

ALRC Policy

Name of policy: **PUBLIC INTEREST DISCLOSURE POLICY**

Responsibility of: Executive Director

Approved by: President

Pages: 16

Date of approval: April 2014

Date last modified:

This policy is made by the Principal Officer of the Australian Law Reform Commission under section 59 of the *Public Interest Disclosure Act 2013* (Cth) (the PID Act).

1. Definitions

- 1.1 For the purpose of this policy, 'ALRC employees' refers to ALRC current and former Commissioners, current and former staff members and any current or former contractors or consultants undertaking work for the ALRC.
- 1.2 For the purpose of this policy, the ALRC's 'Principal Officer' is the President, and the 'Authorised Officer' is the Executive Director.
- 1.3 For the purpose of this policy, 'Manager' and 'Supervisor' refer to Commissioners, and/or senior staff at the Executive Level of the ALRC, as relevant.

2. Background

- 2.1 The purpose of this policy is to inform ALRC employees about public interest disclosure and to detail ALRC procedures for making a public interest disclosure.
- 2.2 As an Australian Government agency, the ALRC promotes integrity and accountability in the Australian public sector by encouraging the disclosure of information about suspected wrongdoing, protecting people who make disclosures and requiring the ALRC to take action.
- 2.3 This policy is informed by the *Public Interest Disclosure Act 2013* (Cth) (PID Act) that puts in place a Commonwealth Government scheme to encourage public officials to report suspected wrongdoing in the Australian public sector.
- 2.4 The PID Act safeguards the confidentiality of anyone making a disclosure and protects them from reprisals.
- 2.5 The Commonwealth Ombudsman is responsible for promoting awareness and understanding of the PID Act and monitoring its operation. More information about the PID Act and PID procedures can be found on the Ombudsman's website at www.pid.ombudsman.gov.au.

- 2.6 This policy should be read in conjunction with other Government and ALRC policies that address other forms of workplace grievances and misconduct, such as:
- Managing Suspected Breaches of the APS Code of Conduct Policy;
 - Fraud Policy;
 - Bullying and Harassment Policy; and
 - Commonwealth Fraud Control Guidelines.

For example, where a public interest disclosure concerns suspected fraud, the investigation will be conducted in accordance with the Commonwealth Fraud Control Guidelines and the ALRC Fraud Policy as well as the PID Policy. The PID Act provides additional protections for disclosers and reporting obligations for agencies.

- 2.7 Australian public servants, including ALRC employees, are bound by the APS Code of Conduct and APS Values, and are referred to as ‘public officials’ under the PID Act.
- 2.8 This policy is subject to periodic review and amendment and is accessible to all employees via the ALRC File Server. A link to this policy is also on the ALRC website and intranet.
- 2.9 The ALRC will review this policy every two years to monitor the effectiveness of these procedures to deal with public interest disclosures appropriately.

3. What is disclosable conduct?

- 3.1 Public interest disclosure covers misconduct in the public sector that includes, but is not limited to, conduct that:
- is illegal, corrupt or fraudulent;
 - contravenes Commonwealth, state or territory law;
 - perverts the course of justice;
 - wastes public funds;
 - is a danger to health, safety or the environment;
 - is based on improper motives or is unreasonable, unjust, oppressive or negligent;
 - represents an abuse of public trust;
 - can provide information to identify and address problems in administration or maladministration; or
 - is prescribed by the PID Rules (PID Act s 29(1)).
- 3.2 In addition, disclosable conduct includes conduct by a public official that involves an abuse of their position as a public official, and conduct that could give reasonable grounds for disciplinary action against them. It does not matter if the conduct occurred before or after the PID Act came into force in January 2014, or if the public official alleged to have committed the wrongdoing has since ceased to be a public official (PID Act s 29(2)).

