



# Public Interest Disclosure Policy and Procedure

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## Public Interest Disclosure Policy and Procedure

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## Table of Contents

<b>1. Introduction .....</b>	<b>4</b>
<b>2. Policy.....</b>	<b>4</b>
2.1. Responsibilities.....	4
2.2. Confidentiality .....	5
2.3. Protection and Rights for Informants.....	5
<b>3. Procedure.....</b>	<b>6</b>
3.1. Disclosure Process.....	6
3.2. Receipt of Disclosure.....	6
3.3. Preliminary Assessment.....	6
3.4. Notification of Preliminary Assessment.....	7
3.5. Investigation Process .....	8
3.6. Notification of Further Action .....	9
3.7. Final Report.....	9
<b>Appendix A – Definitions</b>	<b>11</b>
<b>Appendix B – Relevant Authority</b>	<b>14</b>
<b>Appendix C – Notification Process Flowchart</b>	<b>15</b>

## 1. Introduction

The Centennial Park Cemetery Authority (the Authority) is committed to upholding the principles of transparency and accountability in its administrative and management practices and encourages the making of disclosures that reveal public interest information.

The purpose of this Policy and Procedure is to ensure the Authority meets its obligations and responsibilities under the PID Act, by encouraging and facilitating appropriate Disclosures of Public Interest Information to a Relevant Authority for the purposes of the PID Act.

## 2. Policy

This Policy applies to appropriate Disclosures of Public Interest Information that are made in accordance with the PID Act by public officers, including Board Members, Officers and Employees of the Authority, and by members of the public.

This Policy is also designed to complement the existing communication channels within the Authority, and operate in conjunction with other existing policies, including the Code of Conduct for Authority Employees and the Board of Management Code of Conduct.

The Authority is committed to:

- (a) referring, as necessary, appropriate Disclosures to another Relevant Authority;
- (b) reporting of all Disclosures of Public Interest Information, whether pertaining to Environmental and Health Information, or Public Interest Information, to the OPI in accordance with the Guidelines published by the Commissioner and the PID Act;
- (c) where necessary, and authorised, facilitating the investigation of appropriate Disclosures of Public Interest Information in a manner that promotes the fair and objective treatment of those involved; and
- (d) rectifying any substantiated wrongdoing to the extent practicable in all the circumstances.

### 2.1. Responsibilities

The Principal Officer is responsible for ensuring that one or more appropriately qualified Employees of the Authority are designated as Responsible Officers for the purposes of the PID Act, who are required to complete any training as required by the Commissioner under the *Public Interest Disclosure Regulations 2019* (the Regulations).

A person designated as a Responsible Officer for the Authority will receive appropriate Disclosures relating to the Authority and ensure compliance with the PID Act and this Policy and Procedure and will make appropriate recommendations to the Principal Officer of the Authority.

The Responsible Officers are also required to provide advice to the Principal Officer in relation to the administration of the PID Act.

All Employees and Officers of the Authority are responsible for ensuring compliance with this Policy and Procedure when dealing with any Disclosure; and immediately

referring any Disclosure of Public Interest Information they may receive to the Responsible Officer.

## 2.2. Confidentiality

The identity of an Informant will be maintained as confidential, subject to the requirements under section 8 of the PID Act and the Guidelines.

The Authority understands that an Informant may wish to remain anonymous, and is committed to investigating Disclosures, whether made anonymously, or where the Informant chooses to disclose their identity.

In the event that an anonymous Disclosure is made, the Informant must ensure the Disclosure is sufficiently supported by the provision of the necessary details and evidence to enable the matter to be properly investigated.

Where the identity of the Informant is known, confidentiality of their identity will be maintained unless:

- (a) the Informant consents to their identity being disclosed; or
- (b) disclosure is required so that the matter may be properly investigated, or
- (c) as is necessary to prevent or minimise the risk of serious physical injury or death;  
or
- (d) in the instance in which the OPI has issued a notice that disclosure is required.

The PID Act does not expressly require any other information relating to a Disclosure (including the nature of the allegations) to be maintained as confidential, but in considering whether to further disclose other information provided as part of an appropriate Disclosure, the recipient will be mindful of the prohibition against Victimisation under the PID Act.

The Responsible Officer must ensure accurate records of an appropriate Disclosure, along with any corresponding information, are securely and confidentially maintained, including notes of all discussions, phone calls, and interviews. All such information will be recorded in a register which is to remain confidential and be securely stored.

