is evidence that shows or tends to show disclosable conduct,
- d. identifying areas where there may be opportunities for wrongdoing to occur because of inadequate systems or procedures, and proactively raising those with management,
- e. supporting staff known to have made PIDs, and
- f. maintaining the confidentiality of the identity of disclosers and anyone who is the subject of a PID, if they become aware of those matters.

## Investigating Officer

48. Where a PID is allocated to DPS, the Principal Officer (or delegate) will exercise discretion to investigate or not. If the decision is made
- a. to investigate, it will be referred to an Investigating Officer for investigation, or
  - b. to not investigate, it must be for the reasons set out in section 48 of the PID Act, as at paragraphs 79 to 80 of these procedures.
49. The Principal Officer may, at times, delegate the power to investigate to a suitably qualified person, including to an external person (**Investigating Officer**).
50. Investigating Officers have a range of decision-making, notification and other responsibilities under the PID Act, including:
- a. ensuring the discloser is informed of the Investigating Officer's power to investigate,
  - b. deciding whether to investigate the disclosure,
  - c. notifying the discloser and the Ombudsman of the investigation decision,
  - d. investigating the disclosure,
  - e. obtaining information for the purpose of the investigation,
  - f. preparing investigation reports,
  - g. providing the investigation report to the discloser, and
  - h. making appropriate redactions to investigation reports.
51. Investigating Officers must also comply with obligations under the NACC Act. This includes considering whether a PID triggers their mandatory referral obligations (see paragraph 136).

## Procedures for Authorised Officers

52. When an Authorised Officer receives a disclosure of suspected wrongdoing, they are required to take certain steps:
- a. initial assessment,
  - b. seek consent,
  - c. conduct preliminary inquiries,
  - d. make an allocation decision,
  - e. inform relevant parties of the allocation decision,
  - f. conduct an assessment of the risk of reprisal, and if necessary, develop a risk mitigation strategy, and

- g. provide support for the discloser and the person who is the subject of the disclosure.

## Initial assessment

53. An Authorised Officer must consider the disclosed information and determine whether it meets the criteria for an internal disclosure.
54. An internal disclosure is made when:
- a. a person who is a current or former public official,
  - b. discloses to an authorised internal recipient (as defined at **Attachment B**), and
  - c. the discloser believes, on reasonable grounds, that the information tends to show one or more instances of disclosable conduct.
55. If the Authorised Officer has reasonable grounds to believe that the information disclosed to them concerns or could concern disclosable conduct, and the discloser is unaware of what is required for the disclosure to constitute a PID, the Authorised Officer must:
- a. inform the discloser that the disclosure could be treated as an internal disclosure under the PID Act,
  - b. explain to the discloser what the PID Act requires for a disclosure to be an internal disclosure,
  - c. explain to the discloser what protections are provided for disclosers under the PID Act,
  - d. advise the discloser of any orders or directions of which the Authorised Officer is aware that are designated publication restrictions that may affect disclosure of information,
  - e. advise the discloser that it is open to them to seek independent legal advice on the impact of the PID Act, and their corresponding rights and responsibilities, and
  - f. explain the circumstances under which the Authorised Officer must refer the PID to the NACC if the disclosure could involve serious or systemic corrupt conduct.

## Seek consent

56. Where the Authorised Officer is aware of the contact details of the discloser, the Authorised Officer must ask the discloser whether they:
- a. consent to the Authorised Officer giving the discloser's name and contact details to the Principal Officer (or delegate), and
  - b. wish the disclosure to be investigated,
- as soon as practicable, after receiving the disclosure.
57. The Authorised Officer must make a written record of the discloser's responses to the above. Where a discloser does not respond within 7 days, the discloser is taken:
- a. not to have consented to the disclosure of their name and contact details, and
  - b. to wish to have the disclosure investigated.

## Conduct preliminary inquiries

58. The Authorised Officer's task is to quickly assess the disclosed information to ascertain if any further information is required before they can make an informed decision about:

- a. whether the disclosure constitutes an internal disclosure within the meaning of the PID Act,
  - b. whether the Authorised Officer is an authorised internal recipient for the disclosure, based on the subject matter and/or whether the discloser belongs (or last belonged to) DPS, and
  - c. who the disclosure should be allocated to for handling.
59. Under the PID Act, Authorised Officers have the power to make any inquiries and obtain further information before making a decision about allocating the matter for investigation.
60. Making preliminary inquiries is not the same as conducting an investigation. Authorised Officers can only make inquiries and obtain information as they see fit, for the exclusive purpose of determining to which agency, if any, a disclosure is to be allocated.

## Make an allocation decision

61. Once the Authorised Officer is satisfied that they have received an internal disclosure within the meaning of the PID Act, they must allocate it for handling (**allocation decision**). The Authorised Officer:
- a. will use their best endeavours to make the allocation decision within 14 days of receiving the disclosure.
  - b. may allocate the handling of the PID to:
    - i. DPS,
    - ii. another agency within the same portfolio if it would be better able to handle the disclosure,
    - iii. another Commonwealth agency, including the Commonwealth Ombudsman, or
    - iv. IGIS, or a prescribed investigative agency.
  - c. In making the allocation decision, Authorised Officers will have regard to the principle that DPS should only handle disclosures that relate to DPS. Authorised Officers must not allocate disclosures to another Commonwealth agency unless an authorised officer of that agency has consented to the allocation.
62. If the Authorised Officer is not satisfied that they have received an internal disclosure within the meaning of the PID Act, they may decide to not allocate the matter and take no further action. This decision can be made on the following grounds:
- a. the discloser does not fall into the definition of a public official,
  - b. the disclosure was not made to an authorised internal recipient,
  - c. the disclosure does not relate to disclosable conduct,
  - d. the person who is alleged to have engaged in disclosable conduct was not a public official at the time they are alleged to have engaged in that conduct, and
  - e. the disclosure is not otherwise a PID within the meaning of the PID Act.
63. An Authorised Officer may decide not to allocate a PID for investigation under a PID Act if satisfied on reasonable grounds that the conduct disclosed would be more appropriately investigated under another law or power. This includes whether the information should also be referred to the National Anti-Corruption Commission (refer to paragraph 136).

