



## Australian Government

### Department of the Prime Minister and Cabinet

#### Declaration pursuant to section 59 of the Public Interest Disclosure Act 2013

I, Michelle Wicks, a/g First Assistant Secretary of Corporate Division and delegate of the Principal Officer of the Department of the Prime Minister and Cabinet, pursuant to section 59 of the Public Interest Disclosure Act 2013 hereby establish these procedures. These procedures supersede any previous procedures made under section 59 of the Public Interest Disclosure Act 2013, and takes effect upon execution.

Michelle Wicks

a/g First Assistant Secretary  
Corporate Division

5 August 2021



# PUBLIC INTEREST DISCLOSURE PROCEDURES

## 1. OVERVIEW

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### 1.1 PURPOSE

1. These Procedures set out how the Department of the Prime Minister and Cabinet (PM&C) facilitates and deals with public interest disclosures (PIDs) that relate to PM&C for the purposes of subsection 59(1) of the Public Interest Disclosure Act 2013 (Cth) (PID Act).
2. Specifically, these Procedures contain information about:
  - a. how a PID can be made to PM&C; and
  - b. how PM&C will manage PIDs that it receives.

### 1.2 STATEMENT OF COMMITMENT

3. PM&C is committed to the highest standards of ethical and accountable conduct, and encourages the reporting of wrongdoing under the PID Act where appropriate. PM&C will take reasonable steps to protect public officials who make disclosures and departmental employees who are involved in disclosure investigations in accordance with the PID Act and these Procedures.

## 2. WHAT IS A PUBLIC INTEREST DISCLOSURE?

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4. It is important to note that not all disclosures of information (disclosure) that PM&C may receive will be a PID for the purposes of the PID Act. For example, disclosures that relate only to disagreement with current or proposed:
  - a. Commonwealth government policy;
  - b. actions taken by the Prime Minister, Speaker of the House of Representatives or the President of the Senate; or
  - c. expenditure related to that policy or action.
5. A disclosure will only be a PID if all of the following conditions are met:<sup>1</sup>
  - a. it is made by a current or former public official; and
  - b. the information tends to show, or the discloser believes on reasonable grounds that the information tends to show, disclosable conduct; and

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<sup>1</sup> The PID Act sets out four types of disclosure that can be made: an internal disclosure, external disclosure, emergency disclosure and legal practitioner disclosure. For further information please refer to section 26 of the PID Act. The most common type of disclosure is an internal disclosure.

- c. the information is disclosed to the appropriate person.
6. If the above requirements are met the disclosure will be covered by the PID Act.
7. As such, it is important for prospective disclosers to be aware of these requirements so that they can prepare their disclosure in a way that will ensure they are covered by the PID Act.
8. Further guidance on the elements of a PID has been prepared by the Commonwealth Ombudsman and is publicly available on its website.

### **3. MAKING A PUBLIC INTEREST DISCLOSURE**

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#### **3.1 HOW A DISCLOSURE CAN BE MADE**

9. Disclosures can be made verbally or in writing, including by phone and email. Disclosures can be made to:
  - a. a supervisor;
  - b. an Authorised Officer of PM&C; or
  - c. [publicinterestdisclosure@pmc.gov.au](mailto:publicinterestdisclosure@pmc.gov.au).
10. Disclosures can be made anonymously. However prospective disclosers should be aware that this may prevent the disclosure from being considered under the PID Act framework.
11. PM&C maintains a list of current Authorised Officers on the internet which can be accessed at [www.pmc.gov.au/government/public-interest-disclosure-act](http://www.pmc.gov.au/government/public-interest-disclosure-act)
12. When a disclosure has been considered a PID, protections for the discloser contained in the PID Act may apply. These include:
  - a. protection from reprisal action;
  - b. protection from liability and disciplinary action for making the PID (see s 10(1)(a) of the PID Act); and
  - c. protection from contractual rights and remedies being exercised against the discloser on the basis of the PID (see s10(1)(b) of the PID Act).
13. If the discloser has made a false or misleading disclosure, the protections will not apply.