The security and confidentiality obligations outlined in this part also apply to any Independent Assessor appointed by the Authority.

## 2.3. Protection and Rights for Informants

The Authority is committed to protecting and respecting the rights of Informants under the PID Act.

An Informant who makes an appropriate Disclosure of Public Interest Information under the PID Act is entitled to:

- (a) immunity from criminal or civil liability;
- (b) a prohibition on disclosure of his/her identity, other than in limited specific circumstances, as set out under section 8 of the PID Act and Guideline 3 of the Guidelines;

- (c) protection against Victimisation; and
- (d) a prohibition against hindering, obstructing or preventing an Informant from making an appropriate Disclosure.

Any Authority Employee who knowingly makes a disclosure that is false or misleading of a material nature; or commits an act of Victimisation in relation to an Informant; or acts otherwise than in accordance with this Policy and Procedure; may face disciplinary action, or in certain circumstances, may be prosecuted.

### **3. Procedure**

#### **3.1. Disclosure Process**

An appropriate Disclosure of Public Interest Information is to be made to the Responsible Officer. An Informant may alternatively choose to disclose Public Interest Information directly to a Relevant Authority, including to a Relevant Authority external to the Authority. The name of the Responsible Officer is maintained on the WHS homepage on the intranet.

An appropriate Disclosure made to the Responsible Officer may be made in person, by telephone or in writing. For appropriate Disclosures from the public, contact information is available on the Authority website. Where an appropriate Disclosure is made in person or by telephone, the Responsible Officer must take notes of the conversation and, where possible, ask the Informant to verify and sign the notes.

Any Disclosure relating to a person appointed as a Responsible Officer should be made to the other person appointed as a Responsible Officer (if any), or failing this, to the Principal Officer or another Relevant Authority external to the Authority (such as the OPI or the Ombudsman).

Any Disclosure regarding the Principal Officer should be referred to the Chair of the Board, any Disclosure regarding Board Members should be referred to the Principal Officer or a Responsible Officer.

#### **3.2. Receipt of Disclosure**

Upon the receipt of an appropriate disclosure, the Responsible Officer (or other Relevant Authority within the Authority) will determine the nature of the Public Interest Information contained within the Disclosure and either refer the disclosure to another Relevant Authority (where it is appropriate to do so), or proceed with an investigation process. The Responsible Officer will confirm receipt of the Disclosure with the Informant within five (5) business days (where the identity of the Informant is known).

#### **3.3. Preliminary Assessment**

Upon receipt of a Disclosure, the Responsible Officer will undertake a Preliminary Assessment to determine:

- (a) if the content of the Disclosure suggests there is an imminent risk of serious physical injury or death to any person or the public generally, and if so, will deal with the Disclosure in accordance with the Guidelines;
- (b) if the subject of the Disclosure involves corruption, misconduct or maladministration in public administration, in which case the Responsible Officer

will give consideration to any reporting obligations that may exist under the ICAC Act or the Ombudsman Act;

- (c) if the information disclosed justifies further action;
- (d) when determining whether the information disclosed justifies further action, the Responsible Officer will determine whether the Disclosure:
  - relates to information that does not justify the taking of further action, which may include an assessment as to whether it is frivolous, vexatious or trivial (in which case, no further action will be taken);
  - if the Disclosure involves a matter which 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 (in which case, no further action will be taken in relation to the Disclosure);
  - if the Disclosure requires referral to another Relevant Authority; or
  - warrants referral to an Independent Assessor for a formal investigation and report.

The Responsible Officer must report the outcome of the Preliminary Assessment to the Principal Officer (unless the Disclosure relates to the Principal Officer, in which case, the report is to be made to the Chair of the Board).

Any report prepared in accordance with this Part will not disclose particulars that will or are likely to lead to the identification of the Informant, unless the circumstances in clause 2.2 apply.

### 3.4. Notification of Preliminary Assessment

If the identity of the Informant is known to the Responsible Officer, the Responsible Officer will notify the Informant of the outcome of the determination in writing as soon as is reasonably practicable after the Preliminary Assessment has been made, but within 30 days of receipt of the Disclosure.

In doing so, the Responsible Officer must advise the Informant of any action that has been, or will be, taken in relation to the Disclosure, or if no action is being taken in relation to the Disclosure, the reason/s why.

If the Responsible Officer fails to notify the Informant in accordance with the clause above, the Informant may be entitled to protection in relation to any subsequent Disclosure of that information to a journalist or Member of Parliament in accordance with the PID Act.