4. What is NOT disclosable conduct?

- 4.1 Under the PID Act, disclosable conduct does not cover instances where a person disagrees with government policy or proposed policy action, expenditure or proposed expenditure related to such policy or action (s 31).
- 4.2 Disclosable conduct by a public official must be conduct in connection with their position as a public official. Conduct that is wholly private and has no bearing on their position as a public official is not disclosable conduct.
- 4.3 Not every complaint about workplace conduct will be treated as a public interest disclosure, particularly as one of the grounds for not investigating a matter under the PID Act is that it is not 'serious disclosable conduct'. Complaints can cover a wide range of matters, including workplace disputes, harassment or bullying complaints, and health and safety concerns. Some matters will be managed by less formal approaches, such as resolving the matter by management in line with agency policies or procedures. In other cases, a matter may initially appear to be a personal grievance, but on investigation may reveal more complex or systemic issues (for example, investigation of a complaint about an incident of harassment may reveal a serious workplace culture issue) and it will be more appropriate to investigate it as a PID.

5. Who can make a public interest disclosure?

- 5.1 To make a public interest disclosure, a person must be a current or former 'public official', within the meaning of s 69 of the PID Act. For example, they must be a Commonwealth public servant, member of the Defence Force, appointee of the Australian Federal Police, Parliamentary Service employee, director or staff member of a Commonwealth company, statutory office holder or other person who exercises powers under a Commonwealth law. Individuals and organisations that provide goods or services under a Commonwealth contract and their officers or employees are also included (s 69).
- 5.2 The Authorised Officer is also able to deem an individual to be a public official if they reasonably believe the individual has information about wrongdoing and proposes to make a disclosure (s 70). For example, the Authorised Officer may deem a former ALRC volunteer intern who has 'inside information' about suspected wrongdoing to be a public official for PID Act purposes.

6. Who can a public interest disclosure be made to?

- 6.1 A disclosure must be made to an 'appropriate person' in order to gain the protections available under the PID Act (s 26).
- 6.2 A disclosure may be an internal disclosure, an external disclosure or an emergency disclosure, as set out in s 26(1) of the PID Act.

7. Internal disclosures

- 7.1 An internal disclosure is made when a person, who is or has been an ALRC employee, discloses to someone within the ALRC—for example, their supervisor or manager—information which shows, or the discloser believes on reasonable grounds shows, one or more instances of disclosable conduct.
- 7.2 Making a disclosure internally gives the agency the chance to investigate the matter and remove any danger or correct any wrong practices as quickly as possible.
- 7.3 An appropriate person at the ALRC is either the person’s supervisor or manager, or the ALRC Authorised Officer or the Principal Officer.
- 7.4 The name and contact details of the ALRC Authorised Officer are on the ALRC website at: <http://www.alrc.gov.au/about/public-interest-disclosure> and on the ALRC intranet at <https://austlawreform.atlassian.net/wiki/display/HOME/Public+Interest+Disclosure>

8. External disclosures

- 8.1 In limited circumstances, an ALRC employee may disclose such information to a person outside the ALRC—an ‘external disclosure’—for example, a disclosure made to the Commonwealth Ombudsman or to an authorised officer of another agency.
- 8.2 An ALRC employee may make an external disclosure to any person if:
- the ALRC has not completed an internal investigation under the PID Act within 90 days or within a timeframe approved by the Ombudsman; or
 - the employee believes, on reasonable grounds, that the ALRC’s internal investigation was inadequate; or
 - the employee believes, on reasonable grounds, that the ALRC took inadequate action after the investigation was completed (whether the investigation was conducted under the PID Act or under other legislation); and
 - it is not, on balance, contrary to the public interest for an external disclosure to be made (s 26(1) item 2).
- 8.3 If an ALRC employee has information about suspected wrongdoing in an agency other than the ALRC, they can also make a disclosure directly to an Authorised Officer in that agency.
- 8.4 ALRC employees can also make a disclosure to Authorised Officers of the Commonwealth Ombudsman if they believe, on reasonable grounds, that it would be appropriate for the Ombudsman to investigate the matter.
- 8.5 An ALRC employee who decides to make an external disclosure must not disclose more information than is reasonably necessary to identify the wrongdoing (s 26).

They must also not disclose intelligence information, including sensitive law enforcement information (s 41(1), (2)).

