1. Introduction

1.1 The Public Interest Disclosure Act 2012 (the Act) specifically encourages and enables anyone who suspects serious wrongdoing relating to the work of an ACT public sector entity to raise concerns. It guarantees these concerns will be seriously considered and investigated where warranted. The Act sets out the strict legal obligations of those raising a potential public interest disclosure (PID), the protections available for disclosers, how disclosures should be dealt with and the obligations of staff who manage disclosures and PIDs.

2. Public Interest Disclosure Guidelines

2.1 The Commissioner for Public Administration has published the Public Interest Disclosure Guidelines 2013 (the Guidelines) to explain and support the way in which the ACT Public Service and other public service entities covered by the Act should handle PIDs. The Guidelines are divided into two parts:

Part One is relevant to all readers. It looks at who and what is covered and provides general information about making a disclosure and the PID framework established by the Act.

Part Two is about the co-ordination and handling of disclosures and PIDs. It has been written with an internal focus and aims to assist those with responsibility for managing disclosures and PIDs.

2.2 The Environment and Sustainable Development Directorate has adopted the Guidelines and the following procedures must be read in conjunction and interpreted in line with the Guidelines made under the Act.

3. Making a disclosure

3.1 Anyone suspecting a misuse of public resources or information that indicates questionable activity relating to the work of an ACT public sector entity is encouraged to make a disclosure. This includes ACTPS employees, contractors and others who work with ACT public sector entities, and members of the public.

3.2 A disclosure can be made in any way: it can be oral, via telephone, in person, or in writing (for example, email, feedback form or letter).

3.3 Because a disclosure can be made inadvertently (that is, without the discloser asserting that the disclosure is made under the Act) all employees must be aware of this type of disclosure and managers and supervisors should be aware of their possible role as a receiving officer. (A receiving
officer means a person, for example, a supervisor or manager, who receives a PID, but is not necessarily a disclosure officer. Receiving offers are not decision makers in relation to PIDs.)

4. Disclosure officers

4.1 The Directorate has three disclosure officers:

• Executive Director, Regulation and Services;
• Chief Finance Officer; and
• Director-General.

5. Role of disclosure officers

5.1 Disclosure officers are responsible for receiving, forwarding and acting upon disclosures in accordance with the Act and Guidelines.

5.2 The disclosure officer/s will assess the disclosure and consider whether it would be better handled by another entity or if it relates to another entity’s staff or resources.

5.3 If a disclosure relates to the Directorate the disclosure officer/s need to determine if the disclosure is, in fact, a PID. If the disclosure has been assessed as being a PID, the disclosure officer must notify the Director-General and the Commissioner for Public Administration that a disclosure has been made under the Act. The disclosure officer will further determine whether an investigation is required and how it should be conducted and will update the discloser every three months.

5.4 There are other avenues of complaint should the matter not be considered under the Act (see point 8, below).

6. Managing the Process

6.1 A flow chart which outlines the processes followed by the Directorate when a disclosure is received is at Attachment 1.

7. Procedure Owner

7.1 Senior Manager, Governance.

7.2 For support in relation to the Act please contact the Senior Manager Governance or Senior Manager Legislation.

8. Other Avenues of Complaint

8.1 The Directorate has a Complaints handling and feedback policy which describes procedures for complaints about decisions and processes against the Directorate.

8.2 Certain matters can be more appropriately addressed through other complaint handling mechanisms such as those listed in Attachment 2.
Step 1: RECEIVE

Disclosure Officer (DO) receives formal disclosure or a disclosure is passed to them by a Receiving Officer. See 4.1 of the ESDD Procedures for further information.

1. Make written notes if orally raised.
2. Manage expectations and respect promises of confidentiality where applicable.

Step 2: CONSULTATION

Meeting of Directorate DOs convened to discuss the disclosure.

Step 3: ACKNOWLEDGE

Discloser must be afforded appropriate recognition.

Nominated DO to send letter of acknowledgement to the discloser outlining the process the DOs have to undertake in handling the disclosure.

Step 4: INITIAL ASSESSMENTS – 5 STEPS TO ASSESSMENT

1. REFER

DOs must consider whether disclosure would be better handled by another entity or if it relates to another entity’s staff or resources.

Yes

1. Nominated DO to provide referral form to notify the respective DO in the other entity of your decision.
2. Notify the discloser of your decision.
   This letter closes the process from your entity’s perspective. You are now the referring officer and will be kept informed.

No

2. ASSESS

Is the disclosure a PID? NB: The DOs must make this decision.

If in doubt, engage an investigator or seek further procedural advice from the Commissioner for Public Administration or legal advice from the ACT Government Solicitor.

Yes

Nominated DO writes to discloser explaining why their disclosure is not a PID (see s20) and advises other avenues for their complaint to be examined e.g. Grievance review, Worksafe ACT etc.
   This letter closes the process, subject to a request for the Commissioner for Public Administration to review the decision.

No

3. INVESTIGATE

If the disclosure is assessed to be a PID and the DOs make a decision to investigate the PID, then the nominated DO must determine:
   - the matters to be resolved;
   - resources required; and
   - how the investigation will be managed (external v internal).

