

Department of the Premier and Cabinet

**Public Interest Disclosures**

**Internal Procedures**

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## **Part 1 - Rights and Obligations under the *Public Interest Disclosure Act 2003***

### ***What is a Public Interest Disclosure?***

The *Public Interest Disclosure Act 2003* came into effect on 1 July 2003. The Act encourages and facilitates the disclosure of public interest information by providing protection for those who make disclosures, and those who are the subject of disclosures.

The Department of the Premier and Cabinet is committed to the aims and objectives of the *Public Interest Disclosure Act 2003* and recognises the value and importance of staff contributions to administrative and management practices. The Director General strongly supports disclosure by staff of corrupt or other improper conduct.

In order to be a disclosure to which the Act applies, a disclosure must be:

- made by an informant who believes on reasonable grounds that the information is, or may be true; and
- a disclosure of public interest information; and
- made to the appropriate Proper Authority.

While the Act deals with disclosures by anyone (not just government employees), the information must be related to:

- improper conduct; and/or
- an offence under State law, including corruption; and/or
- administration matter(s) affecting an individual; and/or
- irregular or unauthorised use of public resources; and/or.
- substantial unauthorised or irregular use of, or substantial mismanagement of public resources; and/or.
- conduct involving a substantial and specific risk of injury to public health, prejudice to public safety or harm to the environment.

If the matter about which you have information falls outside these areas, you may still be able to make a complaint, but it will not be a public interest disclosure under the Act.

Before making a disclosure it is important that you are aware of the rights and responsibilities imposed on informants and others under the Act. Three key matters should be noted:

- it is an offence to make a disclosure if you know, or are reckless about whether the information is false and misleading in a material particular;
- with some exceptions, the public authority will investigate your information and in doing so you will be expected to cooperate;
- you will have to keep your information confidential – failure to do so may lose protection provided by Act and in fact may be an offence.

Making a disclosure is a serious matter and needs to be fully considered. You should ask yourself:

- whether you have reasonable grounds to believe the information you are thinking of disclosing is, or may be true;
- whether the information is something that you think is important to be disclosed because it is in the public interest, that is, the information should not be linked to any personal agenda;
- if you have sought proper advice; and
- if you fully understand your responsibilities under the Act if you make a disclosure.

The Act only confers protection where a disclosure is made to an appropriate Proper Authority that will vary according to the kind of information to be disclosed.

### **Proper Authorities for Receiving Disclosures of Public Interest Information**

<b>When the disclosure relates to...</b>	<b><i>the proper authority is...</i></b>
The sphere of responsibility of a public authority (eg matters about the public authority or its officers, or which the public authority has the function of investigating)	The Public Interest Disclosure Officer (PID Officer) of the public authority
Offences under State law	A police officer or the Anti-Corruption Commission
Substantial unauthorised or irregular use of, or substantial mismanagement of, public resources	The PID Officer of the public authority concerned or the Auditor General
Matters of administration affecting someone in their personal capacity falling within the jurisdiction of the Ombudsman	The PID Officer of the public authority concerned or the Ombudsman
A police officer	The Commissioner of Police or the Ombudsman
A Member of the Legislative Council	The President of the Legislative Council
A Member of the Legislative Assembly	The Speaker of the Legislative Assembly

<b>When the disclosure relates to...</b>	<b><i>the proper authority is...</i></b>
A Judicial officer	Chief Justice
A public officer who is not a member of Parliament, a Minister, a judicial officer or a Commissioned or other officer specified in schedule 1 of the <i>Parliamentary Commissioner Act 1971</i>	The PID Officer of the public authority concerned, the Ombudsman or the Commissioner for Public Sector Standards
A person or a matter of a prescribed class	A person declared by the regulations to be a proper authority

The Department of the Premier and Cabinet's Public Interest Disclosure Officer is responsible for receiving disclosures of public interest information relating to matters falling within the sphere of responsibility of the Department of the Premier and Cabinet.

The Department's PID Officer is Ms Kathryn James, A/Principal Policy Officer, Office of the Director General, Phone: 9222 9740 Email: [kathryn.james@dpc.wa.gov.au](mailto:kathryn.james@dpc.wa.gov.au)

The alternate PID Officer is Mr Robert Kennedy, Director, Office of the Director General Phone: 9222 8941 Email: [robert.kennedy@dpc.wa.gov.au](mailto:robert.kennedy@dpc.wa.gov.au)

You can make a disclosure to more than one proper authority and in such case; the protection and obligations created by the Act will apply to each of the disclosures.

A public authority may not have to investigate a matter raised by a public interest disclosure where it considers that the matter is being or has been adequately investigated by another person to whom a disclosure under the Act has been made.

In some cases the Proper Authority to which the disclosure is made may refer the matter to some other person having power to investigate the matter.

In general, a disclosure about a public authority or its officers or contractors, or a disclosure falling within the sphere of responsibility of a public authority, should in the first instance, be made to the public authority concerned.

### ***Role of the Proper Authority***

A Proper Authority:

- receives a Public Interest Disclosure;
- considers whether an investigation is required;
- carries out, or causes to be carried out any investigation required;
- maintains confidentiality of the identity of the informant and persons subject to the disclosure in accordance with the requirements of the Act;

- where appropriate, takes action following an investigation;
- provides appropriate reports of the investigation and action taken to informants;
- creates and maintains proper records in relation to disclosures;
- keeps statistics of disclosures made; and
- acts in accordance with the rules of natural justice and procedural fairness.

### ***Protection under the Act***

When a person makes an appropriate disclosure of public interest information to a proper authority, the Act:

- protects the person making the disclosure from legal or other action;
- provides for confidentiality of the identity of the person making the disclosure and a person who is the subject of a disclosure; and
- provides remedies for acts of reprisal and victimisation that occur substantially because the person has made a disclosure.

In general terms, protection against detrimental action which includes injury, intimidation, harassment, adverse treatment or reprisal is provided for people who make disclosures.

The Act also provides penalties for disclosing the identity of those persons about whom public interest disclosures are made, as well as emphasising the need for these persons to be accorded natural justice or procedural fairness.