- 8.6 The PID Act specifies various factors that must be taken into account in determining whether a disclosure is contrary to the public interest for the purposes of making an external disclosure. These include, for example: whether the disclosure would promote the integrity and accountability of the Commonwealth public sector; any risk that the disclosure could damage the security or defence of the Commonwealth; the extent to which the disclosure would expose a failure to address serious wrongdoing; the nature and seriousness of the disclosable conduct; and a range of other relevant matters (s 26(3)).

9. Emergency disclosures

- 9.1 If an ALRC employee believes on reasonable grounds that the information they have concerns a substantial and imminent danger to the health or safety of one or more people or to the environment, they may make an emergency disclosure to anyone provided they meet certain requirements (s 26(1) item 3).
- 9.2 The extent of the information disclosed must be only what is necessary to alert the recipient to any substantial and imminent danger. If they have not previously made an internal disclosure about the matter, or if they have done so and the investigation is not yet completed, there must be exceptional circumstances justifying their action. This might include, for example, if the investigation was taking too long to complete having regard to the risk to a person's health and safety.
- 9.3 In an emergency disclosure, intelligence information, including sensitive law enforcement information, must not be disclosed (s 41(1), (2)).
- 9.4 Under the PID Act, information may be disclosed to an Australian legal practitioner for the purposes of seeking legal advice or professional assistance in relation to making a disclosure, but intelligence information, including sensitive law enforcement information, must not be disclosed (s 26(1) item 4).

10. Other disclosures

- 10.1 ALRC employees must use one of the proper avenues to gain the protections available under the PID Act. Those protections include confidentiality and immunity from criminal and civil liability or disciplinary action.
- 10.2 An ALRC employee will not receive protections under the PID Act if they give the information to someone outside government, unless the conditions for an external or emergency disclosure are met. They may be in breach of their duty to maintain appropriate confidentiality in relation to official information they have gained in the course of their work, or be subject to other civil, criminal or disciplinary action.

11. Appointing Authorised Officers

- 11.1 The ALRC President will appoint in writing, an Authorised Officer for the ALRC who can receive disclosures. Given the small size of the ALRC, and its location in one office, the President authorises the Executive Director to be the ALRC Authorised Officer.
- 11.2 The contact details for the ALRC Authorised Officer will be put on the ALRC website so that past employees are able to easily find the appropriate person to make a disclosure to.
- 11.3 The ALRC has a dedicated email address for ALRC employees who wish to make a written disclosure—pid@alrc.gov.au—which is directed to the ALRC Authorised Officer.

12. Procedure for making a Public Interest Disclosure

- 12.1 A public interest disclosure may be made orally either in person or by telephone, or in writing including by email to the ALRC Authorised Officer, to a manager or supervisor, or directly to the Principle Officer (s 28(1)).
- 12.2 An ALRC employee is able to make a disclosure to their manager or supervisor, to the Authorised Officer or to the Principal Officer, or in some circumstances, to another agency—for example, if the employee has moved to a new agency and reports suspected wrongdoing in their previous workplace.
- 12.3 When making a disclosure, the discloser should make the information as clear and factual as possible. As far as possible, information should not include speculation, personal attacks or emotive language.
- 12.4 A potential discloser should not investigate a matter themselves before making a disclosure.
- 12.5 The ALRC will not make public the identity of a person who is making a disclosure without the consent of the person.
- 12.6 A person making a disclosure does not have to prove that what is suspected is true, as long as the person honestly and reasonably believes that the conduct is disclosable. It is the ALRC's responsibility to investigate the matter. A discloser should provide any supporting information such as documents, file notes or names of any people who witnessed the conduct and who could verify the disclosure.
- 12.7 If a disclosure is made in accordance with the PID Act, the discloser will be immune from civil, criminal or administrative liability (such as a breach of official secret laws or an action for defamation) and the ALRC will ensure that the discloser is protected

from reprisals or threatened reprisals, including injury, dismissal or discrimination from other employees.

- 12.8 A person who knowingly makes a false or misleading disclosure will not have any protections under the PID Act (s 11).
- 12.9 Once a disclosure has been made, the Authorised Officer, in consultation with the Principle Officer, will decide on whether the disclosure should be investigated by the ALRC or by a specially qualified investigator, depending on the nature of the disclosure.