### **4. PROCEDURES FOR SUPERVISORS**

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#### **4.1 ROLE OF SUPERVISORS**

14. Under the PID Act, supervisors are public officials who supervise or manage individuals who make PIDs.
15. Supervisors may have PIDs made to them from time to time. This part of the Procedures applies to supervisors who are not Authorised Officers. If you are a supervisor and an Authorised Officer and believe a PID may have been made to you, you should refer to the Procedures for Authorised Officers section of these Procedures.

#### **4.2 RESPONSIBILITIES OF SUPERVISORS**

16. If a supervisor reasonably believes that:
  - a. a current or former public official under their supervision;
  - b. has provided information to them;

- c. which the supervisor reasonably believes could concern one or more instances of disclosable conduct;

the supervisor must as soon as reasonably practicable, give the information to an Authorised Officer of PM&C.

17. Supervisors should adhere to the confidentiality requirements set out in the PID Act and these Procedures when handling PIDs.
18. Supervisors should endeavour to:
  - a. familiarise themselves with the framework of the PID Act and its application, as well as these Procedures; and
  - b. be approachable to staff who may wish to make a disclosure to them.

## **5. PROCEDURES FOR AUTHORISED OFFICERS**

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### **5.1 ROLE OF AUTHORISED OFFICERS**

19. An Authorised Officer is defined in the PID Act. At PM&C it refers to the Secretary, and people who may be appointed in writing as Authorised Officers from time to time. A list of the current Authorised Officers at PM&C is available at [www.pmc.gov.au/government/public-interest-disclosure-act](http://www.pmc.gov.au/government/public-interest-disclosure-act)
20. Authorised Officers receive and allocate PIDs relating to PM&C in accordance with the PID Act and these Procedures.

### **5.2 RESPONSIBILITIES OF AUTHORISED OFFICERS**

21. After an Authorised Officer receives a disclosure, the following steps must be taken:
  - a. consider whether the discloser understands the PID Act;
  - b. perform an initial assessment of the disclosure;
  - c. subject to that assessment, allocate the PID to a Principal Officer for consideration; and
  - d. notify the discloser and the Commonwealth Ombudsman of the allocation.
22. The Authorised Officer is also responsible for conducting a risk assessment.
23. The Authorised Officer should use their best endeavours to complete the initial assessment phase within 14 days of receiving the disclosure.

#### **Stage 1: Receipt of information**

24. Where an Authorised Officer receives, or believes that they are about to receive, a disclosure and the Authorised Officer has reasonable grounds to believe that the discloser is not aware of the requirements of an internal disclosure under the PID Act, the Authorised Officer must:
  - a. advise the person that their disclosure could be considered an internal disclosure under the PID Act;
  - b. explain what is required in order for the disclosure to be considered an internal disclosure; and

- c. advise the person of any designated publication restrictions that may affect disclosure of the information.<sup>2</sup>

## Stage 2: Initial assessment

25. When an Authorised Officer receives a disclosure, they will consider whether there are reasonable grounds on which it could be considered an internal disclosure for the purposes of the PID Act. This may require the Authorised Officer to make preliminary inquiries in relation to the disclosure.
26. If the Authorised Officer is not satisfied that the disclosure is an internal disclosure, the Authorised Officer must inform the discloser of:
  - a. the reasons why the disclosure has not been allocated; and
  - b. any other courses of action that might be available to the discloser under other laws of the Commonwealth.

After the Authorised Officer has done this, the matter will be complete.

27. If the Authorised Officer is satisfied that the disclosure is an internal disclosure, it will be considered a PID and allocated in accordance with stage 3.
28. Prior to allocation, and if the Authorised Officer is aware of the contact details of the discloser, the Authorised Officer should request the discloser's consent to providing the discloser's name and contact details to the Principal Officer.