A disclosure may relate to matters that occurred before the commencement of the Act (there is no time limit to the retrospectivity of a disclosure). However, no claim can be made in relation to victimisation that occurred prior to the Act coming into effect on 1 July 2003.

An informant cannot withdraw a public disclosure once it is made. The proper authority is required to investigate the disclosure and take action regardless of any change in the informant's wishes.

In addition, unless a court otherwise orders, an informant may forfeit the protection given by the Act if they fail, without reasonable excuse, to supply any information requested by the person investigating the matter to which their disclosure relates.

### ***Must a Public Interest Disclosure be investigated?***

A Proper Authority is not obliged to investigate every public interest disclosure made to it. Generally, a Proper Authority must investigate information disclosed under the Act where:

- the disclosure relates to the Proper Authority, its officers or contractors; or
- the disclosure relates to a matter or person that the Proper Authority has a function or power to investigate (eg where a police officer may investigate an offence committed in a Department).

A Proper Authority may refuse to investigate, or discontinue an investigation, where it considers that:

- the matter is trivial; or
- the disclosure is vexatious or frivolous; or
- there is no reasonable prospect of obtaining sufficient evidence due to the time that has elapsed since the occurrence of the matter; or
- the matter is being or has been adequately or properly investigated by another Proper Authority to which an appropriate disclosure of public interest information has been made.

***What action must a Proper Authority take following an investigation?***

A Proper Authority is only required to take action following an investigation if they form the view that a person may be, may have been, or may in the future be involved in improper conduct to which the Act applies. If the Proper Authority does not form that view after undertaking an investigation that is within its power, they are not required to take further action other than reporting to the informant and recording the outcome.

If the Proper Authority forms the view that a person may be, may have been, or may in the future be, involved in improper conduct to which the Act applies, then they will be required to take action in relation to the matter.

In taking that action the Proper Authority is limited by the powers and functions that are conferred by the legislation under which the authority operates. The Act does not give a Proper Authority additional powers to take action. As well as being limited to matters within the functions and powers of the Proper Authority, the action to be taken is guided by what is necessary and reasonable. Having regard to those matters, the proper authority must take action to:

- prevent the matter to which the disclosure relates from continuing or occurring in future; and/or
- refer the matter to the Commissioner of Police or another person, body, or organisation having power to investigate the matter; and/or
- take disciplinary action, or commence or enable disciplinary proceedings to be commenced against a person responsible for the matter.

These options are not mutually exclusive, and a Proper Authority may take more than one of the indicated steps; for example, seek to terminate the employment of an officer caught stealing and refer the matter to the police.

Before taking preventative or disciplinary action the Proper Authority is to afford any person against whom, or in respect of whom, the action is to be taken the opportunity to make a submission, either orally or in writing, in relation to the matter.

***Is the informant given details of the investigation and action taken?***

Where a Proper authority refuses to investigate information disclosed under the Act, or discontinues an investigation, it must give the informant reasons for doing so.

Within three months after a public interest disclosure is made the Proper Authority must notify the informant of the action taken or proposed to be taken in relation to the disclosure. An informant may also request a progress report.

If an investigation is not complete, the Proper Authority may provide a progress report on the current status of the investigation to the informant.

If an investigation is complete, the Proper Authority must provide a final report to the informant stating the outcome of the investigation and the reason for taking action following the investigation.

In providing information and reports to informants, a Proper Authority must not give information that, in its opinion, would be likely to adversely affect:

- any person's safety;
- the investigation of an offence or possible offence; or
- necessary confidentiality about the existence or identity of another person who has made a disclosure of public interest information under the Act.

### ***What if an informant does not agree with the action taken by the Proper Authority?***

The Act does not provide for any right of appeal against decisions of an appropriate authority as to investigations and subsequent action.

If an informant is dissatisfied with a decision made by a Proper Authority, they may make a further disclosure of the information to another proper authority. For example, where an informant is dissatisfied with the response to a public interest disclosure about a matter of administration made to a PID Officer of a Department, the informant may disclose the information to the Ombudsman.

However, a Proper Authority to which a subsequent disclosure is made need not investigate the matter if it considers the matter has been adequately or properly investigated by another Proper authority. In deciding whether this is the case, the second Proper Authority may need to contact the authority that has already dealt, or is already dealing, with the information in relation to its investigation.

### ***What remedies does an informant have against victimisation?***

A person who takes or threatens to take detrimental action against another because someone has made, or intends to make, a disclosure of public interest information commits an act of victimisation.

A person who is subject to detrimental action may either take civil proceedings for damages or make a complaint under the *Equal Opportunity Act 1984*. Instituting one of these alternative avenues of relief extinguishes the other.

Civil proceedings may be taken against either the perpetrator of the act of victimisation or any employer of the perpetrator. For example, the employer of the perpetrator may be:

- the State, in the case of public service officers;
- the public authority which employs the perpetrator; or

- a public sector contractor whose employees engage in victimisation.

However, an employer may have a defence to civil proceedings for damages where it proves that it:

- was not knowingly involved in the act of victimisation;
- did not know, and could not reasonably be expected to have known about the act of victimisation; and
- could not, by the exercise of reasonable care, have prevented the act of victimisation.

### ***Is an informant's identity to be kept confidential?***

Generally, a person must not disclose information that might identify or tend to identify anyone as a person who has made a disclosure of public interest information under the Act.

This prohibition against disclosure applies both to disclosures that identify an informant and disclosures that might tend to identify an informant. For example, to disclose that a young woman in a small accounts section has made a public interest disclosure about irregularities she has detected in the accounts of a particular public authority might tend to identify the informant, even though she is not named.

Exceptions arise where the disclosure of an informant's identity is:

- made with the informant's consent; or
- made under the *Corruption and Crime Commission Act 2003*; or
- necessary, having regard to the rules of natural justice or;
- necessary to enable the matter to be investigated effectively.

In the case of the last two points, the person making the disclosure must take all reasonable steps to inform the person whose identity is to be disclosed:

- that the disclosure is being made; and
- the reasons for the disclosure being made.

