

Public Interest Disclosure Procedures

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Statement of commitment

DHA is committed to the highest standards of ethical and accountable conduct. DHA encourages public officials to report suspected wrongdoing, and will ensure that those who report, or who are considering making a report, are supported and protected from any adverse consequence relating to the reporting. The Procedures set out how DHA will give effect to this commitment.

In order to uphold the good reputation of DHA and to provide a safe and ethical workplace, public officials who are aware of wrongdoing in DHA (or elsewhere in the Australian Public Service (APS)) are encouraged to report such instances in accordance with the provisions set out in the Procedures.

The Procedures will be reviewed every two years to ensure their continued compliance with the PID Act and the *Public Interest Disclosure Standard 2013* (the **Standard**).

Key definitions

Authorised Officer	DHA employees will be appointed as Authorised Officers as required, by written notice, by the Delegate of the Principal Officer of DHA for the purposes of the PID Act. A reference to an Authorised Officer throughout the Procedures is also a reference to the Managing Director (MD) and any delegated Principal Officers. The Authorised Officer has a range of decision-making, notification and other responsibilities under the PID Act as outlined at Appendix 1 .
Disclosable Conduct ¹	Conduct engaged in by an agency, public official or contracted service provider. Types include illegal conduct, corruption, maladministration, abuse of public trust, deception relating to scientific research, wastage of public money, unreasonable danger to health and safety, and danger to the environment. Disclosable conduct also includes conduct that involves abuse of power by a public official or conduct engaged in by a public official that could, if proved, give reasonable grounds for disciplinary action. ²
External disclosure	A public interest disclosure (PID) made to any person, other than a foreign public official, if: <ul style="list-style-type: none">› an investigation was conducted under internal disclosure procedures and the public official reasonably believes the investigation or the agency response was inadequate, or the investigation was not completed within the required time (i.e. 90 calendar days unless an extension is approved by the Commonwealth Ombudsman); and› the disclosure is not contrary to the public interest; and› no more information is disclosed than is reasonably necessary.
Internal disclosure	An internal disclosure is made when a person who is or has been a public official discloses to their supervisor or manager, or an Authorised Officer of an agency (including the Commonwealth Ombudsman) information which tends to show, or the discloser believes on reasonable grounds tends to show, one or more instances of disclosable conduct.
Principal Officer	For the purposes of the PID Act, the Principal Officer of DHA is the MD of DHA and any other DHA employee that is appointed in writing as a Delegate of the Principal Officer by the MD.
Public Official ³	Includes current and former APS employees (ongoing, non-ongoing and casual) and parliamentary service employees, service providers under a Commonwealth contract, statutory office holders, staff of Commonwealth companies and temporary employees engaged through a recruitment agency. A public official also includes any other person deemed by the Authorised Officer to be a public official for the purposes of the PID Act.

1 Summary of section 29 of the PID Act.

2 Sub section 29(3) of the PID Act provides that the conduct is still disclosable if it occurred prior to the commencement of the PID Act (15 January 2014) and if, after the conduct occurred, the relevant agency ceased to exist, the public official ceased to be a public official or the contracted service provider ceased to be a contracted service provider.

3 Sections 69 and 70 of the PID Act.

1. Application of the Procedures

1.1 The Procedures apply to internal disclosures that relate to DHA and are made by a current or former public official. An internal disclosure can be made to the supervisor of the discloser, an Authorised Officer of DHA, an Authorised Officer within another agency⁴, or the Commonwealth Ombudsman (the **Ombudsman**) (or the Inspector-General of Intelligence and Security (**IGIS**) for intelligence-related disclosures). A disclosure must be made to an Authorised Officer or the public official's immediate supervisor to gain the protections available under the PID Act.

1.2 Where a disclosure has been allocated to DHA from another agency (including the Ombudsman or IGIS) and the Authorised Officer reasonably believes the disclosure to relate to DHA, the Authorised Officer will accept the allocation and deal with the disclosure in accordance with the Procedures.

In circumstances where an individual discloses information that they had not obtained whilst a public official, the Authorised Officer may deem that person to be a public official for the purposes of the PID Act⁵.