## Inform relevant parties of the allocation decision

64. Where an Authorised Officer makes a decision not to allocate, and the discloser's contact details are known to the Authorised Officer, the Authorised Officer must:
- a. advise the discloser, in writing of:
    - i. the decision,
    - ii. the reasons why, and
    - iii. other courses of action that may be available under other Commonwealth laws, and
  - b. notify the Commonwealth Ombudsman using *Form 4 – Notification of decision not to allocate*.
65. Where an Authorised Officer makes a decision to allocate the disclosure to another agency, the Authorised Officer must, within 14 days:
- a. inform the Principal Officer (or delegate) of the other agency of:
    - i. the allocation,
    - ii. the information that was disclosed,
    - iii. the suspected disclosable conduct,
    - iv. if the discloser's name and contact details are known to the Authorised Officer, and the discloser has consented to their identifying particulars to be disclosed, the discloser's identity name and contact details, and
  - b. once the allocation is complete, inform the Commonwealth Ombudsman of the allocation using *Form 1 – Notification of allocation and reallocation*, and
  - c. inform the discloser of the allocation, if the discloser's contact details are known.
66. Where an Authorised Officer makes a decision to allocate the disclosure to one or more agencies, the Authorised Officer must keep an appropriate record of:
- a. the decision (including the name of each agency to which the disclosure is to be allocated)
  - b. the reasons for the decision,
  - c. the consent provided by an Authorised Officer of the agency to which the allocation is made, and
  - d. whether the discloser was informed of the allocation decision and if so,
    - i. the date and time the discloser was notified,
    - ii. the means by which the discloser was notified, and
    - iii. the content of the notification.
  - e. These records should be kept confidential and restricted to a need-to-know basis.
67. Where an Authorised Officer makes a decision to allocate the disclosure to DPS for determination, the procedures set out at paragraphs 75 to 115 must be followed.

## Conduct a risk assessment and develop a mitigation strategy

68. Where the discloser has made a disclosure to their Supervisor, and the discloser wishes to remain anonymous, the Supervisor must conduct a risk assessment and develop any risk mitigation strategy, if necessary.

69. Authorised Officers must take reasonable steps to protect public officials who belong to DPS from reprisal if the Authorised Officer suspects a relevant PID has been, may have been, is proposed to be, or could be made or given to the Authorised Officer.
70. Where the disclosure is made to an Authorised Officer, the Authorised Officer must prepare a written assessment of the risk of reprisal action, in accordance with the procedures outlined in **Attachment A**.
71. Where the findings of the risk assessment render it necessary, the Authorised Officer or the Principal Officer (or delegate) will develop a strategy to mitigate the risk of reprisal taken against the disclosure, which may include support measures set out below.

## Support for disclosers and persons who are the subject of a disclosure

### Support for disclosers

72. DPS will take all reasonable steps to protect public officials who belong to DPS from reprisal. This applies even where a risk assessment finds that there is a low risk of detriment.
73. These steps may include, but are not limited to:
  - a. appointing a support person to the discloser, who is responsible for checking on the wellbeing of the discloser regularly,
  - b. informing the discloser of the progress of the investigation,
  - c. where there are concerns arising from the health and wellbeing of the discloser, liaising with the Work Health and Safety Team, and
  - d. transferring the discloser to a different area within the workplace, or providing flexible working arrangements where the discloser consents. This measure is likely to only be appropriate in situations involving major or extreme risk.

### Support for persons who are the subject of a disclosure

74. DPS will take steps to support an employee against whom a disclosure has been made. This may include, but is not limited to:
  - a. advising the employee of their rights and obligations under the PID Act,
  - b. advising the employee of DPS's investigation procedures, including the employee's right to procedural fairness,
  - c. informing the employee of the progress of investigations to the extent that it is reasonably practicable,
  - d. ensuring that the employee's identity is kept confidential to the extent that it is reasonably practicable,
  - e. where there are concerns arising from the health and wellbeing of the employee, liaising with the Work Health and Safety Team,
  - f. transferring the employee to a different area within the workplace or approving flexible working arrangements where the employee consents. This measure is likely to only be appropriate in major or extreme situations, and
  - g. advising the employee that it is open to them to seek their own independent legal advice on the impact of the PID Act, and their rights and responsibilities.



## Procedures for Investigating Officers

75. Where a disclosure is allocated to DPS for determination, the Principal Officer (or delegate) must follow a number of steps, pursuant to the PID Act.
76. The Principal Officer may delegate this power and function to an Investigating Officer.
77. The Principal Officer (or delegate) must make a decision about investigating or not investigating, as soon as practicable after receiving an allocation of a disclosure from an Authorised Officer.
78. The Principal Officer (or delegate) must confirm that the discloser has been informed of the Principal Officer's powers to make a decision about investigating or not investigating under the PID Act, or investigating under a separate investigative power.
  - a. Where the Investigating Officer becomes aware that this requirement has not been met, the Investigating Officer must provide this information to the discloser, where it is reasonably practicable to do so, within 14 days from receiving the disclosure allocation from an Authorised Officer.