Those steps to inform the person must be taken a reasonable time before the identifying disclosure is made.

*A breach of these confidentiality requirements is a statutory offence punishable with a penalty of \$24,000 or imprisonment for two years (section 16 of the PID Act)*

## Part 2 - Internal Procedures

### *Receiving public interest disclosures*

#### **Advice to Informants**

Before an informant makes a public interest disclosure to a PID Officer, the PID Officer shall advise the informant of the following matters:

- (a) If they choose to make a public interest disclosure they will not as a result:
  - incur any civil or criminal liability; or
  - be liable to any disciplinary action under State law; or
  - be liable to be dismissed or have his or her services dispensed with or otherwise terminated; or
  - be liable for any breach of a duty of secrecy or confidentiality or any other applicable restriction on disclosure.
- (b) If they choose to make a public interest disclosure they may have the right to take civil proceedings if they are subject to detrimental action as a result of making the disclosure.
- (c) If they choose to make a public interest disclosure then their identity will not be disclosed except in accordance with the Act (disclosure of their identity may be required in the course of the investigation or in taking action in some circumstances).
- (d) If they choose to make a public interest disclosure then they will have the right to be informed of the progress and outcome of the investigation and action taken as a result.
- (e) If they choose to make a public interest disclosure, they:
  - are only protected if they believe on reasonable grounds that the information to be disclosed is or may be true;
  - will commit an offence, and lose the protection of the Act, if they know the information to be false or misleading in a material particular, or are reckless about whether the information is false or misleading in a material particular.
  - will forfeit the protection given by the Act if they disclose the information otherwise than under the Act (ie if they provide the information to the media or a person who is not a Proper Authority).
  - will forfeit the protection given by the Act if they fail, without reasonable excuse, to assist a person investigating the matter to which the information relates, by supplying any information requested.
  - may commit an offence if they disclose information that might identify or tend to identify anyone as a person in respect of whom a disclosure of public interest information has been made.
- (f) The disclosure will only be protected if the PID Officer is the Proper Authority for receiving that kind of information.

## **Assessing a Public Interest Disclosure**

The PID Officer must, on receiving the information, make an initial assessment of whether the:

- information disclosed relates to a public authority, a public officer or a public sector contractor;
- information disclosed relates to the performance of a public function;
- information disclosed tends to show improper conduct;
- improper conduct is of the kind for which the PID Officer is the Proper Authority (see the table in the Rights and Obligations section);
- informant believes on reasonable grounds that the information is or may be true;
- information is not protected by legal professional privilege;
- informant, after receiving the advice referred to in section 1, wishes to make a public interest disclosure under the Act.

If the above questions are all answered in the affirmative, then the disclosure of information is a public interest disclosure to which the Act will apply.

In assessing whether a disclosure is a public interest disclosure, the PID Officer should consider the *Flowchart for Receiving Disclosures* at Appendix 1, as well as complete Part 1 of the *Assessment Form Public Interest Disclosure* at Appendix 2.

## **Form of Public Interest Disclosure**

If a disclosure is a public interest disclosure, the informant and the PID Officer should complete the *Public Interest Disclosure Lodgement Form* at Appendix 3. The PID Officer should also complete Part 2 of the *Assessment Form for Public Interest Disclosures*.

On completion of this form, the PID Officer should create a separate file for the Public Interest Disclosure, with the following text clearly marked on the front of the File.

**“CONFIDENTIAL**

**The material in this file relates to a public interest disclosure made under the  
*Public Interest Disclosure Act 2003***

**Disclosure of information that might identify or tend to identify either the informant  
or a person in respect of whom the disclosure has been made is an offence, unless  
the disclosure occurs in accordance with the Act.**

**Penalty: \$24,000 or imprisonment for two years”**

The making of the public interest disclosure should also be recorded in the Public Interest Disclosure Register, at Appendix 7 for reporting to the Public Sector Commissioner.

## ***Investigating a Public Interest Disclosure***

### **Determining whether the matter must be investigated**

- After receiving a disclosure, the PID Officer must consider whether:
- the disclosure relates to the Department of the Premier and Cabinet, its officers or contractors; or
- the disclosure relates to a matter or person that the Department of the Premier and Cabinet has a function or power to investigate.

If the answer to both of these questions is negative, the PID Officer is not required to investigate the matter.

The PID Officer must also consider whether:

- the matter is trivial; or
- the disclosure is vexatious or frivolous; or
- there is no reasonable prospect of obtaining sufficient evidence due to the time that has elapsed since the occurrence of the matter; or
- the matter is being or has been adequately or properly investigated by another proper authority to which an appropriate disclosure of public interest information has been made under the Act.

If the answer to any of these questions is affirmative, the PID Officer is not required to investigate the matter.

Where the PID Officer considers that he or she lacks sufficient power to effectively investigate the matter, but the information received causes him or her to form the opinion that a public authority, public officer or public sector contractor may have engaged in improper conduct, the PID Officer should refer the matter to an appropriate investigative body. For example, an allegation of an offence supported by evidence may need to be referred by a PID Officer to the Police for investigation.

In assessing whether a public interest disclosure should be investigated, a PID Officer will consider the *Flowchart for Investigating Information Disclosed* at Appendix 4 and complete Part 3 of the *Assessment Form for Public Interest Disclosures*.

### **Investigating information received in a Public Interest Disclosure**

Where the PID Officer determines that the disclosure is a public interest disclosure that should be investigated, the officer must investigate the disclosed matter themselves or engage another person to carry out the investigation.

In conducting an investigation, typical procedures should include:

- drawing up terms of reference, which should clarify the key issues identified by the disclosure;
- specifying a date by which the investigation should be completed;

- ensuring the objectives of the investigation include collecting and collating information relating to the disclosure, considering the information collected and drawing conclusions objectively and impartially;
- maintaining procedural fairness for the person who is the subject of the disclosure;
- giving information to the person who is the subject of a disclosure about their rights and obligations under the Act, the Code of Ethics, any agency Code of Conduct, and the law;
- making contemporaneous notes of discussions and interviews and, where practicable and appropriate, recording discussions and interviews on audio or videotape; and
- ensuring strict security with all investigations so as to maintain the confidentiality requirements of the Act.