If the Informant is dissatisfied with the Responsible Officer's determination, it is open to them to report the Disclosure to another Relevant Authority, including a Relevant Authority external to the Authority.

As soon as reasonably practicable following the Preliminary Assessment and notification to the Informant, the Responsible Officer must use the online notification form at [www.publicintegrity.sa.gov.au/public-interest-disclosure](http://www.publicintegrity.sa.gov.au/public-interest-disclosure) to notify OPI of the Disclosure (Initial Notification), and in doing so, must ensure that the details required by Guideline 1.4 of the Guidelines are included.

The Responsible Officer will retain the unique reference number issued by the OPI upon making the Initial Notification and will ensure that reference number is provided to any other person or authority to whom the Disclosure is referred.

### 3.5. Investigation Process

Following a Preliminary Assessment, where it is determined that a Disclosure warrants referral to an Independent Assessor for a formal investigation, the Responsible Officer will appoint an Independent Assessor to investigate the Disclosure.

The Principal Officer must approve any engagement of an Independent Assessor and associated costs prior to their engagement, unless the Disclosure relates to the Principal Officer, in which case the authority rests with the Chair of Board of Management. The Independent Assessor will be appointed on a case-by-case basis depending on the nature of the Disclosure.

The objectives of the investigation process are:

- (a) to investigate the substance of the Disclosure and to determine whether there is evidence in support of the matters raised or, alternatively, to refute the report made;
- (b) to collate information relating to the allegation as quickly as possible. This may involve taking steps to protect or preserve documents, materials and equipment;
- (c) to consider the information collected and to draw conclusions objectively and impartially;
- (d) to observe procedural fairness in the treatment of any person who is subject of the Disclosure; and
- (e) to make recommendations arising from the conclusions drawn concerning remedial or other appropriate action.

The Independent Assessor will observe the principles of natural justice throughout the investigation process. The investigation will be conducted in an efficient manner and will involve a thorough and balanced assessment of the available evidence and any other factors deemed relevant to making a fair and reasonable judgement about the matter.

Upon receipt of a Disclosure referral under this part, the Independent Assessor will bring the fact of the Disclosure to the attention of the person who is the subject of it in writing as soon as practicable, and provide them with an opportunity to respond to the Disclosure within a reasonable timeframe (either in writing or in person), the person who is the subject of a Disclosure may be accompanied by any person providing support to him/her as he/she considers fit.

The full details of any allegations contained in the Disclosure need not be brought to the person's attention if the Independent Assessor considers that doing so will compromise the investigation.

The investigation will be undertaken in confidence. Provided the identity of the Informant is known to the Responsible Officer, the Independent Assessor will keep the identity of the Informant confidential unless the circumstances in clause 2.2 apply.

Upon finalising an investigation, the Independent Assessor must prepare an investigation report for the Responsible Officer that will contain the details of the



allegations(s), an account of all relevant information and evidence, the outcomes reached along with the basis for them, including any recommendations for action. The report will not disclose particulars that will or are likely to lead to the identification of the Informant, unless the circumstances in clause 2.2 apply.

All supporting evidence is to be provided to the Responsible Officer. The Responsible Officer will take whatever action is, in his/her discretion, considered appropriate in the circumstances having regard to the matters identified in the report.

The Authority will not be responsible for investigating Disclosures of Public Administration Information (being information that raises a potential issue of corruption, misconduct or maladministration in public administration) in the absence of a direction or referral to do so from the Director of the OPI or the Ombudsman.

### 3.6. Notification of Further Action

Where action is taken by the Authority on a Disclosure, If the identity of the Informant is known to the Responsible Officer, the Responsible Officer will notify the Informant of the outcome of the determination in writing as soon as is reasonably practicable, after any further action has been taken, and certainly within either:

- (a) 90 days of receipt of the Disclosure; or
- (b) a period as may be specified by written notice given by the Responsible Officer within that 90 day period.

In doing so the Responsible Officer must advise the Informant of:

- (a) any action that has been, or will be, taken in relation to the Disclosure, if known; or
- (b) if no action is being taken in relation to the Disclosure, the reason/s why.

If the Responsible Officer fails to notify the Informant in line with this, the Informant may be entitled to protection in relation to any subsequent Disclosure of that information to a journalist or Member of Parliament in accordance with the PID Act.