### Decision to not investigate

79. The Investigating Officer may decide to not investigate or cease investigating a disclosure under section 48 of the PID Act, if:
  - a. the discloser is not a current or former public official,
  - b. the information does not, to any extent, concern serious disclosable conduct,
  - c. the disclosure is frivolous or vexatious,
  - d. the disclosure is the same or substantially the same as another disclosure
    - i. which has been or is being investigated under the PID Act, or another Commonwealth law (and the Principal Officer or delegate is reasonably satisfied that there are no matters that warrant further investigation), or
    - ii. and a decision was previously made under the PID Act to not investigate (or further investigate) the earlier disclosure,
  - e. the discloser has advised the Principal Officer (or delegate) that they do not wish for the disclosure to be investigated or pursued, and the Principal Officer is reasonably satisfied that there are no matters that warrant further investigation,
  - f. the conduct disclosed would be more appropriately investigated under another law or power, including investigating as a fraud or possible breach of the Code of Conduct investigations,
  - g. it is impracticable to investigate the disclosure because:
    - i. of the age of the information,
    - ii. the discloser has not provided their name and contact details, or
    - iii. the discloser refuses, fails or is unable to give information or assistance as requested for the purposes of investigation.
80. If the Principal Officer (or delegate) decides to not investigate, they must, within 14 days of the decision:
  - a. inform the Commonwealth Ombudsman of that decision, and the reasons for that decision using *Form 2 - Notification of decision not to investigate or not to investigate further*, and



- b. where the discloser has provided their name and contact details, inform the discloser of that decision, the reasons for the decision, and of other courses of action available to the discloser under other Commonwealth laws. The Principal Officer (or delegate) must make appropriate redactions when providing these reasons, in accordance with section 50(3) of the PID Act.
81. If the Principal Officer (or delegate) had previously decided to investigate a disclosure, but then decides not to investigate the disclosure further, they must, within 14 days of the decision, inform:
- a. the discloser, in writing, of that decision and the reasons for the decision, and
  - b. the Commonwealth Ombudsman of that decision, and the reasons for the decision using *Form 2 - Notification of decision not to investigate or not to investigate further*.

## Decision to investigate

82. If the Principal Officer (or delegate) decides to investigate the disclosure, they must inform the discloser, within 14 days of the decision, of:
- a. the decision to investigate the disclosure, and
  - b. the estimated length of the investigation.
83. The Principal Officer may delegate this investigation power to an internal employee or contracted person (**Investigating Officer**).

## Investigation

### Timeframes for investigation

84. The Investigating Officer completes their investigation when they have finalised their investigation report, with no further internal review processes or substantive changes to be made to the report.
85. The **Investigation Deadline** is the date that the investigation must be completed. This must be within 90 days from:
- a. the date that the disclosure was allocated to DPS,
  - b. the date of reallocation,
  - c. a decision to reinvestigate, or
  - d. the day the Principal Officer becomes aware a NACC stop action direction no longer applies.
86. The expiry of the Investigation Deadline, however, does not render the investigation invalid.
87. It is possible seek one or more extensions of time from the Commonwealth Ombudsman. An application for extension must:
- a. be made at least 10 days prior to the expiry of the Investigation Deadline,
  - b. include:
    - i. reasons why the investigation cannot be completed within the Investigation Deadline,
    - ii. the views of the discloser,
    - iii. an outline of action taken to progress the investigation, and
  - c. be made using *Form 3 - Extension of time to investigate a PID*.

## Obtaining information

88. The starting point is the information provided by the discloser. In the course of investigating however, it is open to the Investigating Officer to consider whether the information obtained indicated that there are other, or different, instances of disclosable conduct. Different instances will not be investigated if they are tangential or remote to the disclosure.
89. The conduct of an investigation may depend on the alleged conduct that is the subject of the disclosure. In particular, where the Principal Officer (or delegate) considers that the nature of the alleged conduct is such that the outcome of the investigation is likely referral of the matter for investigation under another process or procedure, then the investigation will be conducted in accordance with the processes, procedures or legislative requirements for that type of investigation.
90. Investigating Officers may, for the purposes of investigating, obtain information from such person/s and make such inquiries as they see fit.
91. Investigating Officers may have regard to the [Australian Government Investigation Standards 2022](#).
92. When conducting interviews for the purpose of investigating,
- a. An interviewee will be informed of the following:
    - i. that they have the opportunity to have a suitable support person present during the interview,
    - ii. the identity and function of each individual conducting the interview,
    - iii. the process of conducting an investigation,
    - iv. the authority of the investigating officer to conduct the investigation,
    - v. the protections provided to witnesses under section 57 of the PID Act,
    - vi. the interviewee's duty:
      1. if he or she is a public official – to use their best endeavours to assist the investigating officer in the conduct of an investigation under the PID Act (subject to the public official's privilege against incriminating themselves or exposing themselves to a penalty),
      2. not to take or threaten to take reprisal action against the discloser, and
      3. subject to the PID Act, not to disclose the identity of the person who made the disclosure.
  - b. The Investigating Officer will ensure:
    - i. an audio and/or visual recording of the interview is not made without the interviewee's knowledge,
    - ii. when the interview ends, the interviewee is given an opportunity to make a final statement or comment or express a position, and
    - iii. any final statement, comment or position by the interviewee is included in the record of the interview.
  - c. Interviews will be conducted in private, and in accordance with section 10 of the *Public Interest Disclosure Standards 2013*.
  - d. Interviews with the discloser should be arranged in a way that prevents identification of that person as discloser.

93. Investigating Officers may adopt findings set out in reports of investigations or inquiries under other Commonwealth laws or executive powers, or other PID investigations.
94. Investigating Officers must not place any weight on information they might obtain during the investigation unless it is of consequence to one of the matters under investigation and tends to make it more or less probable that a relevant fact exists. Any finding of fact in a PID investigation must be based on logically probative evidence.

### Referral of information to police

95. An Investigating Officer may, in the course of their investigation, come across information that triggers a requirement to pass that information on to the Australian Federal Police. Such information includes:
- a. information that they suspect on reasonable grounds may be evidence of the commission of a criminal offence that is punishable by imprisonment for a period of at least two years. Investigating Officers should contact the Legal and Conduct Team or the Assurance and Governance Team to discuss their concerns, or
  - b. information relating to cases of serious or complex fraud.
96. An Investigating Officer may disclose such information to the Australian Federal Police, if the information does not relate to an offence as set out in paragraph 95(a) above.
97. Referring information to the Australian Federal Police does not relieve DPS of its duties under the PID Act. It may be necessary consider other disciplinary or administrative actions, if appropriate.