### **Maintaining Confidentiality in an Investigation**

The Act imposes strict confidentiality requirements in relation to the identity of the informant, and persons in respect of whom a public interest disclosure has been made. The disclosure of information, which might identify or tend to identify these persons, except in accordance with the Act, is a serious offence punishable by a maximum penalty of \$24,000 or two years imprisonment.

The confidentiality provisions of the Act do not apply to all information disclosed in a public interest disclosure, but only to information that might identify or tend to identify the informant and persons in respect of whom a public interest disclosure has been made.

However, with the consent of the person concerned, identifying information may be disclosed. It is important that this consent be recorded. The *Consent to Disclosure of Identifying Information* form is used for this purpose, at Appendix 6.

Identifying information relating to an informant may be disclosed without the informant's consent where:

- it is necessary to do so, having regard to the rules of natural justice; or
- it is necessary to do so to enable the matter to be investigated effectively.

However, before information is disclosed for these reasons, the person making the disclosure must take all reasonable steps to inform the person whose identity is to be disclosed:

- that the disclosure is being made; and
- the reasons for it being made.

This information should be given, where practicable, in the form for *Notification of Disclosure of Identifying Information*, at Appendix 7.

Where identifying information in relation to an informant is conveyed to another person for these reasons, the other person should be warned that disclosure of the information to a third person may involve a serious offence.

Identifying information relating to a person in respect of whom a public interest disclosure has been made can be disclosed at the investigation stage where the disclosure:

- is necessary to enable the matter to be investigated effectively; and
- there are reasonable grounds to believe that the disclosure of identifying information is necessary to prevent or minimise the risk of injury to any person or damage to any property.

In addition, disclosures under the *Corruption and Crime Commission Act 2003* are exempt from these confidentiality requirements.

Where a PID Officer appoints a third person to conduct an investigation of a public interest disclosure, he or she must consider whether it is necessary to inform the investigator of the identity of the informant. In some cases it may not be necessary to provide the investigator with the identity of the informant. Where it is necessary to enable an effective investigation, and having regard to the rules of natural justice to provide identifying information to the investigating officer, then the informant should be notified in the manner described above.

### **Recording the Outcome of an Investigation**

The outcome of an investigation should be clearly and comprehensively recorded. In addition to any investigation report, the person conducting the investigation should complete Part 4 of the *Assessment Form for Public Interest Disclosure*.

The result of the investigation should also be recorded in the Public Interest Disclosure Register. All reporting requirements to the Commissioner for Public Sector Standards required under the Act will be based on extracts from this Register.

### ***Taking action following an investigation***

#### **Overview**

The PID Officer must take action where he or she forms the opinion that a person may be, has been, or may in the future be involved in improper conduct. Action that may be taken includes:

- preventing the matter to which the disclosure relates from continuing or occurring;
- referring the matter to the Police or other appropriate body, or
- taking disciplinary action against a person responsible for the matter.

In assessing what action should be taken after an investigation, a PID Officer should follow the *Flowchart for Taking Action after Investigation* at Appendix 5

Before taking any action, the person against whom the action is to be taken is to be given the opportunity to make written or oral submissions.

In taking that action the PID Officer remains limited by the powers and functions that are conferred by the legislation under which the Officer operates. The Act does not give the PID Officer any additional powers to act.

As well as being limited to matters within the functions and powers of the PID Officer, the action must be guided by what is necessary and reasonable.

### **Maintaining Confidentiality when Taking Action**

When taking action, the confidentiality of identifying information must be maintained, unless its disclosure is authorised by the Act.

The only additional exception, beyond those identified in relation to investigations, is where disclosure of the identity of a person who is the subject of a public interest disclosure is necessary in taking action following the investigation.

### **Recording Action Taken**

In addition to keeping other records, the PID Officer shall complete Part 5 of the *Assessment Form for Public Interest Disclosures* (see FORMS) and record a summary of the action taken in the Public Interest Disclosure Register. All reporting requirements to the Public Sector Commissioner under the Act will be based on extracts from this Register.

### **Reporting to an Informant on the Progress and Outcome of an Investigation**

Where the PID Officer decides not to investigate information disclosed under the Act, or discontinues an investigation, the officer must give the person who made the disclosure reasons for doing so.

Within three months of the disclosure being made the PID Officer must notify the informant of the action taken or proposed to be taken in relation to the disclosure. An informant may also request a progress report. If an investigation is not complete, the PID Officer may provide the informant with a progress report on the current status of the investigation.

If an investigation is complete, the PID Officer must provide a final report to the informant stating the outcome of the investigation and the reason for taking action.

In providing information and reports to informants, the PID Officer must not give information that, in the officer's opinion, would be likely to adversely affect:

- any person's safety; or
- the investigation of an offence or possible offence; or
- necessary confidentiality as to the existence or identity of another person who has made a disclosure of public interest information under the Act.

### ***Protecting informants***

#### **Victimisation and Reprisals**

The Department of the Premier and Cabinet will not tolerate any acts of victimisation or reprisal as a result of a person making, or proposing to make a public interest disclosure.

Any victimisation or reprisals must be reported immediately to the Director General or PID Officer who will take immediate action to prevent continuance of this unlawful conduct.

Where victimisation or reprisals are reported, a record of the report and the action taken must be placed on the file relating to the public interest disclosure.

Steps taken to prevent acts of victimisation or reprisal should be recorded in a manner such that they will be accessible for reference should legal action be taken against the Department of the Premier and Cabinet.

### **Confidentiality**

The confidentiality requirements in relation to information which might identify or tend to identify an informant or a person in respect of whom a public interest disclosure has been made must be complied with at all times. As noted above, the disclosure of this identifying information, except in accordance with the Act, is an offence.

All files relating to a public interest disclosure, whether paper or electronic, must be secure and accessible only by authorised persons. Files should carry clear warnings that there are penalties for unauthorised divulgence of information concerning a disclosure.