If the Informant is dissatisfied with the Responsible Officer's determination, or the action taken, it is open to him/her to report the Disclosure to another Relevant Authority, external to the Authority.

As soon as reasonably practicable following the Preliminary Assessment and notification to the Informant, the Responsible Officer must use the dedicated online notification form at [www.publicintegrity.sa.gov.au/public-interest-disclosure](http://www.publicintegrity.sa.gov.au/public-interest-disclosure) to notify OPI of the action taken in relation to the Disclosure (Further Notification) and, in doing so, must ensure that the details required by Guideline 2 of the Guidelines are included.

### 3.7. Final Report

Upon finalising any action required in relation to a Disclosure, the Responsible Officer must prepare a report that will contain the following details:

- (a) the subject of the Disclosure;
- (b) an account of the steps taken by the Responsible Officer in accordance with this Procedure, including, where appropriate, enclosing a copy of any Independent Assessor's report;

- (c) conclusions reached as a result of the steps taken in response to the Disclosure and the basis for them; and
- (d) any recommendations arising from the conclusions, including any remedial action which it has been recommended should be taken by the Authority.

Any report prepared in accordance with this Part will not disclose particulars that will, or is likely to lead, to the identification of the Informant, unless the circumstances in clause 2.2 apply.

The Responsible Officer's Report must be provided to the Principal Officer to action as he/she considers appropriate.

**Appendix A – Definitions**

<b>Commissioner:</b>	means the person holding or acting in the office of the Independent Commissioner Against Corruption.
<b>Corruption in public administration:</b>	<p>is defined in section 5(1) of the ICAC Act and means:</p> <ul style="list-style-type: none"> <li>(a) bribery or corruption of public officers;</li> <li>(b) threats or reprisals against public officers;</li> <li>(c) abuse of public office;</li> <li>(d) demanding or requiring benefit on basis of public office;</li> <li>(e) offences relating to appointment to public office; or</li> <li>(f) an offence against the <i>Public Sector (Honesty and Accountability) Act 1995</i> or the <i>Public Corporations Act 1993</i>, or an attempt to commit such an offence; or</li> <li>(g) an offence against the <i>Lobbyists Act 2015</i>, or an attempt to commit such an offence; or</li> <li>(h) any of the following in relation to an offence referred to in a preceding paragraph: <ul style="list-style-type: none"> <li>• aiding, abetting, counselling or procuring the commission of the offence;</li> <li>• inducing, whether by threats or promises or otherwise, the commission of the offence;</li> <li>• being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;</li> <li>• conspiring with others to effect the commission of the offence.</li> </ul> </li> </ul>
<b>Detriment:</b>	<p>includes:</p> <ul style="list-style-type: none"> <li>(a) loss or damage (including damage to reputation);</li> <li>(b) injury, harm, damage (including psychological harm); or</li> <li>(c) intimidation or harassment; or</li> <li>(d) discrimination, disadvantage or adverse treatment in relation to a person's employment; or</li> <li>(e) threats of reprisal.</li> </ul>
<b>Disclosure:</b>	<p>means an appropriate Disclosure of Public Interest Information made by an Informant to a Relevant Authority:</p> <ul style="list-style-type: none"> <li>• an appropriate <b>Disclosure of Environmental and Health Information</b> is made if a person, believes on reasonable grounds that the information is true; or is not in a position to form a belief on reasonable grounds about the truth of the information, but believes on reasonable grounds that the information may be true and is of sufficient significance to justify its disclosure so that its truth may be investigated; and the Disclosure is made to a Relevant Authority;</li> </ul>

