

Receiving and dealing with an appropriate disclosure of public interest information

In order to determine whether someone has made an *appropriate disclosure of public interest information* to you, you need to assess the information given to you and consider whether you are a *relevant authority*.

Advice can be provided to you by a relevant [Responsible Officer¹](#) and also by the [Office for Public Integrity \(OPI\)](#).

When seeking advice you must not disclose the identity of the informant, nor disclose any information that could reveal the identity of the informant, unless the informant consents.

There are two types of *public interest information*. The first is *environmental and health information*. The second is *public administration information*. Whether you are a *relevant authority* will depend on the information being received.

Once you have determined that you are a *relevant authority* who has received an *appropriate disclosure of public interest information* you must take certain steps to comply with the PID Act and the ICAC Guidelines.

To ensure you are complying with the PID Act it is recommended that you seek the advice and assistance of a relevant [Responsible Officer](#).

When seeking advice you must not disclose the identity of the informant, nor disclose any information that could reveal the identity of the informant, unless the informant consents.

When receiving the disclosure of information please speak to the informant about how they wish to be contacted by you. It is important that, if the informant has provided their identity, they be kept informed as set out below, but that it is done in a way that maintains strict confidentiality. Decide together how you will keep them informed.

It is better they be kept informed in writing, although this is not a requirement.

Receipt, assessment and notification of appropriate disclosures of public interest information

A person to whom an *appropriate disclosure of public interest information* is made, must assess the information as soon as practicable after the disclosure is made (see section 7(1) of the PID Act).

If you are person to whom an *appropriate disclosure of public interest information* is made, then the first step is to seek the advice of a relevant *Responsible Officer*.

Step 1 – Assessment

Assess for Imminent Risk

Immediately assess the disclosure to ascertain whether the ‘imminent risk’ provision of ICAC Guideline One applies (see below).

¹ Being a Responsible Officer for the agency (Department for Health and Wellbeing, the applicable Local Health Network or SA Ambulance Service) to which the disclosure of information relates

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

1. Does the information disclosed raise a potential issue of:
 - a. Corruption in public administration
 - b. Misconduct in public administration
 - c. Maladministration in public administration?
2. Does the information disclosed raised a potential issue of a substantial risk to the environment or to the health or safety of the public generally or a significant section of the public?

If the disclosure assessed has the character of public interest information consider whether an obligation arises to report that matter to the OPI, applying the criteria in the ICAC Act, and in accordance with ICAC Guideline One:

If the recipient of the disclosure forms a reasonable suspicion that the matter(s) the subject of the disclosure involve(s) corruption in public administration, or serious or systemic misconduct or maladministration in public administration, the recipient of the disclosure must comply with his or her reporting obligations under the ICAC Act.

Assess for no further action

If the obligation to report under the ICAC Act does not arise, assess whether this is information for which no further action needs to be taken, seeking the advice of a relevant *Responsible Officer*.

No action need be taken in relation to an *appropriate disclosure of public interest information* if:

- > the information disclosed does not justify the taking of further action; or
- > the information disclosed relates to a matter that has already been investigated or acted upon by a *relevant authority* and there is no reason to re-examine the matter or there is other good reason why no action should be taken in respect of the matter (see section 7(2)).

The Risk and Assurance Services team can assist you with determining whether a matter had previously been investigated. Please contact the Group Director Risk and Assurance Services on [REDACTED] for assistance.

No Action Required: Notification of Informant

If no action is being taken, as the person to whom the *appropriate disclosure of public interest information* was made, you still need to comply with 7(1)(b) of the PID Act.

A relevant *Responsible Officer* can assist you but you must take reasonable steps to notify the informant (if the informant's identity is known):

- > that an assessment of the information has been made;
- > that no action is being taken in relation to the information; and
- > the reasons why no action is being taken in relation to the information.

Make this notification within 30 days of receiving the *appropriate disclosure of public interest information*.

If you take longer than 30 days and if the informant believes on reasonable grounds that the information is true, the informant is entitled to disclose the *public interest information* to a journalist or a member of Parliament other than a Minister of the Crown, and the disclosure will be considered to be an *appropriate disclosure of public interest information*.

Assess for further action required

If the information does not give rise to a potential issue of corruption, but warrants further action, you need to determine who best should take action, having regard to the following criteria:

1. If investigation of the information is warranted, who has the skills, resources and powers to investigate the matter?
2. If the information is substantiated following an investigation, what action would be appropriate?

Having identified the appropriate person or authority to take action in relation to the matter raised by the information, the information should be further assessed to determine what information should be communicated to that person or authority to enable the information to be properly addressed.

Action Required: Provide Information to OPI

If action needs to be taken, unless good reasons exist for not doing so², please refer the *appropriate disclosure of public interest information* to a relevant *Responsible Officer*.