It is strongly recommended that sensitive information is not emailed or faxed to machines with general or shared access.

### ***Public Interest Disclosure Register***

The Department of the Premier and Cabinet shall maintain a Public Interest Disclosure Register recording a unique register number and key information for each disclosure.

The register should include a summary of information relating to:

- the informant;
- public authorities about which a disclosure is made;
- people named in the disclosure;
- the nature of the disclosure;
- the investigation process and the action, if any, taken;
- communication with the informant;
- disclosure of the informant's identity, if applicable;
- disclosure of identity of persons named in the disclosure;
- claims of unlawful disclosure of informant's identity or identity of persons named in the disclosure;
- claims of victimisation; and
- key dates

A pro forma *Public Interest Disclosure Register* is shown at Appendix 7.

Under section 23(f) of the Act, the Department of the Premier and Cabinet is required to report annually to the Public Sector Commissioner on:

- the number of public interest disclosures received over the report period;
- the results of any investigations conducted as a result of the disclosures; and
- the action, if any, taken as a result of each investigation.

***Making Information Available***

These internal procedures are available for access by all employees of the agency, and hard copies are available from the Public Interest Disclosure Officer.



## Appendix 2 -Assessment forms for Public Interest Disclosures

Register	#
_____	

### Part One - Receiving the disclosure and assessment of whether information is a valid disclosure

	Tick Box	Notes
Does the disclosure relate to a public authority, a public officer or a public sector contractor?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does the information relate to the performance of a public function?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does the information tend to show matters which public information can relate? <sup>1</sup>	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does the information tend to show public interest information for which the person receiving the information is the proper authority?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does the informant believe on reasonable grounds that the information is or may be true?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
After being informed of the consequences, does the informant wish to disclose the information under the Act?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

<sup>1</sup> Matter to which public interest information can relate

- Improper conduct.
- An offence against State law.
- An unauthorised or irregular use of public resources.
- A substantial mismanagement of public resources.
- Conduct involving a substantial and specific risk of injury to public health, prejudice to public safety or harm to the environment.
- Conduct relating to a matter of administration affecting someone in their personal capacity that falls within the jurisdiction of the Ombudsman.

***If any of the “No” boxes have been ticked then the disclosure is unlikely to be one that the Public Interest Disclosure Act applies to. The PID officer should ensure a proper record is made of the reasons for the “No” response and should provide his or her response to the informant.***

**Part Two - Internal quality control**

Register # _____
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Does the disclosure meet the manner and form required by the Department of the Premier and Cabinet internal procedures?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, explain why
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**Signature:**

I, the Public Interest Disclosure Officer for the confirm that the disclosure made to me on the day of \_\_\_\_\_ 2003 by \_\_\_\_\_ (informant's name) is registered as a disclosure under the *Public Interest Disclosure Act 2003* in the Department of the Premier and Cabinet's Public Interest Disclosure Register.

Signed: \_\_\_\_\_

*PID Officer*

Date: \_\_\_\_\_

Register	#
_____	

**Part Three - Assessment of whether the disclosure should be investigated**

	Tick Box	Notes
Does the disclosure relate to the proper authority, its officers or contractors?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does the disclosure relate to a matter or person that the authority has a function or power to investigate?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

***If any of the “No” boxes have been ticked then the disclosure is unlikely to be one that the Public Interest Disclosure Act requires be investigated. The PID officer should ensure a proper record is made of the reasons for the “No” response and should provide his or her response to the informant.***

	Tick Box	Notes
Is the matter trivial?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Is the disclosure vexatious?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Is the disclosure frivolous?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

***If any of the “Yes” boxes have been ticked then the disclosure is unlikely to be one that the Public Interest Disclosure Act requires be investigated. The PID officer should ensure a proper record is made of the reasons for the “Yes” response and should provide his or her response to the informant.***

	Tick Box	Notes
Is there a reasonable prospect of obtaining sufficient evidence, having regard to the time that has elapsed since the occurrence of the matter?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

***If the “No” box has been ticked then the disclosure is unlikely to be one that the Public Interest Disclosure Act requires be investigated. The PID officer should ensure a proper record is made of the reasons for the “No” response and should provide his or her response to the informant.***

	Tick Box	Notes
Is the matter being, or has the matter been, adequately or properly investigated by another proper authority under the Act?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

***If the “Yes” box has been ticked then the disclosure is unlikely to be one that the Public Interest Disclosure Act requires be investigated. The PID officer should ensure a proper record is made of the reasons for the “Yes” response and should provide his or her response to the informant***

**SIGNATURE:**

I, the Public Interest Disclosure Officer for the Department of the Premier and Cabinet confirm that the public interest disclosure made to me on the \_\_\_\_\_ day of

\_\_\_\_\_, by .....(informant’s name) in my opinion meets/does not meet (delete one) the requirements for a public interest disclosure to be investigated.

I also confirm that I have recorded this opinion in the Public Interest Disclosure Register of the Department of the Premier and Cabinet.

Signed: \_\_\_\_\_ (PID Officer)

Date: \_\_\_\_\_

Register #  
\_\_\_\_\_

#### Part Four - Investigation

Investigating Officer's Name: \_\_\_\_\_

Normal Designation of Investigating Officer: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Contact Telephone No. \_\_\_\_\_

Email address: \_\_\_\_\_

Date Investigation Authorised by the Proper Authority: \_\_\_\_\_

Details of Authorisation: \_\_\_\_\_

\_\_\_\_\_

#### REVIEW OF THE INVESTIGATION PROCESS

	Tick Box	Notes
Has the documentation used in the assessment of the disclosure been reviewed?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Was an investigation plan developed?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

	Tick Box	Notes
Were terms of reference developed?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Were people interviewed?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Was confidentiality maintained <ul style="list-style-type: none"> <li>- of the informant's identity?</li> <li>- of the information disclosed?</li> <li>- of the identity of the subject(s) of the disclosure?</li> </ul>	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Were natural justice rules followed?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Was a report prepared?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