### Procedural fairness

98. Investigating Officers must ensure that they do not have an actual or perceived conflict of interest with the people or issues that may arise during the investigation.
99. Procedural fairness requires that a person against whom allegations have been made, is entitled to:
- a. know the substance of allegations against them,
  - b. have the opportunity to respond, and to
  - c. have that response considered
- before a decision is made where a decision might result in an adverse finding being made about their conduct.
100. Procedural fairness:
- a. does not require that a person, against whom allegations are made, is advised as soon as the disclosure is received or as soon as an investigation is commenced, and
  - b. does not equate to a right to know the identity of the discloser who has alleged that the person has committed wrongdoing.
101. The Principal Officer (or delegate) must ensure that a finding of fact is based on logically probative and relevant evidence.

### Completing the investigation

102. Upon completion of the investigation, the Investigating Officer will:
- a. notify the discloser that the investigation has been completed, and
  - b. prepare a report (**Investigation Report**).

103. DPS will prepare an investigation report and take appropriate action, as soon as reasonably practicable, in response to the recommendations made in the investigation report.
104. The Investigation Report must comply with the PID Act, Part 3 of the *Public Interest Disclosure Standard 2019*, and these procedures.
105. The Investigation Report must set out:
- a. the matters considered in the course of the investigation,
  - b. the duration of the investigation,
  - c. the investigator's findings of fact (if any),
  - d. the action (if any) that has been, is being or is recommended to be taken,
  - e. any claims made about, and any evidence of, reprisal action taken against the discloser or any other person, and DPS's response to those claims and that evidence,
  - f. identify whether there have been one or more instances of disclosable conduct,
  - g. identify any regulations, rules, administrative requirements or similar matters to which the disclosable conduct (if any) relates,
  - h. explain the steps taken to gather evidence,
  - i. set out a summary of the evidence, and
  - j. set out any findings and recommendations made based on that evidence.
106. The applicable standard of proof for investigations under the PID Act is the civil standard of proof. A fact should only be taken to be proved if there is sufficient evidence to prove it on the balance of probabilities.
107. If the Investigating Officer considers that information disclosed in the course of an investigation may be appropriately dealt with under another DPS procedure or policy, they may include this as a recommendation in the Investigation Report.
108. If the Investigating Officer has made recommendations in relation to incidents of disclosable conduct, the recommendations must be referred to the Deputy Secretary, as delegate of the Principal Officer, to ensure that appropriate action is taken.
109. The Principal Officer (or delegate) must give a copy of the report to:
- a. the discloser, unless it is not reasonably practicable, within a reasonable time of preparing the report. The Principal Officer (or delegate) may make redactions to the report provided to the discloser, as per section 51(5) of the PID Act, and
  - b. the Commonwealth Ombudsman, using *Form 5 - Notification of a finalised PID investigation*.

## Confidentiality

110. Disclosures should be handled discreetly from the time that they are made, to the finalisation of the PID process.
111. DPS places strong emphasis on maintaining confidentiality of the identity of parties to a PID, especially the discloser, and the person who is the subject of a disclosure.
112. It is an offence for a person with access to information during the course of investigating, or in connection with their powers and functions under the PID Act, to disclose or use the information.
113. DPS will implement a secure system of storing records. All materials will be secure and accessed only by the officers managing the disclosure.

114. Supervisors, managers, and Authorised Officers who seek advice from the Legal and Conduct team regarding matters covered in this procedure must de-identify the information they provide when seeking advice. Involved parties should be referred to as the 'discloser' and the 'subject person'.

## Record keeping

115. All documentation collected, including all information provided as part of the initial disclosure and copies of all notifications, must be retained on an official file by the Authorised Officer (or delegate) until the matter is completed. The *Archives Act 1983* (Cth) and *Privacy Act 1988* (Cth) apply to all documents created as part of these procedures.

## Review

116. Any discloser who is dissatisfied by the process outlined in these procedures can request an internal review. The Principal Officer (or delegate) will manage these requests for review by appointing another Authorised Officer or Investigation Officer, as appropriate.

117. Requests for internal review should be directed to an Authorised Officer. If the disclosure was made to an Authorised Officer or referred to an Authorised Officer, then the request for review should be made to another Authorised Officer.

118. Paragraph 116 does not prevent public officials from complaining to the Commonwealth Ombudsman or IGIS (as relevant).

## National Anti-Corruption Commission procedures

119. Defined terms The terms used in this procedure insofar as it relates to the NACC Act have the same meaning as defined terms in the NACC Act.

### Scope and application

120. The NACC can investigate a corruption issue. A corruption issue is information, or an allegation, that raises the possibility that a person has done or could do something that:

- a. involves a public official,
- b. is, or could be, 'corrupt conduct' as defined in section 8 of the NACC Act, and
- c. could involve serious or systemic corrupt conduct.

121. The NACC can investigate:

- a. public officials, which includes:
  - i. Members and senators of the Commonwealth Parliament including ministers, and their staff,
  - ii. employees and contractors of Commonwealth agencies and Commonwealth companies,
  - iii. holders of Commonwealth statutory offices, and
- b. any person, even if they are not a public official, who does something that causes or could cause a public official to carry out their official duties in a dishonest or biased way.

122. Corrupt conduct is divided into four categories in the NACC Act. A person engages in corrupt conduct if:

- a. they are a public official and they breach public trust,
- b. they are a public official and they abuse their office as a public official,
- c. they are a public official or former public official and they misuse information they have gained in their capacity as public official, or
- d. they do something that could cause a public official to behave dishonestly or in a biased way when they carry out their official duties. This includes where that person is not a public official themselves.

More information on what constitutes corrupt conduct can be found on the [Attorney-General's website](#).

123. There are three ways that the NACC can commence an investigation into a corruption issue, including:

- a. agency heads of Commonwealth agencies, and public interest disclosure officers of those agencies, are obliged to refer potential instances of serious or systemic corruption to the NACC;
- b. any other person or entity, including DPS staff, staff of other agencies, or members of the public, can voluntarily refer a corruption issue, or provide information about a corruption issue, to the NACC (**voluntary referrals**); and
- c. the NACC has power to commence investigations on its own motion.