When referring the *appropriate disclosure of public interest information* to a relevant *Responsible Officer*, you can only disclose the identity of the informant if you have:

- > assessed the disclosure; and
- > based on that assessment, you are referring the *appropriate disclosure of public interest information* to the *Responsible Officer* for investigation; and
- > based on that assessment, the matter cannot be fully investigated in the absence of the identity of the informant being disclosed.

Even if you refer the *appropriate disclosure of public interest information* to a relevant *Responsible Officer* then you must still:

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

The relevant *Responsible Officer* can assist you.

The first step is to ensure you are complying with [ICAC Guideline One](#) entitled *Receipt, assessment & notification of appropriate disclosures*.

ICAC Guideline One applies in respect of the action to be taken by a **person to whom an *appropriate disclosure of public interest information has been made*** (the recipient of the disclosure) and in respect of the notification to the OPI of the receipt of the appropriate disclosure.

If you are a person **to whom an *appropriate disclosure of public interest information has been made***:

1. If the content of the disclosure suggests that there is an imminent risk of serious physical injury or death to any person or the public generally, you (as the recipient of the disclosure) should immediately communicate such information as may be necessary to mitigate that risk to the most appropriate agency (eg. South Australia Police, SafeWork SA, SA Ambulance, Environment Protection Authority).

² For example, an appropriate disclosure of public interest information would not be referred to a relevant *Responsible Officer* if the information related to them.

2. If you (as the recipient of the disclosure) form a reasonable suspicion that the matter(s) the subject of the disclosure involve(s) corruption in public administration, or serious or systemic misconduct or maladministration in public administration, you must comply with your reporting obligations under the [ICAC Act](#).
3. If you (as the recipient of the disclosure) assesses the content of the disclosure as requiring further action, you must, unless the matter is reported to the [OPI](#) as a potential issue of corruption in public administration, ensure that:
 - a. such action as may be appropriate in the circumstances is taken by you to ensure the matter the subject of the disclosure is properly addressed; or
 - b. such information as is necessary to enable action to be taken is communicated to the most appropriate person or *relevant authority* to take such action.
4. You (as the recipient of the disclosure) must notify the OPI of the appropriate disclosure as soon as reasonably practicable after the receipt of the appropriate disclosure by making an electronic notification via the dedicated [notification form](#) on the [ICAC website](#) and must include in that notification:
 - a. the date the disclosure was received;
 - b. your name and contact details;
 - c. a summary of the content of the disclosure;
 - d. the assessment made of the disclosure;
 - e. the action taken by you (as the recipient of the disclosure) including:
 - i. whether the disclosure was referred to another *relevant authority, public authority, public officer* or another person; and
 - ii. if the disclosure was referred to another *relevant authority, public authority or public officer* or other person,
 1. the date of the referral;
 2. the identity of that *relevant authority, public authority or public officer* or another person to whom the disclosure was referred;
 3. the manner of referral; and
 4. the action to be taken by that *relevant authority, public authority or public officer* or another person (if known).
 - f. if no action was taken by you (as the recipient of the disclosure) the reason why no action was taken; and
 - g. whether the identity of the informant is known only to you (as the recipient of the disclosure) or if the identity of the informant has been communicated to a *relevant authority, public authority or public officer* or another person (and if so, the reasons why such communication was made).
5. As the recipient of the disclosure you must retain the unique reference number issued by the OPI after the making of a notification and must ensure that the unique reference number is provided to any other person or authority to whom the disclosure is referred.

Action Required: Obtain endorsement from the Principal Officer

If action needs to be taken, obtain endorsement from the Principal Officer³ as to the action to be taken, if appropriate. In order to maintain confidentiality, the identity of the informant must not be disclosed to the Principal Officer.

Step 2 – Action Required: Notification of Informant

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

A relevant *Responsible Officer* can assist you.

³ Being the Principal Officer for the agency (Department for Health and Wellbeing, the applicable Local Health Network or SA Ambulance Service) to which the disclosure of information relates

You must take reasonable steps to notify the informant (if the informant's identity is known) that an assessment of the information has been made and to advise the informant of the action being taken in relation to the information.

Make this notification within 30 days of receiving the *appropriate disclosure of public interest information*. Make this notification in writing. However before emailing an informant, please ensure they have agreed to an appropriate email address to be used.

If you take longer than 30 days, if the informant believes on reasonable grounds that the information is true, then they are entitled to disclose the *public interest information* to a journalist or a member of Parliament other than a Minister of the Crown, and the disclosure will be considered to be an *appropriate disclosure of public interest information*.