***While this investigation process is not prescribed under the Public Interest Disclosure Act 2003, it serves as a useful checklist for a proper investigation.***



Register #
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**Part Five - Further action**

	Tick Box	Notes
Does the proper authority accept the recommendation contained in Part Four?	<input type="checkbox"/> Yes  <input type="checkbox"/> No	

*If the 'yes' box has been ticked, please indicate action to be taken by proper authority.*

**Action taken by the proper authority**

	Tick Box	Notes
Take action necessary, reasonable and within functions and powers of proper authority to prevent matter continuing or occurring	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
Refer matter to another body with power to investigate the matter	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
Take disciplinary action, or commence disciplinary proceedings, against person involved, within power of proper authority	<input type="checkbox"/> Yes  <input type="checkbox"/> No	

*Report to informant on outcome of investigation and action taken, or to be taken consistent with confidentiality obligations. Record action(s) in records for reporting.*

**SIGNATURE:**

I, the Public Interest Disclosure Officer for the Department of the Premier and Cabinet and confirm that the above action was taken or will be taken following the public interest disclosure made by \_\_\_\_\_ (informant's name) and that I have recorded the outcome of the investigation and the action taken or to be taken in the Public Interest Disclosure Register of the Department of the Premier and Cabinet.

Signed: \_\_\_\_\_ (PID Officer)

Date:

**Appendix 3 - Public Interest Disclosure lodgement form**

***This is an official lodgement form for a disclosure made under the Public Interest Disclosure Act 2003. An informant should ensure that they fully understand the rights and responsibilities required under this legislation before the form is completed and signed. Appropriate advice should be gained before any disclosure is made.***

**1. PERSONAL DETAILS**

Family Name: \_\_\_\_\_

Given Name: \_\_\_\_\_ Gender (please circle): M / F

Title (please circle): Mr, Ms, Mrs, Miss \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Home Telephone No: \_\_\_\_\_ Work Telephone No: \_\_\_\_\_

Mobile: \_\_\_\_\_ Email address: \_\_\_\_\_

**2. DISCLOSURE DETAILS**

Name of the Public Authority(ies)

the Disclosure Relates To: \_\_\_\_\_

Do you work for a public authority?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If Yes, which public authority and what is your position title?	
Does the disclosure relate to one or more individuals?	<input type="checkbox"/> Yes <input type="checkbox"/> No

If yes, please provide names and positions held by person(s) in the public authority	
--	--

Please tick box(es) on the basis of your disclosure:

- |   |  |
|---|--|
| <input type="checkbox"/> Improper conduct                                 | <input type="checkbox"/> Irregular or unauthorised use of public resources   |
| <input type="checkbox"/> An offence under State law, including corruption | <input type="checkbox"/> Substantial unauthorised or irregular use of, or substantial mismanagement of public resources                                      |
| <input type="checkbox"/> Administration matter(s) affecting you           | <input type="checkbox"/> Conduct involving a substantial and specific risk of injury to public health, prejudice to public safety or harm to the environment |

When did the alleged events occur? \_\_\_\_\_

Summary of disclosure: \_\_\_\_\_

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Description of any documentation provided or names of witnesses: \_\_\_\_\_

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Have you reported this information to any other person or agency?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, please provide details	

### 3. ACKNOWLEDGMENT

I acknowledge that I believe on reasonable grounds that the information contained in this disclosure is or may be true.

I have been informed and am aware that:

***I will commit an offence if I know that the information contained in this disclosure is false or misleading in a material particular, or am reckless as to whether it is false or misleading in a material particular.***

**Penalty: \$12,000 or imprisonment for one (1) year**

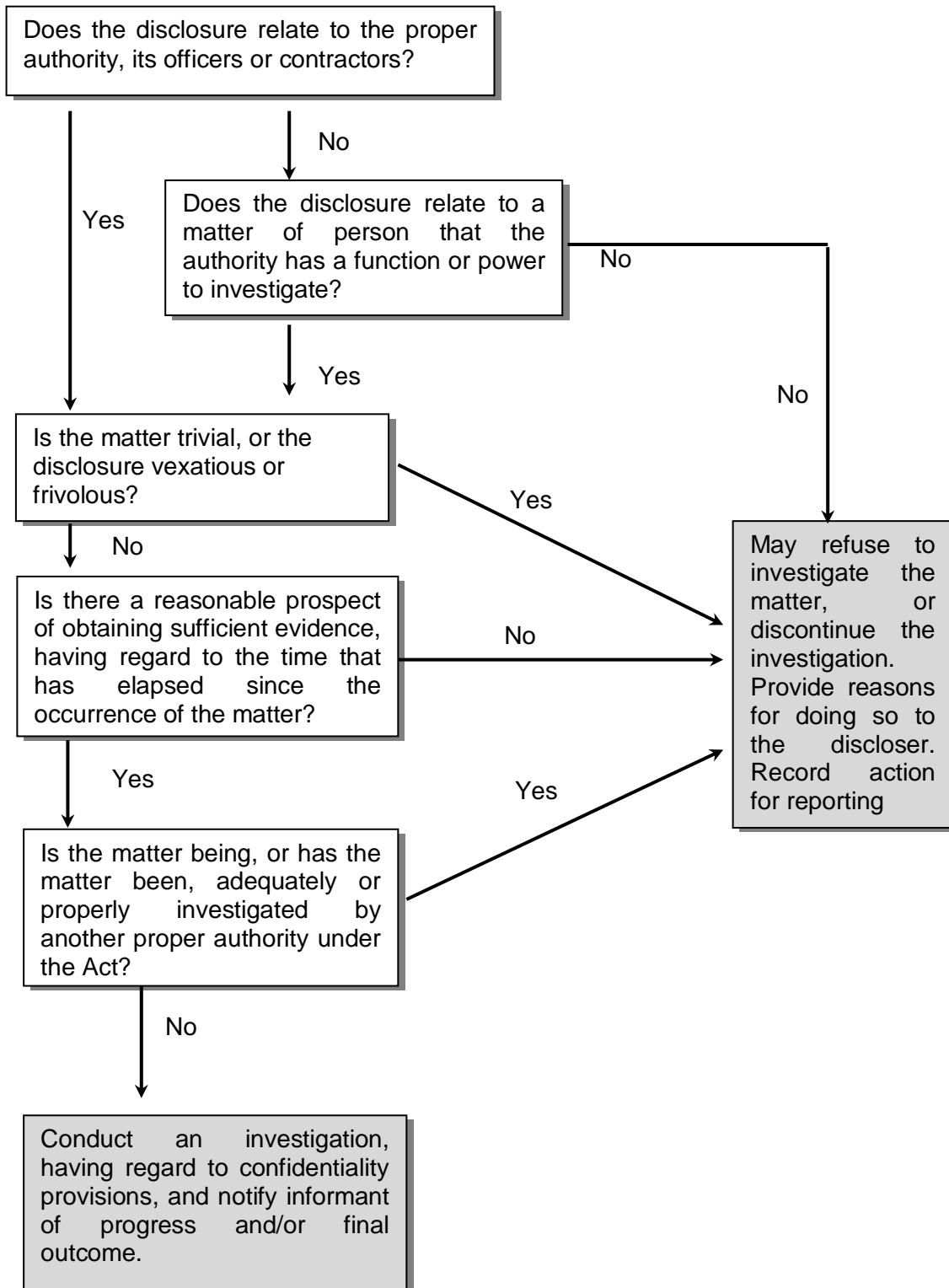
1. I will forfeit protection provided by the *Public Interest Disclosure Act 2003* if I fail, without reasonable excuse, to assist a person investigating the matter by supplying requested information.
2. I will forfeit the protection provided by the *Public Interest Disclosure Act 2003* if I subsequently disclose this information to any person other than a proper authority under the Act.
3. I will commit an offence if I subsequently make a disclosure of information that might identify or tend to identify anyone as a person in respect of whom this disclosure has been made under the *Public Interest Disclosure Act 2003*, except in accordance with section 16(3) of that Act.