1.3 The Procedures must be complied with when a supervisor or an Authorised Officer receives a disclosure. Other legislative obligations may apply in addition to the Procedures; for example, in relation to work health and safety (WHS).

A reference to the MD, Principal Officer and Delegate of the Principal Officer is also a reference to a public official (including a contracted service provider) who has been delegated powers under section 77 of the PID Act. A person who has been delegated powers under the PID Act must not be a person with a direct or indirect interest in the matter, and they must be free of actual or apparent bias.

A disclosure report made to a person who is authorised to receive it under the Procedures will not in itself be in breach of the provisions relating to unauthorised disclosure of information (see *Public Service Regulation 2.1*).

⁴ Refer to sections 71 and 72 of the PID Act for a full description.

⁵ Section 70 of the PID Act.

2. Making a PID

- 2.1 An internal disclosure can be made anonymously, pseudonymously, verbally and/or in writing and may be made without a clear intention of making a PID. If a disclosure is made verbally, the person receiving the report must make a record of the disclosure.

Note: *Where a report is made anonymously there may be limitations to fully investigate the disclosure or for the discloser to be informed of the progress or outcome of the disclosure. Where a discloser wishes to remain anonymous a pseudonymous disclosure, where a means of contacting the discloser is provided, is preferred.*

- 2.2 Supervisors and Authorised Officers will need to consider whether or not reports made to them require action under the PID Act, or whether the matter can be resolved quickly through prompt management action or other appropriate avenues (for example, where the matter is substantially a personal grievance or workplace conflict and not a matter of public interest⁶). Issues to consider include the seriousness of the wrongdoing reported and whether the person making the report is at potential risk of reprisal.

Note: *WHS issues and policies should also be taken into consideration when assessing the seriousness of a disclosure, and any other policies or guidelines that may be more appropriate in the circumstances, for example HR policies dealing with bullying and harassment.*

- 2.3 Where a supervisor or Authorised Officer is unsure whether information could be considered a disclosure under the PID Act, the supervisor or Authorised Officer should err on the side of caution and treat the information as a disclosure under the Procedures.

- 2.4 If a person discloses, or proposes to disclose information to an Authorised Officer or supervisor and the Authorised Officer or supervisor has reasonable grounds to believe that the information could be a disclosure under the PID Act, the supervisor or Authorised Officer must:

- › inform the individual of this belief
- › explain the Procedures in relation to making a disclosure report
- › advise of any restrictions of disclosure of which the Authorised Officer is aware
- › reassure the individual that even if the disclosure is found to be incorrect or is unable to be substantiated the disclosure is protected under the PID Act (except if the disclosure is intentionally false or misleading)
- › encourage disclosures to be factual and issues focused and to avoid being emotive about individuals⁷
- › explain the protections available to the individual under the PID Act.

- 2.5 If the discloser does not wish the disclosure to be investigated the Principal Officer will take this into consideration at part 4 of the Procedures, however the Principal Officer may decide to pursue an investigation should the matters outlined in the disclosure warrant such action.

6 Refer to part 2.4 of the *Agency Guide to the Public Interest Disclosure Act 2013* (Version 2, 2016), Commonwealth Ombudsman.

7 Refer to part 4.2 of the *Agency Guide to the Public Interest Disclosure Act 2013* (Version 2, 2016), Commonwealth Ombudsman.

- 2.6 In making a disclosure, the discloser should:
- › be clear and factual, and avoid speculation, personal attacks and emotive language which may divert attention from the real issues in their disclosure
 - › not investigate a matter themselves before making a disclosure as this may hinder a investigation
 - › raise their concerns in a timely manner, as the easier it is likely to be for DHA to take action.
- 2.7 In making a disclosure, the discloser should consider providing the following information to assist the Authorised Officer and/or Principal Officer to decide how the disclosure should be handled:
- › their name and contact details
 - › the nature of the suspected wrongdoing
 - › who they think committed the suspected wrongdoing
 - › when and where the suspected wrongdoing occurred
 - › how they became aware of the suspected wrongdoing
 - › relevant events surrounding the issue
 - › whether the suspected wrongdoing has been reported to anyone else
 - › if so, what has that person/s done to fix, stop or prevent it
 - › if they did anything in response to the suspected wrongdoing
 - › if they are concerned about possible reprisal as a result of making a disclosure.
- 2.8 The Authorised Officer may ask the discloser for any supporting correspondence or other documents, such as file notes, and the names of any people who witnessed the conduct or who may be able to verify what the discloser is reporting, to assist the Authorised Officer to determine whether the information would constitute an internal disclosure under the PID Act.