As set out below, later on either you or a person to whom you have referred the disclosure to, will also need to notify the informant of the outcomes of the action. This needs to be done within 90 days of receiving the *appropriate disclosure of public interest information* (see below) unless you have let the informant know it will take longer.

If you or the relevant *Responsible Officer* form the view that it will take longer than 90 days from the *appropriate disclosure of public interest information* for an outcome, then you must notify the informant in writing of this alternative longer period of time in which you will report to them on the outcomes of the actions.

Do this when you notify the informant of the action being taken.

Step 3 – Outcomes of Action: Notification of Informant

It is recommended that you refer any *appropriate disclosure of public interest information* to a relevant *Responsible Officer*. You must take reasonable steps to notify the informant (if the informant's identity is known) of the outcome of that action (see section 7(3)(a) of the PID Act).

If you don't refer the matter to a relevant *Responsible Officer*, you must take the appropriate action as decided through the assessment of the information.

You must take reasonable steps to notify the informant (if the informant's identity is known) of the outcome of that action (see section 7(3)(a) of the PID Act).

If you refer the *appropriate disclosure of public interest information* to a relevant *Responsible Officer*, or to another person, then the relevant *Responsible Officer* or the other person must take reasonable steps to notify the informant (if the informant's identity is known) of the outcome of that action (see section 7(3)(a) of the PID Act).

You are encouraged to make this notification in writing; however, before emailing an informant, ensure they have provided you with the appropriate email address to be used. This notification to the informant must be done within 90 days of receiving the *appropriate disclosure of public interest information*, or within such longer period if you have made a notification to the informant that you will take longer to report to them on the outcomes (see above).

If it takes longer than 90 days (or the alternative longer period of time notified above) to notify the informant of the outcomes of the action, and if the informant believes on reasonable grounds that the information is true, then they are entitled to disclose the *public interest information* to a journalist or a member of Parliament other than a Minister of the Crown, and the disclosure will be considered to be an *appropriate disclosure of public interest information*.

Outcomes of Action: Notification of OPI

If you take action in relation to an *appropriate disclosure of public interest information*, you must provide OPI with information relating to the outcome of that action in accordance with [ICAC Guideline Two](#) entitled *Notification of action taken* set out below (see section 7(3)(b) of the PID Act).

If you take action in relation to an *appropriate disclosure of public interest information*, and if such action consists of referring the *appropriate disclosure of public interest information* to another person, then that other person to whom it is referred must provide OPI with information relating to the outcome of that action in accordance with [ICAC Guideline Two](#) (see section 7(3)(b) of the PID Act).

ICAC Guideline Two provides that in addition to the requirement for OPI to be notified when an *appropriate disclosure of public interest information* is received (see ICAC Guideline One above), the OPI must also be notified of any action taken in relation to the disclosure.

ICAC Guideline Two applies in relation to the notification to the OPI of the outcome of any action taken upon receipt of, or referral of, an *appropriate disclosure of public interest information*.

If you have received an *appropriate disclosure of public interest information*, or if you have received a referral of such a disclosure from someone else, you must notify the OPI as soon as reasonably practicable via the [online notification form](#) the following:

1. the unique identification number issued by the OPI upon notification of the original disclosure
2. the name and contact details of the notifier
3. the name and contact details of the person or authority responsible for taking the action
4. what (if any) findings were made in respect of the disclosure
5. the nature of the action taken (if any)
6. the outcome of any action taken (if applicable)
7. whether the identity of the informant was disclosed to a person other than the original recipient of the disclosure, and
8. whether the informant was notified of the action taken and, if so, when and how that notification was made.

Appropriate disclosure of public interest information made to Minister of the Crown

If an *appropriate disclosure of public interest information* is made to a Minister of the Crown, the following provisions apply:

- > the Minister must, as soon as practicable, refer the disclosure to a *relevant authority*; and
- > the *relevant authority*—
 - must deal with the information in accordance with this section (as if the disclosure had been made to the relevant authority); and
 - must ensure that the Minister is notified of the action taken under this section in relation to the information and the outcome of such action (see section 7(5) of the [PID Act](#)).

Keeping the information safe

Any person who has received an *appropriate disclosure of public interest information*, must keep that information confidential.

SA Health *Responsible Officers* will have access to a secure positional mailbox through their email account. The mailbox will only be accessed by the *Responsible Officer* and has appropriate ICT security measures in place.

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

SA Health is committed to minimising any risk that an informant might be victimised as a consequence of making, or intending to make, a *public interest disclosure*.

SA Health *Responsible Officers* will provide support and information about the PID Act protections to informants, and encourage informants to raise any concerns they have about potential detrimental outcomes that may be caused from the disclosure.

For more information

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www.sahealth.sa.gov.au



www.ausgoal.gov.au/creative-commons



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SA Health