## Public Interest Disclosure Policy and Procedure

	<ul style="list-style-type: none"> <li>an <b>appropriate Disclosure of Public Administration Information</b> is made if a public officer reasonably suspects that the information raises a potential issue of corruption, misconduct or maladministration in public administration; and the disclosure is made to a Relevant Authority.</li> </ul>
<b>Employee:</b>	refers to all Authority Employees and includes trainees, work experience students, volunteers, and contractors whether they are working in a full-time, part-time or casual capacity.
<b>Environment and Health Information:</b>	refers to information that raises 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.
<b>Fraud:</b>	includes an intentional dishonest act or omission with the purpose of deceiving.
<b>Guidelines:</b>	Guidelines published by the Commissioner and the PID Act.
<b>ICAC ACT:</b>	<i>Independent Commissioner Against Corruption Act 2012.</i>
<b>Informant:</b>	refers to a person who makes an appropriate disclosure of public interest information to a Relevant Authority.
<b>Maladministration in public administration:</b>	<p>is defined in section 4 of the Ombudsman Act and means:</p> <ul style="list-style-type: none"> <li>(a) conduct of a public officer, or a practice, policy or procedure of a public authority, that results in an irregular and unauthorised use of public money or substantial mismanagement of public resources; or</li> <li>(b) conduct of a public officer involving substantial mismanagement in or in relation to the performance of official functions; and</li> <li>(c) includes conduct resulting from impropriety, incompetence or negligence; and</li> <li>(d) is to be assessed having regard to relevant statutory provisions and administrative instructions and directions.</li> </ul>
<b>Misconduct in public administration:</b>	is defined in section 4 of the Ombudsman Act and means an intentional and serious contravention of a code of conduct by a public officer while acting in their capacity as a public officer that constitutes a ground for disciplinary action against the officer.
<b>Office for Public Integrity (OPI):</b>	<p>is the Office established under the ICAC Act that has the function to:</p> <ul style="list-style-type: none"> <li>(a) receive and assess complaints about public administration from members of the public;</li> <li>(b) receive and assess reports about corruption, misconduct and maladministration in public administration from inquiry agencies, public authorities and public officers;</li> <li>(c) to refer complaints and reports to inquiry agencies, public authorities and public officers or to determine to take no action in accordance with this section 17 of the ICAC Act.</li> </ul>

<b>Ombudsman:</b>	means the person holding or acting in the office of the Ombudsman under the Ombudsman Act who has functions including to receive, assess and investigate with complaints made or referred to the Ombudsman about public administration, and to receive, assess and investigate reports about misconduct and maladministration in public administration, made or referred to the Ombudsman.
<b>Ombudsman Act:</b>	<i>Ombudsman Act 1972.</i>
<b>PID Act:</b>	<i>Public Interest Disclosure Act 2018.</i>
<b>Public administration:</b>	is defined at section 4 of the ICAC Act and, without limiting the acts that may comprise public administration, an administrative act within the meaning of the Ombudsman Act will be taken to be carried out in the course of public administration.
<b>Public Interest Information:</b>	means Environmental or Health Information, or Public Administration Information.
<b>Principal Officer:</b>	for the purposes of the PID Act means the Chief Executive Officer of the Authority.
<b>Public Officer:</b>	has the meaning given by section 4 and Schedule 1 of the ICAC Act, and includes a Board Member, Employee or Officer of the Authority.
<b>Relevant Authority:</b>	means the person or entity that receives an appropriate Disclosure of Public Interest Information in accordance with the PID Act, as set out in Appendix A.
<b>Responsible Officer:</b>	means a person who has completed any training courses approved by the Commissioner for the purposes of the Regulations and who has been designated by the Principal Officer as a Responsible Officer under section 12 of the PID Act.
<b>Victimisation:</b>	occurs when a person causes detriment to another on the ground, or substantially on the ground, that the other person (or a third person) has made or intends to make an appropriate Disclosure of Public Interest Information.

**Appendix B – Relevant Authority**

<b>Where the information relates to...</b>	<b>the relevant authority is...</b>
a public officer	The public officer's Manager or Supervisor, or to the Responsible Officer for the Authority.
a public sector agency or public sector employee	either: <ul style="list-style-type: none"> <li>the Commissioner for Public Sector Employment; or</li> <li>the Responsible Officer for the relevant public sector agency</li> </ul>
an agency to which the <i>Ombudsman Act 1972</i> applies	the Ombudsman
a location within the area of a particular council established under the <i>Local Government Act 1999</i>	a Council Member, Officer or Employee of that Council
a risk to the environment	the Environment Protection Authority
an irregular and unauthorised use of public money or substantial mismanagement of public resources	the Auditor-General
the commission, or suspected commission, of any offence	a member of SAPOL
a judicial officer	the Judicial Conduct Commissioner
a Member of Parliament	the Presiding Officer of the House of Parliament to which the Member belongs
Any Disclosure of Public Interest Information - being: <ul style="list-style-type: none"> <li>environmental and health information (information that raises 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); or</li> <li>public administration information (information that raises a potential issue of corruption, misconduct or maladministration in public administration)</li> </ul>	<ul style="list-style-type: none"> <li>the OPI;</li> <li>a Minister of the Crown; or</li> <li>any other prescribed person or person of a prescribed class.</li> </ul>

**Appendix C – Notification Process Flowchart**