**Penalty: \$24,000 or imprisonment for two (2) years**

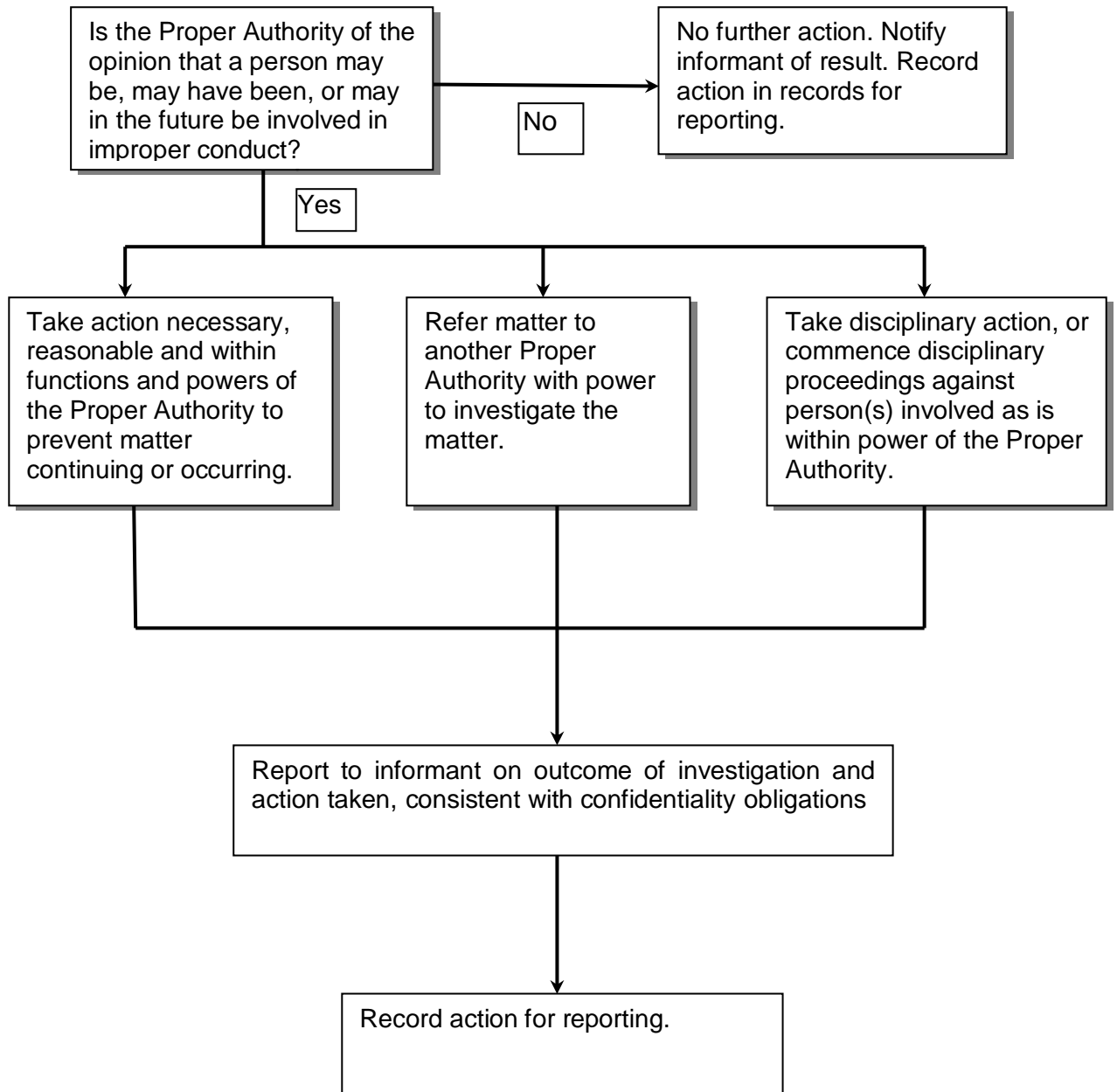
Signed: \_\_\_\_\_

Date: \_\_\_\_\_

**Appendix 4 - Flowchart for investigating information disclosed**



**Appendix 5 - Flowchart for taking action after investigation**



**Appendix 6 - Consent to disclosure of identifying information**

**PERSONAL DETAILS**

Family Name: \_\_\_\_\_

Given Name: \_\_\_\_\_ Gender (please circle): M / F \_\_\_\_\_

Title (please circle): Mr, Ms, Mrs, Miss \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Home Telephone No: \_\_\_\_\_ Work Telephone No: \_\_\_\_\_

Mobile: \_\_\_\_\_ Email address: \_\_\_\_\_

Please tick relevant box(es):

**Consent to disclosure of identifying information by Informant**

- I consent to the disclosure of information that might identify or tend to identify me as a person who has made a disclosure of public interest information under the *Public Interest Disclosure Act 2003*.