## Stage 3: Allocation

29. The Authorised Officer will determine which agency it is appropriate to allocate the PID to. Generally, it is likely that PIDs that are made to PM&C should be investigated by PM&C.
30. In determining where to allocate a PID, the Authorised Officer must:
  - a. have regard to:
    - i. the principle that an agency should not handle the PID unless some or all of the suspected disclosable conduct relates to that agency; and
    - ii. any other matters as the Authorised Officer considers relevant to their decision where to allocate a PID.<sup>3</sup>
  - b. not allocate the PID to an agency other than PM&C unless the Authorised Officer of that agency has consented to the allocation.
31. In determining where to allocate a PID, the Authorised Officer may obtain information in a manner they think fit.
32. If the Authorised Officer decides to make subsequent allocation decisions in relation to a PID, they must comply with the steps in this policy again in respect of those subsequent decisions.

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<sup>2</sup> For more information about designated publication restrictions please refer to the dictionary of the PID Act.

<sup>3</sup> Section 43 of the PID Act contains other information that should be considered by Authorised Officers if they are considering allocating disclosures to the Ombudsman, the IGIS or other intelligence agencies.

33. Where a PID is made to PM&C but refers to a portfolio agency, it may be more appropriate that the PID is allocated to that agency.

#### **Stage 4: Notification**

##### Notify the PO

34. The Authorised Officer must inform the Principal Officer of each agency to which the handling of the PID is allocated (including where relevant, PM&C) of:

- a. the allocation;
- b. the information that was disclosed;
- c. suspected disclosable conduct (if any); and
- d. if the discloser has provided consent, the discloser's name and contact details.

##### Notify the discloser

35. If contacting the discloser is reasonably practicable, the Authorised Officer must inform the discloser of the allocation as soon as reasonably practicable.

36. If contacting the discloser is not reasonably practicable, the Authorised Officer is not required to inform the discloser about whether their disclosure has been allocated as a PID.

##### Notify other agencies

37. If handling the PID has not been allocated to the Ombudsman or the IGIS, the Authorised Officer must inform the Ombudsman of the allocation and the matters listed at paragraph 34.<sup>4</sup>

38. If handling the PID has been allocated to an intelligence agency, the Authorised Officer must inform the IGIS of the allocation and the matters listed at paragraph 34.

##### Recordkeeping

39. Where the Authorised Officer has allocated a PID to an agency, they must keep written records of:

- a. the name of the agency or agencies to which the handling of the PID has been allocated;
- b. the reasons for the decision to allocate the handling of the PID in that way; and
- c. if the handling of the PID has been allocated to an agency other than PM&C, a record of the consent of the Authorised Officer of that agency to the allocation.

40. If it was reasonably practicable for the Authorised Officer to notify the discloser about the allocation decision, the Authorised Officer must keep written records of:

- a. the day and time that the discloser was notified;
- b. the means by which the discloser was notified; and
- c. the content of the notification.

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<sup>4</sup> There is further information available on the Ombudsman's website about how notification is to occur.

## 5.3 RISK ASSESSMENT

41. As soon as practicable after receiving a disclosure, the Authorised Officer must assess the risk that reprisals will be taken against the discloser using the information contained at Appendix 1 to these Procedures. As part of conducting the risk assessment, the Authorised Officer may need to obtain information from other people involved in the discloser's workplace.
42. A reprisal occurs where someone causes, by act or omission, any detriment to another person because they believe or suspect that the person has made or may make a PID.
43. Where the reprisal risk is assessed greater than low, the Authorised Officer will develop a strategy to mitigate the risk of reprisal action being taken against the discloser.<sup>5</sup>
44. As part of the risk assessment process, the Authorised Officer should consider whether taking any of the actions set out in part 7 of these Procedures is required.
45. Where required, the risk assessment should be continually reviewed by the Principal Officer once the PID is allocated.
46. The Authorised Officer may consult with, or refer the task of preparing a risk assessment to, another area of PM&C with the appropriate skills and experience to complete a risk assessment (for example, the People Branch). Where this occurs, the risk assessment must be conducted in accordance with these Procedures.

## 6. PROCEDURES FOR PRINCIPAL OFFICERS

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### 6.1 ROLE OF PRINCIPAL OFFICERS

47. The Secretary of PM&C is the Principal Officer for the purposes of the PID Act. The Secretary may delegate all or some of their powers as Principal Officer under the PID Act to:
  - a. other PM&C employees; or
  - b. external persons.
48. Where the Principal Officer is referred to in these Procedures, it should be understood as including a reference to the Secretary and persons who may be delegated powers of the Principal Officer under the PID Act from time to time.