13. Making a disclosure to a supervisor or manager

- 13.1 Where a disclosure is made to a supervisor or manager, and they have reasonable grounds to believe that the information concerns, or could concern, disclosable conduct, the supervisor or manager must give the information to the Authorised Officer as soon as practicable.
- 13.2 The supervisor or manager must make a written record of the fact of the disclosure and, if the disclosure is not in writing, they must make a written record of the substance of the disclosure and of the time and date of the disclosure. The supervisor or manager must ask the discloser to sign the written record of the disclosure, if possible.
- 13.3 The supervisor or manager will also give the Authorised Officer a written assessment of any risk that reprisal action might be taken against the discloser.
- 13.4 The supervisor or manager must inform the discloser that they have given the information to an Authorised Officer in the ALRC and advise the discloser of the name and contact details of that Authorised Officer.

14. Procedures for the Authorised Officer

- 14.1 Once a report of wrongdoing has been made to an Authorised Officer, the PID Act requires certain steps to be taken. The diagram at **Attachment A** outlines the process relating to internal disclosures.
- 14.2 The Authorised Officer will examine the information that has been supplied and decide whether it is an internal disclosure under the PID Act.
- 14.3 The Authorised Officer must make a written record of the fact of the disclosure and, if the disclosure is not in writing, they must make a written record of the substance of the disclosure and of the time and date of the disclosure. The Authorised Officer must ask the discloser to sign the written record of the disclosure, if possible.
- 14.4 The Authorised Officer must allocate the handling of the disclosure to the appropriate agency. The matter may be allocated within the same agency or to one or more other

relevant agencies, including the Ombudsman or the Inspector-General of Intelligence and Security (IGIS).

- 14.5 The Authorised Officer will decide on the allocation of the disclosure within 14 days of receiving the disclosure. The Authorised Officer will complete a Notification of Allocation Form at **Attachment B** and provide this to the Ombudsman
- 14.6 The Authorised Officer may obtain information and may make such inquiries as they think fit, for the purposes of deciding the allocation of the disclosure. The Authorised Officer will attempt to quickly assess the information provided and to ascertain if anything more needs to be known before making an informed decision. Preliminary inquiries could include asking the discloser for further details. If there is evidence of criminal conduct at an early stage, the Authorised Officer may also need to consider referring that evidence to police.
- 14.7 The Authorised Officer may decide that the conduct is not disclosable, or that it involved people who were not public officials and therefore it is not disclosable conduct for the purposes of the PID Act. Where the Authorised Officer decides that a disclosure is not to be allocated, they must advise the discloser in writing by sending them a completed Notification of Not to Investigate Form at **Attachment C**.
- 14.8 When the Authorised Officer decides how a disclosure is to be allocated, they must inform the discloser about the allocation, explain the requirements for a PID disclosure under the PID Act, explain to them the protections provided by the PID Act, and advise them of any orders or directions that may affect disclosure of the information.
- 14.9 Where the Authorised Officer decides not to allocate the matter because they have determined it is not an internal disclosure, they will tell the discloser the reasons why, and advise them of any other options that they might have under Commonwealth law for example, in relation to a workplace grievance.
- 14.10 Where the Authorised Officer is aware of the contact details of the discloser, they must, as soon as practicable after receiving the disclosure and before allocating the disclosure, ask the discloser whether they consent to the Authorised Officer giving the their name and contact details to the Principal Officer and whether they wish the disclosure to be investigated. The Authorised Officer must make a written record of the discloser's responses.
- 14.11 Where a discloser does not respond within 7 days, the discloser is taken not to have consented to the disclosure of their name and contact details to the Principal Officer and their delegates, and the discloser is taken to wish the disclosure to be investigated.
- 14.12 The Authorised Officer must obtain the consent of an Authorised Officer in another agency before allocating an internal disclosure to that agency.