124. Serious or systemic corrupt conduct is not defined in the NACC Act. DPS recognises that the assessment of whether a potential instance of corrupt conduct meets the threshold of 'serious or

systemic' is a matter for the NACC, and the Secretary of DPS will make a referral where the Secretary suspects that serious or systemic corrupt conduct may have occurred (see 'Agency Head responsibilities' at paragraph 129 below). Otherwise, it remains open to staff of DPS to make a voluntary referral (see 'Referrals by DPS Employees' at paragraph 139 below).

125. The NACC can investigate corrupt conduct that occurred before 1 July 2023 (**historical conduct**). The NACC can still investigate corrupt conduct where the person involved is no longer a public official, provided that the conduct occurred when the person was a public official.
126. Referring a corruption issue to the NACC does not prevent DPS from taking lawful action, including:
- a. commencing an internal investigation,
  - b. employment actions including disciplinary actions,
  - c. conducting an assessment of the risk of reprisal or other harm to individuals or DPS.

This is subject to a stop action direction from the NACC Commissioner (see paragraphs 147 to 152).

## Functions of the NACC

127. The Commissioner of the NACC may:
- a. conduct a preliminary investigation to find out more information to assist in determining how to deal with the issue,
  - b. if the Commissioner is of the view that the issue could involve serious or systemic corrupt conduct, investigating the issue alone or with the relevant agency,
  - c. refer a corruption issue to another agency for investigation,
  - d. refer the issue to another agency for consideration if, for example, the matter could fall within the jurisdiction of the other agency (such as the Independent Parliamentary Expenses Authority, or the Australian Electoral Commission), or
  - e. take no action.
128. The Secretary (or delegate) will:
- a. comply with directions from the NACC with respect to investigations, including notices or directions to produce and summonses requiring any person to appear and give evidence at a hearing,
  - b. implement or take specific action on the recommendation of the NACC,
  - c. respond to requests for consultation where required by the NACC Act, and
  - d. respond to a follow up action request from the NACC.

## Agency Head responsibilities

129. The Secretary of DPS is the Agency Head for the purposes of the NACC Act. The Secretary has mandatory referral obligations under the NACC Act.
130. The Secretary must tell the NACC as soon as reasonably practicable if they become aware of a corruption issue within DPS and the following apply:
- a. the corruption issue concerns the conduct of a person who is, or was, a staff member of the agency while that person is, or was, a staff member of the agency, and
  - b. the agency head suspects the issue could involve serious or systemic corrupt conduct.

131. When the Secretary refers an issue under the mandatory referral obligation, they must:
  - a. explain why they suspect the corruption issue could involve conduct that is serious or systemic,
  - b. provide all the information and/or documents in their possession or control that relate to the issue, including:
    - i. the names of any public official who the agency head suspects have engaged in serious or systemic corrupt conduct,
    - ii. the names of any private individuals or entities involved,
    - iii. a description of the conduct,
    - iv. the dates and timeframes of when the alleged corrupt conduct occurred or may occur,
    - v. how and when the agency head became aware of the issue,
    - vi. any supporting documents or evidence, and
    - vii. any other relevant information.
132. The Secretary is not required to refer a corruption issue to the NACC if:
  - a. they believe on reasonable grounds that the NACC Commissioner is already aware of the corruption issue, or
  - b. the NACC Commissioner decides a referral is not required.
133. The Secretary (or delegate) is responsible for complying with directions from the NACC.
134. The Secretary may delegate their functions, powers and duties. These are set out in the HR Delegations.
135. Delegates must inform the Secretary when they exercise their delegated powers.

## PID Officers' responsibilities

136. Authorised Officers and Investigating Officers appointed under the PID Act (**PID Officers**) must consider whether a PID triggers their mandatory referral obligations.
137. Such circumstances include where:
  - a. PID Officers receive an internal disclosure in the course of performing their functions under the PID Act,
  - b. the internal disclosure raises a corruption issue within the meaning of the NACC Act,
  - c. the corruption issue concerns the conduct of a person who is, or was, a staff member of DPS while that person is, or was, a staff member of DPS, and
  - d. the PID Officer suspects the issue could involve serious or systemic corrupt conduct.
138. See *NACC Guidance for PID Officers* for further information.

## Referrals by DPS employees

139. Any person, including a member of DPS staff, can make a voluntary referral. For the purposes of this procedure, where a member of DPS staff makes a voluntary referral, it will be made in their capacity as an individual and not by DPS.
140. Voluntary referrals can be made anonymously, but the person will not be able to provide further information, be notified of the outcome of any investigation related to their referral, or be protected.



141. Minimum information is required to make a voluntary referral. Please refer to the NACC website for further information. Referrals can be made on the [NACC website](#).

## Obligations of all DPS employees

142. Employees may receive a NACC notice such as a:
- a. notice to produce documents, or
  - b. summons to attend a hearing.
143. It is an offence to not comply with such a notice. Employees are encouraged to reach out to the Legal and Conduct Team for assistance if you are permitted to do so by the NACC. This includes seeking advice on how to apply for legal or financial assistance or other support.
144. Employees of DPS who receive a notice from the NACC should carefully review the requirements in the notice, particularly those relating to secrecy and disclosure of information. NACC notices requiring production of documents or summoning a witness to a hearing may include a non-disclosure notation, which prohibits disclosure of information about that notice to other people, including other DPS staff. Generally, non-disclosure notations only permit the recipient to disclose information to others for the purpose of seeking legal advice or medical assistance in relation to the notice. The notice may otherwise permit disclosure to other people as specified in the notice.
145. The NACC also has broad search and investigation powers, including the power to enter premises occupied by DPS in order to search and carry out an investigation. These powers of entry, search and investigation do not require the NACC to obtain a search warrant. DPS staff should immediately notify the Legal and Conduct Team on becoming aware of entry or requested entry to DPS premises by the NACC.