In certain circumstances the DOs may make a decision NOT to investigate a PID (see s20) but the nominated DO must provide REASONS and INFORM the discloser, the head of the entity and the Commissioner for Public Administration.
   This letter closes the process subject to a request to review the decision.

4. NOT INVESTIGATE

The nominated DO has the responsibility to track and manage the process from problem to solution, and notify as required. Move to Step 5.

5. MANAGE THE PROCESS
Step 5: INVESTIGATION

The nominated DO makes the decision that the matter is complex or an investigation is otherwise needed.

DO develops clear and relevant Terms of Reference for investigation
- Who is involved? When did it happen?
- Has disclosable conduct occurred?
- What type of conduct?
- What can be done to remedy the wrong?
- What can be done to ensure it doesn’t happen again?
- Timeframes?

UPDATE discloser and Commissioner for Public Administration at least once every three months. Move to Step 6

Step 6: FINAL DECISION

The Director-General or delegate makes the decision based on recommendations arising from investigation and drafts a report documenting their decision.

The Directorate must take action to:
- prevent the disclosable conduct continuing, and
- discipline any person responsible for the disclosable conduct (s24).

Nominated DO must document the decision and reasons for making the decision.

Following completion of the investigation, the discloser, Commissioner for Public Administration and head of the entity must be informed:
- of the outcome of any investigation, or
- if it is decided that the investigation will be ended, including the reason for this decision and how this complies with section 20 of the Act.

Step 7: REPORT

Relevant information is compiled for the Directorate’s Annual Report.

Step 8: REVIEW (if necessary)

The Commissioner can:
- review any action taken or proposed to be taken in relation to a PID, and
- may review the decision by an investigating entity to refuse to investigate a PID or to end an investigation.
## INTERNAL

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<tr>
<th>Area/Role</th>
<th>Further information is available from:</th>
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| Respect, Equity and Diversity (RED) contact officers to assist staff to understand the Respect, Equity and Diversity Framework and implement respect, equity and diversity principles within ESDD. | ESDD RED Executive Sponsor: John Meyer (x72644)  
ESDD RED Contact Officers:  
- Diana Chen (76028)  
- Emma Humphreys (75532)  
- Paul Sutton (70270)  
- Luke Feain (59637)  
- Chris Watkins (52568)  
- Michael Clifford (71608)  
- Margaret Kitchin (77623)  
- Anna Gianakis (58757)  
RED Contact Officer’s from another Directorate – see ACT Government Directory [http://directory/](http://directory/) |

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## EXTERNAL

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<th>Area</th>
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| ACT Auditor-General functions include promoting public accountability, to audit annual financial statements of the territory, and conduct performance audits. | Ph: (02) 6207 0833  
| ACT Civil and Administrative Appeals Tribunal for reviews of reviewable decisions made under certain legislation including:  
- Building Act 2004;  
- Commissioner for Sustainability and the Environment Act 1993;  
- Common Boundaries Act 1981;  
- Construction Occupations (Licensing) Act 2004;  
- Environment Protection Act 1997;  
- Electrical Safety Act 1971;  
- Gas Safety Act 2000;  
- Heritage Act;  
- Planning and Development Act 2007;  
- Public Place Names Act 1989;  
- Tree Protection Act 2005; and  
- Utilities Act 2001. | Ph: (02) 6207 1740  
[ACT Civil and Administrative Appeals Tribunal](http://www.ors.act.gov.au/community/fair_trading) |
| ACT Human Rights Commission in respect of complaints, including under the Human Rights Act 2004 in relation to the protection of family and children (s.11), privacy and reputation (s.12), and the right to a fair trial (s.21). | Ph: (02) 6205 2222  
| ACT Office of Fair Trading assists and protects the community through the administration of Fair Trading legislation and the registration and compliance of businesses in specific industries. The main objective of the Office is to provide | Ph: (02) 6207 3000 (pres option 8)  
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<td><strong>Commissioner for Public Administration</strong>, in accordance with s.22 of the <em>Public Sector Management Act 1994</em> may conduct inspections of, or make inquiries or investigations into the operations of government agencies.</td>
<td>Ph: (02) 6205 0358 <a href="http://www.cmd.act.gov.au/governance/commissioner">http://www.cmd.act.gov.au/governance/commissioner</a></td>
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<td><strong>Commissioner for Sustainability and the Environment</strong>, under the <em>Commissioner for Sustainability and the Environment Act 1993</em> in respect of investigation complaints about the management of the environment by the Territory or territory authority, issues relating to ecologically sustainable development and on the commissioner’s own initiative into actions of an agency where those actions would have a substantial impact on the ACT’s environment (s.12).</td>
<td>Ph: 1300 799 675 <a href="http://www.fairwork.gov.au">Fair Work Commission</a></td>
</tr>
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<td><strong>Fair Work Ombudsman</strong> in regard to complaints about contraventions of workplace laws, including enterprise agreements.</td>
<td>Ph: 1300 656 419 <a href="http://www.humanrights.gov.au">Human Rights and Equal Opportunity Commission</a></td>
</tr>
<tr>
<td><strong>Worksafe ACT</strong> is responsible for the regulation of several ACT laws, including the <em>Work Health and Safety Act 2011</em>, involving the response to incidents, complaints or concerns about work health and safety issues which have occurred, or been received, including where appropriate site visits and investigations.</td>
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