Deeming an individual to be a public official

- 2.9 In accordance with section 70 of the PID Act an Authorised Officer may deem an individual to be a public official if that officer believes, on reasonable grounds, that an individual has information that concerns disclosable conduct.
- 2.10 The Authorised Officer may make the determination on their own initiative or on the individual's request.
- 2.11 To make a determination, the Authorised Officer must issue a written notice to the person stating that the PID Act has effect, and is taken always to have had effect, in relation to the disclosure of the information as if the individual had been a public official when they obtained the information.
- 2.12 If the individual made the request to be deemed a public official for the purposes of the PID Act, the Authorised Officer must advise that person if they refuse to deem them a public official and the reason for the refusal. This advice may be provided either verbally or in writing as appropriate in the circumstances.

3. Allocating a disclosure

- 3.1 A supervisor, who is not an Authorised Officer, who receives a disclosure must pass it on to an Authorised Officer as soon as reasonably practicable.

Note that due to confidentiality requirements under the PID Act, the supervisor must obtain the individual's consent in writing before disclosing any identifying information to an Authorised Officer.

- 3.2 On receiving a PID, the Authorised Officer or Principal Officer must conduct a risk assessment⁸ against any potential reprisals that may be taken against the discloser, including any risks to the health and safety of the discloser and others.

- 3.3 The Authorised Officer will examine the information provided and decide whether the information could be considered an internal disclosure under the PID Act. The Authorised Officer may obtain information from such persons, and make such inquiries, as the Authorised Officer thinks fit, subject to any requirements under the PID Act and/or the Standard.

3.3.1 If the Authorised Officer believes on reasonable grounds that the disclosure is not an internal disclosure for the purposes of the PID Act, the discloser must be informed of the reason for this decision and any other course of action that may be available to them under other Commonwealth laws.

- 3.4 If the Authorised Officer reasonably believes that the information could be considered an internal disclosure, the Authorised Officer is to allocate the disclosure for investigation. If the disclosure relates to DHA, the allocation will be to DHA.

3.4.1 Where a disclosure is made that relates wholly or substantially to another agency, the Authorised Officer will allocate the disclosure to that agency in accordance with section 43(6) of the PID Act and keep appropriate records of this decision.

3.4.2 If the disclosure relates to more than one agency, an allocation may be made to each relevant agency.

Note: *An internal disclosure relates to an agency if the agency, or a public official belonging to the agency at the time of the conduct, engages in the conduct.*

- 3.5 The Authorised Officer must use his or her best endeavours to make the allocation decision within 14 calendar days of disclosure being made to the Authorised Officer.

3.5.1 The Authorised Officer is to keep a written record of the allocation decision, including the reasons for the decision⁹.

⁸ Refer to Appendix 2 for further information on how to conduct a risk assessment.

⁹ Refer section 6(1) of the Standard.

- 3.6 If the Authorised Officer is not the Principal Officer, the Authorised Officer must inform the Principal Officer of the allocation (to DHA) and provide a copy of the report to the Principal Officer, including any recommendations arising from the risk assessment conducted under clause 3.2.

The Principal Officer may also be informed of the discloser's name and contact details if the discloser has consented to this information being released to the Principal Officer.

- 3.7 The Ombudsman and discloser must be informed of the allocation decision. The discloser must be informed of the allocation decision as soon as reasonably practicable and a record kept of:
- › the day and time the discloser was notified
 - › the means by which the discloser was notified
 - › the content of the notification¹⁰.