### 6.2 RESPONSIBILITIES OF PRINCIPAL OFFICERS

49. The Principal Officer is responsible for considering PIDs that are allocated to PM&C by an Authorised Officer. The following steps must be taken in performing this function:
  - a. notify the discloser of the allocation;
  - b. consider whether an investigation is required;
  - c. if an investigation is required, conduct the investigation; and
  - d. comply with the relevant post-investigation notification requirements.
50. The Principal Officer has 90 days from the allocation date in which to complete an investigation report in relation to a PID that is allocated to them. If further time is

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<sup>5</sup> Further information about what is, and what is not, a reprisal, and how to conduct a risk assessment, is contained in the Ombudsman Agency Guide to the PID Act.

required, the Principal Officer should apply to the Ombudsman for an extension of time.<sup>6</sup>

### Stage 1: Notify the discloser

51. As soon as practicable after a PID is allocated to a Principal Officer for consideration (usually within 14 days), the Principal Officer must inform the discloser that the following options are available to the Principal Officer in considering their PID:
- a. decide not to investigate the PID further; or
  - b. decide to investigate the PID under a separate investigative power; or
  - c. decide to investigate the PID.
52. This step may be taken after the Principal Officer has reached a decision under Stage 2 or as a first step in Stage 3.

### Stage 2: Consider whether an investigation is required

53. When a PID is allocated to a Principal Officer, the Principal Officer must consider whether the discretion in section 48 of the PID Act not to investigate the PID applies.
54. The discretion is available in circumstances where the Principal Officer is satisfied that any of the grounds listed in section 48 of the PID Act apply. These include:
- a. the discloser is not, and has not been a public official; or
  - b. the information does not concern serious disclosable conduct; or
  - c. the PID is frivolous or vexatious; or
  - d. the information is the same, or substantially the same, as information that is being investigated or has been investigated as a PID; or
  - e. the information concerns disclosable conduct that is the same, or substantially the same, as disclosable conduct that is being investigated under a law of the Commonwealth other than the PID Act or under the executive power of the Commonwealth and it would be inappropriate to conduct another investigation at the same time; or
  - f. the information concerns disclosable conduct that is the same, or substantially the same, as disclosable conduct that has been investigated under a law of the Commonwealth other than the PID Act, or the executive power of the Commonwealth, and the Principal Officer is reasonably satisfied that there are no further matters concerning the disclosure that warrant investigation; or
  - g. the discloser has informed the Principal Officer that they do not wish investigation of the internal disclosure to be pursued, and the Principal Officer is reasonably satisfied that there are no matters concerning the disclosure that warrant investigation; or
  - h. it is impracticable for the PID to be investigated:
  - i. because the discloser's name and contact details have not been disclosed; or
    - ii. because the discloser refuses or fails, or is unable, to give, for the purposes of the investigation, such information or assistance as the person conducting

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<sup>6</sup> There are forms available on the Ombudsman website where extensions of time can be requested.



the investigation asks the discloser to give; or iii. because of the age of the information.

55. If the Principal Officer decides that the discretion in section 48 of the PID Act does not apply to the PID, they are required to commence an investigation into the PID and should proceed to Stage 3: Investigation.
56. Where the Principal Officer decides that the discretion in section 48 of the PID Act applies to the disclosure, they must:
- a. if contacting the discloser is reasonably practicable, inform the discloser:
    - i. that the Principal Officer has decided under section 48 not to investigate or not to continue to investigate the disclosure;
    - ii. of the reasons for the decision; and
    - iii. of other courses of action that might be available to the discloser under other Commonwealth laws; and
  - b. inform the Ombudsman:
    - i. that the Principal Officer has decided not to investigate, or not to continue to investigate, the disclosure under section 48 of the PID Act; and
    - ii. of the reasons for the decision.<sup>7</sup>

### **Stage 3: Investigation**

57. When the Principal Officer has decided to commence an investigation into a PID, if contacting the discloser is reasonably practicable, the Principal Officer will advise the discloser that:
- a. they are required to investigate the disclosure;
  - b. the estimated length of the investigation; and
  - c. the discretion to cease investigating in section 48 of the PID Act remains available.