## Protections for public officials

146. It is unlawful to take reprisal action against a person who has provided information or evidence about a corruption issue to the NACC. Reprisal action is something which causes detriment to, or threatens to cause detriment to, the person who provided information. Reprisal action against a person who has provided information or evidence about a corruption issue to the NACC is a criminal offence.
147. Where DPS is aware of the identity of an employee who has made a voluntary referral, DPS will:
- a. conduct a risk assessment as at **Attachment A** of these procedures, and
  - b. develop a risk mitigation strategy to ensure that the employee is protected from reprisal action, where necessary.
148. As under the PID Act, DPS will provide support and protection for those involved in NACC investigations, subject to certain exceptions set out in the NACC Act.

## Stop action directions

149. The NACC Commissioner may direct DPS to stop taking action in relation to a corruption issue after consulting with the Secretary.

150. Certain actions may be taken despite any stop action direction. These are set out at section 44 of the NACC Act.
151. These directions can only be made where it is required to ensure the effectiveness of any action that is taken or might be taken in relation to the corruption issue.
152. The Secretary (or delegate) will notify all relevant parties of the direction and its contents as soon as reasonably practicable to ensure compliance. Records of these notifications should be maintained.
153. If a stop action direction prevents allocation of all or part of a PID, the Commonwealth Ombudsman must also be notified using *Form 6 - Notification of a stop action direction*
154. For assistance on interpreting or complying with a stop action direction, please contact the Legal and Conduct Team or the Assurance and Governance Team as soon as possible.

## Making a referral

155. The *NACC Guidance for PID Officers* sets out how a referral can be made to the NACC.
156. Nothing in this procedure prevents employees from making a voluntary referral.

## Further information and resources

### Legislation and instruments

#### [Public Interest Disclosure Act 2013](#)

The PID Act sets out the rights, obligations and protections for the PID scheme.

#### [Public Interest Disclosure Standard 2013](#)

The PID Standard sets out procedures relating to disclosures, the conduct and reports of investigations, and the requirements for assisting the Commonwealth Ombudsman.

#### [Public Interest Disclosure Rules 2019](#)

The PID Rules are made by the Attorney-General.

#### [National Anti-Corruption Commission Act 2022](#)

The NACC Act provides for the establishment of the NACC and its powers, as well as protections for disclosers and procedural requirements for investigating a corruption issue under the NACC Act.

### DPS Contacts

#### Legal and Conduct Team

Director, Legal and Conduct

	<a href="mailto:dps.legal.services@aph.gov.au">dps.legal.services@aph.gov.au</a>
DPS PID mailbox	<a href="mailto:dps.pid@aph.gov.au">dps.pid@aph.gov.au</a>
Assurance and Governance Team	Director, Assurance and Governance <a href="mailto:DPSAuditandFraud@aph.gov.au">DPSAuditandFraud@aph.gov.au</a>
DPS Fraud Control mailbox	Fraud Control Officer <a href="mailto:dps-fraudcontrol@aph.gov.au">dps-fraudcontrol@aph.gov.au</a>
Work Health Safety Unit	Director, Work Health and Safety <a href="mailto:dps-whs@aph.gov.au">dps-whs@aph.gov.au</a>
Authorised Officers	The list of current Authorised Officers can be found on the <a href="#">DPS Intranet page</a> and on the <a href="#">Australian Parliament House website</a> .

## External resources

Commonwealth Ombudsman	<a href="#">Public interest disclosure (whistleblowing)</a> Email: <a href="mailto:pid@ombudsman.gov.au">pid@ombudsman.gov.au</a> Phone: 1300 362 072 Post: Ombudsman GPO Box 442 CANBERRA ACT 2601
National Anti-Corruption Commission	<a href="#">NACC website</a> <a href="#">Online Form</a> Phone: 1300 489 844 Post: National Anti-Corruption Commission GPO Box 605 CANBERRA ACT 2601

**Australian Federal Police**

A report of an allegation of criminal conduct can be made to the AFP's National Operations State Service Centre. More information on the [AFP's webpage](#).

Initial enquiries phone: 02 5127 0000

[Online form](#)

[Australian Government Investigations Standard](#)

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## Attachment A – Risk Assessment Guidance

This Guidance applies to risk assessment against reprisal within the meaning of the *Public Interest Disclosure Act 2013* and the *National Anti-Corruption Commission Act 2022*. Under both Acts, **reprisal is unlawful**.

### Preventing and protecting from detriment and reprisal

1. The Principal Officer must take reasonable steps to protect public officials who belong to their agency against reprisals in relation to PIDs that have been, may have been, are proposed to be, or could be made to the agency.
2. This protection obligation extends beyond the officials making disclosures.
3. The Principal Officer is also obliged to protect witnesses and officials who are the subject of allegations.

### What is detriment and reprisal?

#### Detriment

4. 'Detriment' includes any disadvantage to a person, including dismissal, injury in their employment, discrimination, or alteration of their position to their disadvantage. For example, it could include an omission or action (or threat of action) that results in:
  - (a) harm or a physical or psychological injury, including a stress-related injury
  - (b) intimidation, harassment or victimisation
  - (c) any damage to a person (including their property, reputation or business or financial position), or
  - (d) employment-related harm.

#### What is reprisal?

5. A person (first person) takes a reprisal against another person (second person) if the first person causes, by act or omission, any detriment to the second person because the first person believes or suspects that the second person, or anyone else, may have made or proposes to make a PID.
6. The protections under the PID Act for disclosers against acts or threats of reprisal are ongoing and do not expire or cease over time, even if the discloser chooses to make their identity known.

#### What is not a reprisal?

7. Administrative action that is reasonable to protect the discloser from detriment is not a reprisal. For example, where a person has made a disclosure in relation to practices in their immediate work area, it may be appropriate to transfer the person to another work area, with their consent, to ensure they are not harassed or victimised. It is important to ensure there is no perception that they are being punished for having made a disclosure.
8. **Reasonable management action for unsatisfactory performance or wrongdoing is not reprisal action.** A public interest disclosure does not prevent supervisors and managers from

addressing a discloser's unsatisfactory performance in the workplace. Making a disclosure does not exclude the discloser from reasonable management action for any unsatisfactory performance or wrongdoing on their part, and does not protect a person from the consequences of their own improper conduct if they are implicated in the wrongdoing they have reported.