- 14.13 Where the Authorised Officer allocates a disclosure to another agency they must complete a Notification of Allocation Form and send it to the Registrar of the Agency or to the delegate nominated by the Registrar. The Authorised Officer must copy the completed Form to the relevant contact officer in the Ombudsman's Office.
- 14.14 Appropriate records must be kept of this process and the Authorised Officer will make a written record of the allocation decision, the reasons for the decision and the receiving agency's consent along with a written record of whether the discloser was notified and the details of how that happened (the day, time and means of notification, and the content of the notification). Where the Authorised Officer is aware of the contact details of the discloser, the Authorised Officer must inform the discloser of the allocation using the Notification of Allocation Form.

15. People making disclosures can remain anonymous

- 15.1 The person making the disclosure can remain anonymous. However, if the ALRC receives an anonymous report, the Authorised Officer must have reasonable grounds to suspect the disclosable conduct has occurred in order to allocate the matter for investigation. If the ALRC cannot contact the person to seek necessary further information to make a decision on the matter, the ALRC may decide not to proceed with an investigation. Under the PID Act, an investigator has the discretion not to investigate, or investigate further, if the discloser does not provide their name and contact details or is unable to give the investigator further information or assistance if needed.
- 15.2 The Authorised Officer will decide if the person making the disclosure is a current or former public official. In the interests of encouraging the reporting of wrongdoing, the ALRC will accept anonymous disclosures as if they are or were public officials, unless there is evidence to suggest otherwise.
- 15.3 The ALRC encourages people making disclosures not to be anonymous but notes that under the PID Act agencies must keep a discloser's identity confidential, subject to limited exceptions, including the discloser's consent.
- 15.4 The ALRC acknowledges that the discloser's identity may nonetheless become apparent if an investigation is commenced. If the person's identity needs to be disclosed or is likely to become apparent, the Authorised Officer will discuss this with the discloser.
- 15.6 A discloser who does not provide a means of contact cannot be updated on the progress of the matter, including the outcome of the investigation.
- 15.7 The ALRC notes that a person who has made an anonymous disclosure may come forward at a later stage to disclose their identity and seek the protections of the PID Act.

16. What supporting information should the discloser provide?

- 16.1 No particular information is specified in the PID Act. The onus is not on the discloser to prove the wrongdoing being disclosed: they only need to advise the ALRC that they honestly believe, on reasonable grounds, that there has been wrongdoing.
- 16.2 Depending on the circumstances, a discloser should think about covering as many of the following matters as possible in their disclosure so as to help the Authorised Officer determine how to proceed:
- their name and contact details;
 - the nature of the wrongdoing;
 - who they think committed the wrongdoing;
 - when and where the wrongdoing occurred;
 - relevant events surrounding the issue;
 - if they did anything in response to the wrongdoing;
 - others who know about the wrongdoing and have allowed it to continue;
 - whether they believe their information is a public interest disclosure under the PID Act (they do not have to describe it that way for it to be treated as a public interest disclosure); and
 - if they are concerned about possible reprisal as a result of making a disclosure.
- 16.3 The ALRC encourages such reports to be clear and factual and to avoid speculation, personal attacks and emotive language, as they divert attention from the real issues.
- 16.4 Disclosers should also be aware that the sooner they raise their concerns, the easier it may be for the agency to take action.
- 16.5 The Authorised Officer may ask the discloser for any supporting correspondence or other documents, such as file notes or a diary of events, and the names of any people who witnessed the conduct or who may be able to verify what the discloser is saying.
- 16.6 Should the information provided turn out to be incorrect, or unable to be substantiated, the disclosure will be protected by the PID Act, provided that the disclosure was made to an appropriate person under the PID Act, and the discloser honestly believed, on reasonable grounds, that the information tended to show disclosable conduct.
- 16.7 A disclosure does not necessarily protect the discloser from the consequences of their own wrongdoing, including where they have been involved in the misconduct they are reporting. However, a discloser may come forward with a report of serious wrongdoing in which they had minor involvement. It is up to the ALRC to decide in an individual case whether to exercise their discretion not to take action against the discloser in the particular circumstances.
- 16.8 A person who makes a disclosure that is intentionally false or misleading will not gain the protections under the PID Act (s 11). In instances of false or misleading

disclosures, the ALRC may refer to the ALRC *Managing Suspected Breaches of the APS Code of Conduct Policy* for possible disciplinary action.