Note: *Advice to the discloser of the allocation may be provided at the same time as notification that the disclosure is to be investigated under part 4 of the Procedures.*

- 3.8 If, on considering the disclosure report, the Principal Officer believes that the person who made the disclosure is at risk of reprisal, the Principal Officer is to take action, in consultation with the discloser (if appropriate in the circumstances), to protect them from reprisals or health and safety risks.
- 3.9 On receipt of the allocation, the Principal Officer must ensure that within 14 calendar days or as soon as reasonably practicable, the discloser is provided with information about the Principal Officer's powers to decide not to investigate the disclosure, not to investigate the disclosure further, or to decide to investigate the disclosure under a separate investigative power¹¹.

¹⁰ Refer section 6(2) of the Standard.

¹¹ Refer section 9 of the Standard.

4. Investigating a disclosure

- 4.1 DHA must conduct an investigation into a disclosure allocated to DHA, unless it is reasonably believed that:
- › the discloser is not, and has not been, a public official
 - › the information of a report does not concern serious disclosable conduct
 - › the report is frivolous or vexatious
 - › the disclosure is the same, or substantially the same, as a matter already investigated or that is being investigated (whether under the Procedures, another law or the executive power of the Commonwealth)
 - › it is impracticable for the disclosure to be investigated (for reasons including that the discloser's name and contact details have not been disclosed; the discloser has failed, or is unable, to give the investigator the information or assistance they requested, or because of the age of the information¹²), or
 - › the discloser has informed the Principal Officer of their wish that the investigation not be pursued and the Principal Officer is satisfied there are no matters that warrant investigation.
- 4.2 As soon as reasonably practicable after making a decision whether or not to investigate, the Principal Officer must inform the discloser of the decision. This notification may be captured in the same document advising of the allocation decision.
- 4.2.1 If the Principal Officer declines to investigate a disclosure or decides to discontinue an investigation, the Principle Officer must:
- › advise the discloser in writing of the reason for the decision, and other courses of action that might be available to the discloser under other laws of the Commonwealth
 - › notify the Ombudsman of the decision.
- 4.2.2 If an investigation is to be conducted, the discloser is to be advised of the estimated length of the investigation.
- Note:** *Under section 52 of the PID Act an investigation must be completed within 90 calendar days after the disclosure was allocated to the agency unless an extension has been granted by the Ombudsman*
- 4.3 The Principal Officer may at any time discontinue an investigation that has already begun if any of the grounds set out in clause 4.1 of the Procedures apply. However, if an investigation is not completed within 90 calendar days (or any other timeframe approved by the Ombudsman) the discloser may be able to make an external disclosure under section 26 of the PID Act.

¹² Refer section 48 of the PID Act.

- 4.4 The investigation may be conducted as the Principal Officer sees fit;¹³ however, in conducting the investigation the Principal Officer must comply with the Standard.
- 4.4.1 It is recommended that the investigator (or other appropriate person) keeps the discloser periodically informed of the progress of the investigation.
- 4.5 Where an investigation indicates what may be criminal conduct the matter can be referred to the police¹⁴.
- 4.6 The purpose of an investigation is to make a recommendation as to whether any further action should or should not be taken – including action for a suspected breach of the Code of Conduct¹⁵. The purpose of an investigation is not to make a decision about whether or not a breach of the Code of Conduct has occurred.
- 4.7 If, during the course of the investigation, it becomes clear that an investigation should be conducted to determine whether there has been a breach of the Code of Conduct or conduct considered to be fraudulent, the investigation under the PID Act is to be concluded with a recommendation that an investigation commence under the respective DHA policy or procedure.
- 4.8 Concluding an investigation for the above reasons is not the same as discontinuing an investigation under section 48 of the PID Act.¹⁶
- 4.9 At the completion of an investigation a report must be created that sets out the following (as a minimum):
- ▶ the matters considered in the course of the investigation
 - ▶ the duration of the investigation
 - ▶ a summary of the evidence and an explanation of the steps taken to gather the evidence
 - ▶ the findings (including identifying whether there have been one or more instances of disclosable conduct and any regulations, rules, administrative requirements or similar matters to which the conduct relates)
 - ▶ the action (if any) that is recommended to be taken to address those findings
 - ▶ any claims made about, and any evidence of, detrimental action taken against the discloser, and DHA's response to those claims and that evidence.