### Conducting an investigation

58. The Principal Officer may conduct an investigation into a disclosure in any manner they see fit.
59. The following general principles apply to the conduct of investigations:
- a. maintaining the confidentiality of the discloser's identity unless consent to disclose their identity has been provided;
  - b. the investigation will be conducted in accordance with the principles of procedural fairness;
  - c. a person who is the subject of the investigation will have an opportunity to respond or provide information;
  - d. if an interview is to be conducted as part of the investigation:
    - i. it complies with the requirements set out in the PID Standard 2013 including:

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<sup>7</sup> Forms for notifying the Ombudsman of this are available from the Ombudsman's website.

- A. informing the interviewee of the identity and function of the interviewer/s;
  - B. informing the interviewee of the process of conducting an investigation;
  - C. informing the interviewee about the Principal Officer's authority and role in the investigation under the PID Act;
  - D. informing the interviewee about the protections in section 57 of the PID Act;
  - E. ensuring no audio or visual recording of the interview is made without the interviewee's knowledge;
  - F. providing the interviewee with a final opportunity to make a statement at the conclusion of an interview; and
  - G. ensuring any such final statement made by an interviewee is included in the record of the interview; and
- ii. the person being interviewed is offered the opportunity to bring a support person with them to the interview;
- e. a decision on whether there is sufficient evidence to prove a fact will be determined on the balance of probabilities; and
  - f. findings will be made on the basis of relevant and logically probative evidence.
60. The Principal Officer may, as part of their investigation into a PID allocated to them, adopt findings contained in a report completed as part of an investigation or inquiry under:
- a. a Commonwealth law;<sup>8</sup>
  - b. the executive power of the Commonwealth; or
  - c. the PID Act.
61. During an investigation of a disclosure, the Principal Officer should continue to consider whether one or more of the discretionary grounds in section 48 of the PID Act applies to the disclosure. If the Principal Officer forms the view that one or more grounds apply to the PID, the Principal Officer should cease investigating and follow the appropriate process in Stage 2.

#### Notifying police

62. If, during an investigation into a PID, the Principal Officer suspects on reasonable grounds that some or all of the information disclosed or obtained during the investigation is evidence of an offence against a law of the Commonwealth, a State or a Territory, the Principal Officer has the following notification obligations:
- a. if the offence is punishable by a period of imprisonment of at least two years, they must notify a member of the appropriate police force responsible for investigating the offence; or

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<sup>8</sup> Procedures established under a law of the Commonwealth are considered to be a law of the Commonwealth.

- b. if the offence is punishable by a period of imprisonment of less than two years, the Principal Officer may notify a member of the appropriate police force.

63. However, the Principal Officer's power to notify police is not limited by the PID Act.

#### Obtaining information

64. The Principal Officer can obtain such information and make such enquiries as they consider appropriate in conducting an investigation.

65. Public officials are required to use their best endeavours to assist the Principal Officer, Ombudsman or the IGIS in the conduct of an investigation under the PID Act.

#### What does procedural fairness require?

66. The requirements of procedural fairness may vary depending on the circumstances. Generally, it requires:

- a. the decision-maker to act fairly and without bias;
- b. at the point of an investigation where an adverse finding is likely to be made about a person's conduct:
  - i. the person has a right to know the substance of the allegations and any evidence against them; and
  - ii. the person is entitled to have a reasonable opportunity to respond to the allegations and any evidence against them.

#### Report of the investigation

67. When an investigation is completed, the Principal Officer must prepare a report of the investigation. This report must set out:

- a. the matters considered in the course of the investigation; and
- b. an explanation of the steps taken to gather evidence; and
- c. the duration of the investigation; and
- d. a summary of the evidence;
- e. the Principal Officer's findings (if any) including whether there have been one or more instances of disclosable conduct established; and
- f. if disclosable conduct is established, the report must set out the regulations, rules, administrative requirements or similar matters to which the disclosable conduct relates;
- g. the action (if any) that has been, is being, or is recommended to be, taken; and
- h. any claims made about, and any evidence of, detrimental action taken against the discloser, and PM&C's response to those claims and that evidence.