17. Investigation procedures

- 17.1 The Principal Officer is responsible for conducting investigations and may delegate those powers and functions to the Authorised Officer or to an external investigator. Any investigator appointed should be skilled in conducting investigations and should become familiar with the PID Act, especially the confidentiality requirements and the protections for disclosers.
- 17.2 Investigators must ensure that they do not have an actual or perceived conflict of interest (for example, if information suggests they or a family member are implicated in the alleged wrongdoing).
- 17.3 In investigating the matter, the ALRC is able to obtain information from such persons and make such inquiries as it thinks fit.
- 17.4 The ALRC will ensure procedural fairness in its investigation, and will ensure that any person against whom allegations are made is accorded procedural fairness. What procedural fairness requires will vary with the circumstances, but essentially the person is entitled to have a decision-maker act fairly and without bias, know the substance of allegations and evidence against them if an adverse finding is going to be made about their conduct, and have a reasonable opportunity to respond. A person does not need to be told about an allegation against them that is of no substance (for example, if the ALRC determines not to investigate on the basis that the disclosure is clearly frivolous or vexatious).
- 17.5 An investigation report must be completed within 90 days of the matter being allocated for investigation. While a straightforward matter may be completed quickly, more complex issues, where significant evidence needs to be gathered, may take much longer. In this case the ALRC may apply to the Ombudsman to grant one or more extensions of time for the investigation.
- 17.6 The ALRC will keep the discloser informed about the progress of the investigation.
- 17.7 The ALRC may decide that it is more appropriate to investigate the matter under another law of the Commonwealth, such as a breach of the Code of Conduct under the *Public Service Act*.
- 17.8 In order to ensure the confidentiality of the disclosure process, the ALRC will ensure that the identity of all parties will be protected as much as possible at all times.
- 17.9 The ALRC will record details about how and when a public interest disclosure was made and will ensure these are kept in a secure place. If the disclosure was given verbally, the ALRC will consider asking the discloser to sign a record of the disclosure. Subsequent conversations in which the disclosure is discussed will also be documented.
- 17.10 The records will be factual and free from unnecessary statements such as personal opinion.

17.11 The ALRC will ensure that each disclosure is given a unique reference number.

18 Risk assessment

18.1 Where the Authorised Officer allocates a disclosure, they must conduct a risk assessment based on a checklist of risk factors and having regard to any assessment of risk provided under these procedures by the discloser's supervisor or manager.

18.2 The Authorised Officer will have regard to the Ombudsman's 'Agency Guide to the Public Interest Disclosure Act 2013' in carrying out a risk assessment:
http://www.ombudsman.gov.au/docs/Agency_Guide_to_PID_Act_V1_Dec_2013.pdf

19. Key roles and responsibilities

19.1 **Principal Officer**—ALRC President. The Principal Officer is responsible for:

- establishing procedures for facilitating and dealing with public interest disclosures relating to the ALRC, including assessing risks that reprisals may be taken against a person who makes a disclosure, and providing for confidentiality of investigative processes;
- taking reasonable steps to protect ALRC employees from detriment or threats of detriment;
- appointing authorised officers (s 36) and ensuring there are a sufficient number of authorised officers at the ALRC to be readily accessible to ALRC employees and that staff know who they are;
- notifying the discloser and the Ombudsman or the IGIS as appropriate at various stages in handling a disclosure;
- ensuring disclosures are properly investigated;
- preparing an investigation report and taking appropriate action in response to the report;
- providing information and assistance to the Ombudsman and the IGIS, including in relation to PID Act annual reporting.