The report must show that conclusions have been drawn based on relevant and “logically probative evidence” (section 12(1) of the Standard).

- 4.9.1 If the Principal Officer is not the investigator, the report must be submitted to the Principal Officer to consider the report and the recommendations in the report. The Principal Officer will make a decision in respect of each of the recommendations in the report and the timeframe for which such action/s is to be taken.

13 Refer section 53 of the PID Act. General guidance for investigators can be found in the *Australian Government Investigations Standards 2011*, in addition the Administrative Review Council has produced a range of best practice guides on aspects of administrative decision-making, including natural justice requirements, assessing evidence and decision writing.

14 Section 56 of the PID Act requires referral to a member of an Australian police force in certain circumstances.

15 That is, an inquiry in accordance with DHA's procedures, established under section 15(3) of the *Public Service Act 1999*, for determining whether there has been a breach of the Code of Conduct.

16 Refer to part 7.3.4 of the *Agency Guide to the Public Interest Disclosure Act 2013* (Version 2, 2016), Commonwealth Ombudsman.

4.10 Within a reasonable timeframe, the Principal Officer must give a copy of the report of the investigation to the discloser, and inform the person in writing of the Principal Officer's decisions in relation to each of the recommendations in the report.

4.10.1 The report provided to the discloser may exclude any information that is likely to enable the identification of any person (the discloser or another person), or if the information would cause the document to:

- › be exempt under the *Freedom of Information Act 1982* (the **FOI Act**)
- › have a national security or protective security classification
- › contain intelligence information or sensitive law enforcement information, or
- › contravene a designated publication restriction.

Procedural fairness

4.11 A person carrying out an investigation under the Procedures must, before the investigation is completed, and having regard to all the circumstances, consider whether to give the person or persons about whom the disclosure report has been made, or any other person, an opportunity to be heard in relation to the disclosure report.

4.11.1 A person (other than the person about whom a disclosure report has been made) may be given the right to be heard if they may be adversely affected, materially and directly, by the disclosure or investigation. Circumstances in which this may be the case include those where, for example, the person is suspected of being complicit in the alleged, disclosable conduct, or breach of the Code of Conduct, or suspected of knowingly making a false report.

Possible action in relation to a person who makes a disclosure

4.12 Depending on the findings of an investigation into a disclosure report, a decision could be made to take action in relation to the person who made the disclosure. Any such action must be consistent with the obligations under the PID Act not to take reprisals against a person because they have made a disclosure report under the Procedures, and must be consistent with the *Fair Work Act 2009* (the **Fair Work Act**) and the *Public Service Act 1999* (the **Public Service Act**).

4.13 It should be noted that in accordance with section 13(3) of the PID Act, a reprisal is not reasonable administrative action taken to protect a discloser from detriment.

Note: *Action might be taken against a person who makes a disclosure where, for example, they are suspected of being complicit in the alleged action, or if they are suspected of knowingly making a false report.*

5. Support for disclosers

- 5.1 In accordance with [DHA's State of Commitment for our safety, health and wellbeing](#), a number of support options are available to employees, such as:
- › Health and Safety Representatives
 - › Workplace Harassment Contact Officers
 - › an Employee Assistance Program.
- 5.2 DHA's Health, Performance and Conduct Team (the HPC Team) provide advice, guidance and support to managers and employees on improving and maintaining their wellbeing. The HPC Team provide guidance to managers and employees on early intervention support, home based work agreements and working together effectively. The HPC Team also co-ordinate DHA's Harassment Contact Officer network. The HPC Team can be contacted by emailing conduct@dha.gov.au.
- 5.3 Apart from a supervisor or manager (if appropriate), other sources of support available to a discloser could be a trusted colleague, family member or friend. Should a discloser wish to nominate a 'support person' they need to advise an Authorised Officer of the name of the support person and the relationship of the support person to the discloser.
- 5.4 In seeking advice or support from a support person or other person external to the process, the discloser should ensure they do not disclose any information that would identify those alleged to have committed wrongdoing or any other information they have a duty to keep confidential under the PID Act, *Privacy Act 1988* (**the Privacy Act**) or any other relevant legislation.
- 5.5 As a discloser can only discuss their general situation and the process with a support person, the discloser will not be able to have their support person present at any interviews about their disclosure.
- 5.6 Risk of reprisal or risks to the health and safety of public officials are to continue to be monitored throughout the investigation process. Risk assessments conducted at clause 3.2 of the Procedures are to be reviewed as necessary.