## Risk assessment procedures

9. Given that the obligation to protect officials from detriment extends beyond disclosers, the person conducting the risk assessment (assessor) should assess the risk of others who may be at risk of reprisal and detriment because of a PID and consider the appropriate support for them. That would include witnesses, other staff who might be suspected to have made disclosures, and any official who is the subject of any allegation.
10. A risk assessment involves assessing the specific behaviours and circumstances that may result in reprisals. Once those risks have been identified, and their likelihood and consequences assessed, the assessor needs to consider appropriate controls to prevent or contain them. Inappropriate workplace behaviour, including harassment, intimidation, undermining of authority, ostracism, humiliation, questioning of motives and heavier scrutiny of work, can greatly increase stress and can result in serious injury to someone who has made a disclosure. The risk assessment can include not only the risk of direct reprisal against the discloser, but also the risk of related workplace conflict or difficulties.
11. An accurate and objective risk assessment allows DPS to put suitable strategies in place to control the risks and defend itself against any allegations of having failed to protect a discloser.

### When should a risk assessment be done?

12. An initial risk assessment should be completed as soon as possible after a disclosure is received, or after DPS is notified that a disclosure has been received (for example, if the Ombudsman, IGIS or investigative agency decides to investigate a disclosure made directly to them). When the disclosure is received the authorised officer must conduct a risk assessment that considers the risk of reprisal action being taken against the discloser. If the disclosure is first made to a manager or supervisor and the person wishes their identity to remain anonymous, the manager or supervisor should conduct a risk assessment. This gives DPS the best chance of recognising any risk of reprisals or associated workplace conflict.
13. The risk of reprisal may increase or change as the PID investigation progresses, and more people become aware of the disclosure. Even after the investigation has been completed, the risk of reprisal may persist, or even increase, particularly if action has been recommended to address the investigation findings. It is therefore necessary for the assessor to reassess the risk assessment when things change, and document the updated assessment and any action to be taken.

### Who should conduct a risk assessment?

14. All authorised officers are authorised by the Secretary to conduct risk assessments. The assessor should conduct the risk assessment based on a checklist of risk factors, and make records of their assessment. See paragraphs 20 to 27 of this risk assessment guide for a suggested risk assessment framework.

## Who should be consulted?

15. The best sources of information about potential risks are people who are involved in the particular workplace, especially the discloser and their supervisor or manager (provided that person is not involved in the alleged wrongdoing).
16. Asking the discloser why he or she is reporting wrongdoing and who he or she might fear a reprisal from can be helpful in:
  - (a) assessing likely perceptions amongst staff as to why the discloser came forward and how colleagues may respond if the discloser's identity becomes known
  - (b) managing the discloser's expectations about how other staff might perceive his or her disclosure
  - (c) reducing the potential for future conflict between the discloser and management about whether effective support was provided, and
  - (d) identifying the motives of staff allegedly involved in reprisals if a later investigation becomes necessary.
17. The supervisor or manager may also be a valuable source of information about these matters.

## Risk assessments for anonymous disclosers

18. If an anonymous disclosure is made, it may be difficult for DPS to protect the discloser and other staff from reprisal or workplace conflict. However, a risk assessment should still be conducted where an anonymous disclosure is received, to assess whether the discloser's identity can be readily ascertained or may become apparent during an investigation.
19. Staff may speculate, correctly or otherwise, about who made the disclosure, and that person may be at risk of reprisal. If the discloser's identity becomes known, the risk of reprisal may escalate and require prevention or mitigation strategies to be implemented, such as raising the issue with staff, reminding them of the agency's commitment to the PID process and reminding them that reprisal is a criminal offence.

## Risk assessment framework

20. [DPS's risk assessment framework](#) entails the following four steps:
  - (a) identifying – are there reprisals or related workplace conflict problems in the workplace, or do they have the potential to be problems?
  - (b) assessing – what is the likelihood and consequence of reprisals or related workplace conflict?
  - (c) controlling – what strategies should be put in place to prevent or contain reprisals or related workplace conflict?
  - (d) monitoring and reviewing – have the strategies been implemented and were they effective?

## Identifying risks

21. Table 1 below includes some indicators of a higher risk of reprisal or workplace conflict.

22. The person conducting the risk assessment should clearly define the individual factors affecting the particular discloser/public official and the specific workplace when assessing if there are factors that make reprisals or related workplace conflict likely. Table 2 is a risk matrix, which lists the types of detriment that might occur in that agency's work environment.

### Assessing risks

23. The assessor should consider:
- (e) the likelihood of reprisals or related workplace conflict occurring – this may be high if:
    - there have already been threats
    - there is already conflict in the workplace
    - a combination of circumstances and risk factors indicate reprisals or related workplace conflict are likely.
  - (f) the potential consequences if the risks eventuate, both to the discloser's immediate and long term wellbeing and the cost to the agency.

### Controlling risks

24. The assessor should plan and implement strategies to mitigate the risks likely to expose a discloser to reprisals or related workplace conflict. The discloser should be consulted about possible strategies.
25. If the risk is assessed as sufficiently high, the assessor should prepare a plan to prevent and contain reprisals against the discloser or related workplace conflict. If it has been determined that a discloser will require support, DPS should develop a strategy for providing an appropriate level of support, such as appointing a support person.
26. If the discloser's identity is likely to be known or become known in their workplace or wider community, the assessor should adopt a proactive approach, for example, by raising the matter with staff, reiterating DPS' commitment to encouraging and where appropriate investigating PIDs, and reminding staff that taking or threatening a reprisal is a criminal offence.

### Monitoring and reviewing risks

27. Problems in the workplace can arise at any point after a disclosure has been made, including during an investigation, and afterwards, when action is being taken to address any findings. The risk assessment should be monitored and reviewed as necessary, including by checking with the discloser to see if reprisals have been made or threatened. Records should be made whenever the risk assessment is reviewed or revised.