19.2 **Authorised Officer**—Executive Director. The Authorised Officer is responsible for:

- receiving disclosures from current or former ALRC employees about disclosable conduct;
- deeming a person to be an ALRC employee to facilitate the making of a public interest disclosure;

- informing ALRC employees of the PID Act requirements and explaining requirements that may affect disclosure;
- assessing reported information to determine if there are reasonable grounds to believe the information could be considered to be a public interest disclosure;
- making any preliminary inquiries necessary to make an allocation decision;
- allocating all or part of the disclosure to the Principal Officer and/or another agency, with that agency's consent;
- investigating the disclosure where appropriate, or making a decision to employ an outside investigator to investigate the disclosure;
- informing the Principal Officer, the Ombudsman or the IGIS as appropriate, of allocation decisions and associated information;
- informing the discloser of the allocation decision;
- consenting to the allocation of a disclosure by an authorised officer of another agency;
- 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; and
- ensuring that ALRC employees have training in and understand the PID Act and PID procedures of the ALRC.

19.3 Managers and supervisors

Managers and supervisors also have a key role in ensuring that the workplace culture supports the making of public interest disclosures. They can help by:

- being knowledgeable about the PID Act and agency procedures;
- being approachable to ALRC employees who wish to raise concerns;
- confronting any workplace prejudices about making a disclosure;
- supporting a staff member who they know has made a public interest disclosure and ensuring they are protected from reprisals;
- ensuring identified problems in the workplace are corrected; and
- setting an example for staff.

19.4 Staff

All employees share the responsibility of ensuring the ALRC Public Interest Disclosure Policy is effective by:

- 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 employees who they know have made public interest disclosures;
- keeping confidential the identity of a discloser and anyone against whom an allegation has been made, if they become aware of those matters.

20. Confidentiality

- 20.1 The ALRC acknowledges the importance of providing for confidentiality of investigative processes as required under the PID Act.
- 20.2 Any disclosure will 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.
- 20.3 The ALRC will conduct any interviews in private; arranged so as to avoid identification of the discloser by other staff.
- 20.4 All information obtained, including documents and interview tapes, will be stored securely and will be only accessible by those who need to see them.
- 20.5 The ALRC will ensure that only those people who need access to the records concerning a disclosure have access to these records via the security settings in the TRIM record keeping system. Any other materials, such as interview tapes, will be stored securely with access only by the officers involved in handling the disclosure.
- 20.6 The ALRC recognises that, in certain circumstances, it may be difficult to protect the discloser's identity—for example, if it is well known within an agency that only the discloser could have access to the relevant information. In this case, the ALRC will let the discloser know that, in order to investigate a matter, their identity is likely to be revealed. While confidentiality may not be able to be maintained, the discloser is still protected against reprisal.

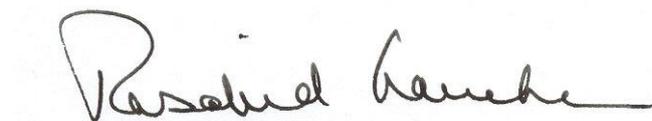
21 Record keeping

- 21.1 The ALRC acknowledges that good record keeping ensures that all action taken regarding the receipt and processing of a public interest disclosure is reviewable (including by the Ombudsman or the IGIS).
- 21.2 The ALRC will ensure that when a public interest disclosure is made:
- records will be made and kept in a secure place;
 - a written record will be made of any verbal statement and consideration will be given to asking the discloser to sign a record of the disclosure;
 - subsequent conversations where the disclosure is discussed will also be documented;
 - each disclosure will be given a unique reference number;
 - details of the risk assessment of reprisal, allocation, the investigation, notification to the discloser and others will be kept; and
 - the records will be factual and free from unnecessary statements such as personal opinion.
- 21.3 The ALRC is required to provide to the Ombudsman certain information about disclosures that have been handled for the purposes of the annual report under the PID Act (s 15 of the PID standard).

22 Additional resources

- [Public Interest Disclosure Act 2013](#)
- [PID Standards](#)
- [Commonwealth Ombudsman's website](#)
- [Fact Sheet - The Public Interest Disclosure Act; What's it all about?](#)
- [Fact Sheet - How to Make a Disclosure](#)

Signed



Professor Rosalind Croucher

ALRC President

22 April 2014

Attachment A

Dealing with an internal disclosure