6. Confidentiality requirements

- 6.1 The identity of a person making a report must be kept confidential, except for reasons required by law or if the person making the report gives to the Authorised Officer or their immediate supervisor their written consent to their identity being made known.
- 6.2 If it is likely during the course of the investigation that the discloser's identity may need to be disclosed or may become apparent (for the purposes of the PID Act or for another purpose permitted under the PID Act), the matter should be discussed with the discloser in advance, where practicable.
 - 6.2.1 If the discloser is not willing to be identified, the investigator should consider whether it is possible to rely on other available information to support the allegations, so as to protect the discloser's identity. If this is not possible, the discloser is to be made aware that whilst confidentiality may not be able to be maintained, they are still afforded protection against reprisal.
 - 6.2.2 The investigator should discuss any concerns the discloser has about reprisals and in consultation with an Authorised Officer, put in place a plan to address those concerns.
- 6.3 Disclosures should be assessed and investigated discreetly, with a strong emphasis on maintaining confidentiality of both the discloser and any person who is the subject of the disclosure.
- 6.4 All interviews should be conducted in private. In particular, any interviews with the discloser should be arranged discreetly to avoid identification by other staff. Care should be taken to avoid any unauthorised divulging of information. All information obtained, including documents and interview tapes, should be stored securely and be only accessible by those who need to access them.
 - 6.4.1 Employees must use their best endeavours to assist the Principal Officer of an agency (or their delegate) in the conduct of an investigation.
- 6.5 People who are interviewed are to be advised by the investigator that the matter is confidential, that release of information may jeopardise an investigation and that they may be committing an offence if they divulge any information that is likely to identify the discloser.

7. Protection from liability and reprisals

- 7.1 An individual is not subject to any civil, criminal or administrative liability (including disciplinary action, a breach of the official secret laws, or an action for defamation) for making a PID. However, if the disclosure is found to be based on false or misleading information or about his/her own conduct the individual is not immune from civil, criminal or administrative liability (refer to clause 7.3).
- 7.2 It is an offence to take a reprisal, or to threaten to take a reprisal, against a person because of a PID, or a suspected or proposed PID. As a PID is considered a workplace right under the Fair Work Act¹⁷, an employee of DHA is also protected under section 340 of the Fair Work Act for exercising a workplace right (i.e. making a PID).
- 7.2.1 If an employee makes an application to the Fair Work Commission under section 539 of the Fair Work Act, another application cannot then be made to the Federal Court or Federal Circuit Court for that same conduct (unless the application has been discontinued or failed for want of jurisdiction).
- 7.3 A person making a disclosure report is not immune from civil, criminal or administrative liability if the person is found to have knowingly made a statement that is false or misleading, or if the individual's disclosure is about his/her own conduct (i.e. the individual is not protected from his/her liability for the conduct).
- 7.4 If a person who makes a disclosure report considers that they have been victimised, discriminated against, or otherwise adversely affected because they have made such a report, they should immediately report this to an Authorised Officer.

Note: *Part 2 of the PID Act and section 340 of the Fair Work Act effectively prohibits an employer taking adverse action against an employee because they have made (or because they propose to make) a PID.*

¹⁷ Refer section. 22 of the PID Act.

8. Record keeping

- 8.1 Written records of all decisions and notifications made under the Procedures must be kept. This includes a record of any allocation decisions made to one or more agencies. These records are to be kept in accordance with DHA's records management policies and any other requirements specified in the PID Act. Records are to have due regard to confidentiality.
- 8.2 A disclosure report, any records made and information obtained as a result of an investigation into the report will be handled in accordance with relevant legislation; for example, the PID Act, the Public Service Act, the Privacy Act and the FOI Act.