#### **Stage 4: Post-investigation**

68. Within a reasonable time after completing an investigation, the Principal Officer must give a copy of the report to the discloser.<sup>9</sup>

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<sup>9</sup> The PID Act sets out particular information which may be removed from a copy of a report given to a discloser. Please see the PID Act for more information.

69. If an investigation report contains recommendations, the Principal Officer should ensure that they provide the recommendations to a person within the Department who would be able to consider and address those recommendations.

## **7. SUPPORT FOR PUBLIC OFFICIALS IN THE PID PROCESS**

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70. PM&C is committed to taking steps to protect public officials who belong, or belonged, to PM&C from detriment, or threats of detriment, relating to disclosures made under the PID Act. This protection extends to disclosers, subjects and people involved as witnesses in PID investigations.

### **7.1 WHAT IS DETRIMENT?**

71. Detriment includes any disadvantage that a person may experience, including:

- a. dismissal of an employee;
- b. injury of an employee in their employment;
- c. alteration of an employee's position to their detriment; or
- d. discrimination between an employee and other employees of the same employer.

72. Detriment will not include reasonable administrative action taken to protect a discloser from detriment.

73. Disclosers should be aware that making a disclosure does not exclude them from reasonable management action related to unsatisfactory performance on their part.

### **7.2 SUPPORT**

74. Independently of the outcome of a risk assessment conducted pursuant to these Procedures, PM&C will take reasonable steps to protect disclosers from detriment or threats of detriment relating to the disclosure. This may include:

- a. appointing a support person to assist the discloser, who is responsible for checking on the wellbeing of the discloser;
- b. advising the discloser about the availability of the Employee Assistance Program and PM&C's network of Harassment Contact Officers;
- c. if there are concerns about the health and wellbeing of the discloser, liaising with PM&C's work health and safety section; or
- d. transferring the discloser to a different area within the workplace or approving remote/teleworking (with the discloser's consent). This is only likely to be appropriate in cases of very major or extreme risk.

75. PM&C will also take reasonable steps to support any employee who is the subject of a PID. This may include:

- a. advising the employee of their rights and obligations under the PID Act and these Procedures, including the employee's right to procedural fairness;
- b. advising the employee about the availability of the Employee Assistance Program and PM&C's network of Harassment Contact Officers;
- c. ensuring that the employee's identity is kept confidential as far as reasonably practicable;

- d. if there are concerns about the health and wellbeing of the employee, liaising with PM&C's Wellbeing Section within People Branch;
- e. transferring the employee to a different area within the workplace or approving remote/teleworking (with their consent); or
- f. advising the employee that it is open to them to seek their own independent legal advice in relation to their rights and responsibilities under the PID Act.

## 8. CONFIDENTIALITY

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- 76. Disclosures should be assessed and investigated discreetly, and in a way that maintains the confidentiality of the discloser and any subjects of a disclosure unless they have given consent for particular information to be disclosed.
- 77. The PID Act contains offence provisions that apply to the disclosure or use of information that is obtained in connection with a PID investigation.
- 78. When sending emails in relation to a potential PID, the subject line should make it clear that the email is for the addressee's eyes only.

## 9. RESOURCES

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- 79. Further advice concerning these Procedures can be obtained by contacting PM&C's People Branch on: (02) 6271 6000 or [help@hr.pmc.gov.au](mailto:help@hr.pmc.gov.au).
- 80. The following guidance may also be helpful:
  - a. Commonwealth Ombudsman: [www.ombudsman.gov.au/about/making-adisclosure](http://www.ombudsman.gov.au/about/making-adisclosure)
  - b. Australian Public Service Commission: [www.apsc.gov.au](http://www.apsc.gov.au)

## APPENDIX 1 - RISK ASSESSMENT INFORMATION

### Conducting a risk assessment

In conducting risk assessments in relation to the risk that reprisals will be taken against a discloser, the following matrix should be used:

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

### Examples of seriousness of reprisals

- Minor: occasional or one-off action that is likely to have a relatively minor adverse effect on the person (for example, occasional exclusion of the person from a social activity).
- Moderate: repeated action which is likely to have an adverse effect on the person (for example, routinely failing to copy in the person on work-related emails which the person has a genuine business need to know about).
- Major: sustained or one-off action which has a significant impact on the person (for example, consistently excluding the person from team discussions or imposing a negative performance assessment on the person without reasonable cause and supporting evidence).
- Extreme: action which is likely to have a very severe impact on the person (for example, physical violence).