**Consent to disclosure of identifying information by person in respect of whom a public interest disclosure has been made**

- I consent to the disclosure of information that might identify or tend to identify me as a person in respect of whom a disclosure of public interest information has been made under the *Public Interest Disclosure Act 2003*.

**Limitations on consent (optional)**

- This consent only applies to disclosures made to the following persons:

\_\_\_\_\_

- This consent only applies to the following information:

\_\_\_\_\_

\_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

**Appendix 7 - Notification of disclosure of identifying information**

**TO:**

Title (please circle): Mr, Ms, Mrs, Miss \_\_\_\_\_ Gender (please circle): M / F \_\_\_\_\_

Name (in full): \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

I intend to make a disclosure of information that might identify or tend to identify you as a person who has made an appropriate disclosure of public interest information under the *Public Interest Disclosure Act 2003*.

The disclosure of this information:

*[Please tick relevant box(es)]*

- Is necessary, having regard to the rules of natural justice.
- Is necessary to enable the matter to be investigated effectively.

The reason(s) why the disclosure of this information is necessary for these purposes / this purpose is that (specify reason):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signed: \_\_\_\_\_ *(person proposing to make disclosure)*

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Date: \_\_\_\_\_ Contact details:

### **Appendix 8 - Public Interest Disclosure register**

Proper Authorities maintain a register to record public interest disclosures including information required for reporting to the Public Sector Commissioner. The *Public Interest Disclosure Register*, in both electronic and hardcopy is kept strictly confidential and in a secure place.

- **Disclosure Number:** \_\_\_\_\_

- **Disclosure Code (Unique Register No)** \_\_\_\_\_

- **Person Making the Disclosure (Informant)**

Name of informant: \_\_\_\_\_

Gender of informant: \_\_\_\_\_

Name of public authority employing the Informant (if applicable) \_\_\_\_\_

Relationship of informant to public authority about which disclosure is made \_\_\_\_\_

- **First Public Authority about which the Disclosure is made**

Name of public authority \_\_\_\_\_

Individuals named in the disclosure \_\_\_\_\_

- **Second Public Authority about which the Disclosure is made**

Name of public authority \_\_\_\_\_

Individuals named in the disclosure \_\_\_\_\_

- **Nature of Disclosure**

Type of disclosure \_\_\_\_\_

Brief description of nature of disclosure \_\_\_\_\_

- **Investigation Process and Action Taken**

Investigation undertaken  Yes  No

Reason if no investigation or investigation discontinued \_\_\_\_\_

\_\_\_\_\_

Outcome of investigation \_\_\_\_\_

\_\_\_\_\_

Brief description of results of Investigation \_\_\_\_\_

\_\_\_\_\_

Brief description of action taken if investigation has substance \_\_\_\_\_

\_\_\_\_\_

- **Key Dates**

Date lodged \_\_\_\_\_

Date of decision on whether to investigate \_\_\_\_\_

Date Investigation completed or discontinued \_\_\_\_\_

Date of decision on action to be taken \_\_\_\_\_

- **Communication with Informant**

Total number of written progress reports to informant \_\_\_\_\_

	Yes/No	Date
First advice to informant of action taken or proposed within 3 months		
Reasons given if no investigation or Investigation discontinued		
Final report requested by informant		
Final report provided to informant		

- **Disclosure of Identity of Informant**

	Yes/No	Date
Informant's identity disclosed		
Informant advised of reasons for disclosure		
Claim of unlawful disclosure made		
Reason for disclosure of identity		

**Disclosure of Identity of Persons Named in the Disclosure**

	Yes/No	Date
Person's identity disclosed		
Person advised of reasons for disclosure		
Claim of unlawful disclosure made		
Reason for disclosure of identity		

- **Unlawful Disclosure of Informant's Identity**

Outcome of investigation \_\_\_\_\_  
 \_\_\_\_\_

Brief description of results of investigation \_\_\_\_\_  
 \_\_\_\_\_

Brief description of action taken if claim has substance \_\_\_\_\_  
 \_\_\_\_\_

- **Unlawful Disclosure of Identity of Person Named in Disclosure**

Outcome of investigation \_\_\_\_\_  
 \_\_\_\_\_

Brief description of results of investigation \_\_\_\_\_  
 \_\_\_\_\_

Brief description of action taken if claim has substance \_\_\_\_\_

- **Claim of Victimisation**

Claim of victimisation made  Yes  No Date

Brief description of nature of claim of victimisation \_\_\_\_\_

\_\_\_\_\_

Internal or Equal Opportunity Commission Investigation \_\_\_\_\_

- **Internal Handling of Victimisation Claim (if applicable)**

Outcome of investigation \_\_\_\_\_

\_\_\_\_\_

Brief description of results of investigation \_\_\_\_\_

\_\_\_\_\_

Brief description of action taken if claim has substance \_\_\_\_\_

\_\_\_\_\_

- **Victimisation Claims Lodged with Equal Opportunity Commission (if applicable)**

Outcome of investigation \_\_\_\_\_

\_\_\_\_\_

Brief description of results of investigation \_\_\_\_\_

\_\_\_\_\_

Brief description of action taken if claim has substance \_\_\_\_\_

\_\_\_\_\_