9. Evaluation of the Procedures

9.1 Governance will regularly monitor and evaluate the effectiveness of the Procedures.

Appendix 1—Roles and responsibilities

Supervisor or manager

A public official may make a disclosure to their immediate supervisor. A supervisor includes any public official who supervises or manages the discloser. Managers and supervisors have a key role in ensuring that the workplace culture supports the making of PIDs. If a supervisor or manager considers that the information given to them concerns, or could concern disclosable conduct, they must pass the information to an Authorised Officer as soon as reasonably practicable. They can help to do so by:

- › being knowledgeable about the PID Act and the Procedures, particularly in relation to confidentiality requirements
- › being approachable to staff who wish to raise concerns
- › holding awareness sessions or discussion forums for their staff
- › ensuring staff undergo available PID related training
- › confronting any workplace prejudices about making a disclosure
- › maintaining confidentiality requirements
- › supporting a staff member who they know has made a PID and ensuring as far as reasonably practicable, they are protected from reprisal
- › increasing management supervision of the workplace if necessary (e.g. if workplace conflict occurs because a disclosure has been made or an investigation is underway)
- › ensuring identified problems in the workplace are corrected
- › setting an example for staff.

Authorised Officer

Authorised officers have a range of decision-making, notification and other responsibilities under the PID Act, including:

- › receiving disclosures from current or former public officials about disclosable conduct
- › deeming a person to be a public official to facilitate the making of a PID
- › informing a person who may be unaware of the PID Act requirements that information that the Authorised Officer reasonably believes could concern disclosable conduct could be treated as an internal disclosure, explaining the requirements of the PID Act and advising the person of any designated publication restrictions (as defined in section 8 of the PID Act) that may affect disclosure
- › assessing reported information to determine if there are reasonable grounds to believe the information could be considered to be a PID
- › making any preliminary inquiries necessary to make an allocation decision
- › allocating all or part of the disclosure to DHA and/or another agency (with that agency's consent)
- › notifying the principal officer of the agency of the allocation decision, the details of the disclosure and if the discloser consents, the discloser's identity

- › informing the discloser and other relevant parties (e.g. the Ombudsman and Principal Officer) of the allocation decision
- › consenting to the allocation of a disclosure by an Authorised Officer of another agency
- › when receiving a PID that has been allocated to DHA, conducting a risk assessment to assess the risk that reprisals may be taken against the discloser
- › 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.

Public Official

The PID Act requires all public officials to use their best endeavours to assist the Principal Officer in the conduct of an investigation. They must also use their best endeavours to assist the Ombudsman or IGIS in their functions under the PID Act.

Beyond those specific responsibilities, all staff share the responsibility of ensuring the PID Act works effectively. Their role includes:

- › reporting matters where there is evidence that shows or tends to show disclosable conduct
- › identifying areas where there may be opportunities for wrongdoing to occur because of inadequate systems or procedures, and proactively raising those with management
- › supporting staff who they know have made PIDs
- › keeping confidential the identity of a discloser and anyone against whom an allegation has been made, if they become aware of those matters
- › not discussing the details of the disclosure with anyone who does not need to know as a part of the investigative procedure.

Principal Officer

Principal Officers have specific responsibilities under the PID Act, including:

- › when receiving a PID that has been allocated to DHA, conduct a risk assessment to assess the risk that reprisals will be taken against the discloser
- › taking reasonable steps to protect public officials who belong to the agency from detriment or threats of detriment
- › ensuring there are sufficient Authorised Officers to be readily accessible to public officials who belong to the agency and that public officials are aware of their identity
- › notifying the discloser and the Ombudsman or IGIS as appropriate at various stages in handling a disclosure
- › ensuring disclosures are properly investigated
- › preparing an investigation report (or ensuring a report is prepared) and taking appropriate action in response to the report
- › providing information and assistance to the Ombudsman and IGIS, including in relation to PID Act annual reporting.

Investigator

The investigation of a PID under the PID Act is conducted as the Principal Officer sees fit, subject to the need to comply with the PID Act and the Standards in force under section 74 of the PID Act. The investigator should:

- › be skilled in conducting investigations
- › become familiar with the PID Act, especially the confidentiality requirements and the protections for disclosers
- › ensure they do not have an actual or perceived conflict of interest relating to the disclosable conduct.