**Table 1 Indicators of a higher risk of reprisal or workplace conflict**

<p><b>Threats or past experience</b></p>	<ul style="list-style-type: none"> <li>• Has a specific threat against the discloser been made?</li> <li>• Is there a history of conflict between the discloser and the subjects of the disclosure, management, supervisors or colleagues?</li> <li>• Is there a history of reprisals or other conflict in the workplace?</li> <li>• Is it likely that the disclosure will exacerbate this?</li> </ul>
<p><b>Confidentiality unlikely to be maintained</b></p>	<ul style="list-style-type: none"> <li>• Who knows that the disclosure has been made or was going to be made?</li> <li>• Has the discloser already raised the substance of the disclosure or revealed their identity in the workplace?</li> <li>• Who in the workplace knows the discloser’s identity?</li> <li>• Is the discloser’s immediate work unit small?</li> <li>• Are there circumstances, such as the discloser’s stress level, that will make it difficult for them to not discuss the matter with people around the workplace?</li> <li>• Will the discloser become identified or suspected when the existence or substance of the disclosure is made known or investigated?</li> <li>• Can the disclosure be investigated while maintaining confidentiality?</li> </ul>
<p><b>Significant reported Wrongdoing</b></p>	<ul style="list-style-type: none"> <li>• Are there allegations about individuals in the disclosure?</li> <li>• Who are their close professional and social associates?</li> <li>• Is there more than one wrongdoer involved in the matter?</li> <li>• Is the reported wrongdoing serious?</li> <li>• Is or was the reported wrongdoing occurring frequently?</li> <li>• Is the disclosure particularly sensitive or embarrassing for any subjects of the disclosure, senior management, DPS or government?</li> <li>• Is the team more susceptible to media attention or political sensitivity?</li> <li>• Do these people have the motivation to take reprisals – for example, because they have a lot to lose?</li> <li>• Do these people have the opportunity to take reprisals – for example, because they have power over the discloser?</li> </ul>
<p><b>Vulnerable discloser</b></p>	<ul style="list-style-type: none"> <li>• Is or was the reported wrongdoing directed at the discloser?</li> <li>• Are there multiple subjects of the disclosure?</li> <li>• Is the disclosure about a more senior officer? Is there a power imbalance between the parties?</li> <li>• Is the discloser employed part-time or on a casual basis?</li> <li>• Is the discloser isolated – for example, geographically or because of shift work?</li> <li>• Are the allegations unlikely to be substantiated – for example, because there is a lack of evidence?</li> <li>• Is the disclosure being investigated outside DPS?</li> </ul>

**Table 2 Risk assessment matrix**

	<b>Identified risk event</b>	<b>Likelihood High/Medium/Low</b>	<b>Consequence Minor/Moderate/Serious</b>	<b>Action to mitigate Yes/No (if yes, describe)</b>
1	Assault			
2	Verbal assault			
3	Stalking			
4	Cyber-bullying			
5	Silent treatment in workplace			
6	Interference to personal items in workplace			
7	Excluded from legitimate access to information			
8	Excluded from promotion			
9	Excluded from workplace sanctioned social events			
10	Unjustified change to duties/hours of work			
11	Dismissal			
12	Unjustified refusal of leave			
13	Onerous/unjustified audit of access to ICT/ time sheets			
14	Onerous/unjustified audit of expenditure of Commonwealth money / Cab charge use			
15	Other (describe)			

## Attachment B - Definitions in the PID Act

The most common terms are set out in the table below:

Term	Definition
Authorised Officer	The Secretary, or a departmental officer appointed in writing by the Principal Officer as an Authorised Officer for the purposes of the PID Act.
authorised internal recipient	Principal Officer, Supervisor, or Authorised Officer of DPS as defined in section 34 of the PID Act.
delegate	the delegates of the Principal Officer are set out in the HR Delegations.
disclosable conduct	has the same meaning as set out in the PID Act.

disclosable conduct is conduct (including omitting to do an act) by an agency or by a public official in connection with his or her position as a public official that:

- contravenes a law of the Commonwealth, a State or a Territory
- occurs in a foreign country and contravenes a law in force in that country that applies to the agency
- perverts, or attempts to pervert, the course of justice or involves corruption of any other kind;
- constitutes maladministration, including conduct that:
  - is based on improper motives
  - is unreasonable, unjust or oppressive, or
  - is negligent
- is an abuse of public trust
- is fabrication, falsification, or deception in relation to scientific research, or misconduct in relation to scientific work
- results in the wastage of public money or public property or of the money or property of an authority covered by the PID Act
- unreasonably results in a danger to the health and safety of a person or unreasonably results in or increases the risk of a danger to the health and safety of a person
- results in a danger to the environment or results in or increases the risk of a danger to the environment
- is prescribed by the PID Rules, or
- is engaged in by a public official that:
  - involves abuse of the public official's position, or
  - would, if proven, provide reasonable grounds for termination.

Personal work-related conduct is not disclosable conduct unless it could constitute reprisal or is otherwise significant (see paragraph 16).

It does not matter when the disclosable conduct occurred.

It does not matter whether the public official who carried out the alleged conduct has ceased to be a public official since the time the conduct is alleged to have occurred, but it is necessary that they carried out the conduct in connection with their position as a public official.

discloser	an individual who was or is currently a public official and who discloses information.
disclosure	information disclosed by a discloser.
Investigating Officer	delegate of the Principal Officer who has the power to investigate a disclosure.
personal work-related conduct	where one official engages in conduct that relates to another official's engagement, appointment or the exercise of their functions or powers, and the conduct has personal implications for that second official. This includes, but is not limited to, bullying and harassment, conduct relating to the terms and conditions of their engagement and disciplinary action (including Code of Conduct investigations).
PID or Public Interest Disclosure	means a disclosure made by a discloser to an authorised recipient with information that the discloser believes on reasonable grounds tends to show one or more instances of disclosable conduct.
Principal Officer	the Principal Officer of DPS is the Secretary of DPS.
public official	is defined under the PID Act.  The definition includes: <ul style="list-style-type: none"> <li>• a Commonwealth public servant</li> <li>• member of the Defence Force</li> <li>• appointee of the Australian Federal Police</li> </ul>