Appendix 2—Risk assessment

Note: It is recommended that before you conduct a risk assessment you are or become familiar with the 'Assessing and Managing the Risk of Reprisal' guidance available on the Commonwealth Ombudsman website.

Step 1: Conduct a risk assessment

When the Authorised Officer receives a PID that has been allocated to DHA, they will assess the risk that reprisals will be taken against the discloser.

In assessing the risk of reprisals, the Authorised Officer will use the following risk matrix¹⁸:

Likelihood of reprisal being taken against a discloser	Likely seriousness of reprisal				
		Minor	Moderate	Major	Extreme
Almost certain		Medium	High	High	High
Likely		Medium	Medium	High	High
Unlikely		Low	Low	Medium	Medium
Highly unlikely		Low	Low	Low	Medium

Examples of seriousness of reprisals

- › **Minor:** Occasional or one-off action that is likely to have a relatively minor adverse effect on the person (for example, occasional exclusion of the person from a social activity).
- › **Moderate:** Repeated actions which are likely to have an adverse effect on the person (for example, routinely failing to include the person on work-related emails which the person has a genuine need to know).
- › **Major:** Sustained or one-off action/s which has a significant impact on the person (for example, consistently excluding the person from team discussions or imposing a negative performance assessment on the person without reasonable cause and supporting evidence).
- › **Extreme:** Action which is likely to have a very severe impact on the person (for example, threats of or actual physical violence or the denial of a promotion opportunity without reasonable cause).

¹⁸ In respect of assessing the risk of reprisal, DHA's risk matrix has been assessed as too complex and consequently is not fit for this purpose. Therefore a 4x4 risk matrix containing four levels of probability and severity has been developed on the basis that this type of matrix provides a sufficient level of complexity in which to assess risk of reprisals in accordance with PID Act requirements.

Criteria for assessing likelihood of potential reprisals

When considering the likelihood of a reprisal being taken against a discloser, the Authorised Officer should take into account all relevant factors, based on the available information, including to the extent relevant:

- › the likelihood of the discloser being identified, which may involve a consideration of:
 - the size of the work area in which the discloser is located, and
 - the number of people who are aware of the information leading to the disclosure
- › the number of people implicated in the disclosure
- › the subject matter of the disclosure
- › the number of people who are aware of the disclosure or are likely to become aware of the disclosure (for example, through participation in the investigation as witnesses)
- › the culture of the workplace
- › whether any specific threats against the discloser have been received
- › whether there are circumstances that will make it difficult for the discloser not to discuss the disclosure in the workplace
- › whether there is a history of conflict between the discloser and the subject of the disclosure
- › whether the disclosure can be investigated while maintaining confidentiality.

Criteria for assessing likely seriousness of potential reprisals

In considering the likely seriousness of any potential reprisal against a discloser, the Authorised Officer should take into account all relevant factors, based on the available information, including to the extent relevant:

- › the significance of the issue being disclosed
- › the likely outcome if the conduct disclosed is substantiated
- › the subject matter of the disclosure
- › whether the discloser is isolated
- › whether the discloser is employed on a full-time, part-time or casual basis
- › whether the alleged wrongdoing that is the subject of the disclosure was directed at the discloser
- › the relative positions of the discloser and the person whose alleged wrongdoing is the subject of the disclosure.

When conducting the risk assessment, where consistent with protecting the discloser's confidentiality, the Authorised Officer may ask the discloser why they are reporting the wrongdoing and who they might fear a reprisal from, and may also speak to the discloser's supervisor or manager.

Step 2: Develop a risk mitigation strategy if necessary

Where the risk level is assessed as **anything greater than low**, the Authorised Officer will develop a risk management strategy for mitigating the risk of reprisals being taken against the discloser. This strategy may include some or all of the support measures set out at part 5 of the Procedures and, in appropriate circumstances could include raising the matter with employees by reminding employees that taking or threatening to take a reprisal against a discloser is a criminal offence.

Step 3: Monitor and review risks

The Authorised Officer will monitor and review the risk assessment as necessary throughout the investigation process. This process will be conducted in consultation with the discloser and the discloser's supervisor or manager, if deemed appropriate.