### Criteria for assessing the likelihood of potential reprisals

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

- the likelihood of the discloser being identified, which may involve a consideration of:
  - o the size of the work area in which the discloser is located; and
  - o the number of people who are aware of the information leading to the disclosure;
- the number of people implicated in the disclosure;
- the subject matter of the disclosure;

- the number of people who are aware of the disclosure or are likely to become aware of the disclosure (for example, through participation in the investigation as witnesses);
- the culture of the workplace;
- whether any specific threats against the discloser have been received;
- whether there are circumstances that will make it difficult for the discloser not to discuss the disclosure in the workplace;
- whether there are allegations about individuals in the disclosure;
- whether there is a history of conflict between the discloser and the subject of the disclosure; and
- whether the disclosure can be investigated while maintaining confidentiality.

#### **Criteria for assessing the likely seriousness of potential reprisals**

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

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

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

The following tables may assist in conducting a risk assessment.

**TABLE 2 – INDICATORS OF A HIGHER RISK OF REPRISALS OR WORKPLACE CONFLICT**

<p>Threats or past experience</p>	<ul style="list-style-type: none"> <li>• Has a specific threat against the discloser been made? Is there a history of conflict between the discloser and the subjects of the disclosure, management, supervisors or colleagues?</li> <li>• Is there a history of reprisals or other conflict in the workplace?</li> <li>• Is it likely that the disclosure will exacerbate this?</li> </ul>
<p>Confidentiality unlikely to be maintained</p>	<ul style="list-style-type: none"> <li>• Who knows that the disclosure has been made or was going to be made?</li> <li>• Has the discloser already raised the substance of the disclosure or revealed their identity in the workplace?</li> <li>• Who in the workplace knows the discloser's identity?</li> <li>• Is the discloser's immediate work unit small?</li> <li>• Are there circumstances, such as the discloser's stress level, that will make it difficult for them to not discuss the matter with people in their workplace?</li> <li>• Will the discloser become identified or suspected when the existence or substance of the disclosure is made known or investigated?</li> <li>• Can the disclosure be investigated while maintaining confidentiality?</li> </ul>
<p>Significant reported wrongdoing</p>	<ul style="list-style-type: none"> <li>• Are there allegations about individuals in the disclosure?</li> <li>• Who are their close professional and social associates?</li> <li>• Is there more than one individual involved in the matter?</li> <li>• Is the reported wrongdoing serious?</li> <li>• Is or was the reported wrongdoing occurring frequently?</li> <li>• Is the disclosure particularly sensitive or embarrassing for any subjects of the disclosure, senior management, the Department or government?</li> <li>• Do any individuals have the motivation to take reprisal actions – for example, because they have a lot to lose, or because they have power over the discloser?</li> </ul>
<p>Vulnerable discloser</p>	<ul style="list-style-type: none"> <li>• Is or was the reported wrongdoing directed at the discloser?</li> <li>• Are there multiple subjects of the disclosure?</li> <li>• Is the disclosure about a more senior officer?</li> <li>• Is the discloser employed part-time or on a casual basis?</li> <li>• Is the discloser isolated – for example, geographically or because of shift work?</li> <li>• Are the allegations unlikely to be substantiated – for example, because there is a lack of evidence?</li> <li>• Is the disclosure being investigated outside the Department?</li> </ul>



**TABLE 2 - DETAILED RISK ASSESSMENT MATRIX**

	Identified risk event	Likelihood High/Medium/Low	Consequence Minor/Moderate/Serious	Action to mitigate Yes/No (if yes, describe)
1	Assault			
2	Verbal Assault			
3	Stalking			
4	Cyber-Bullying			
5	Silent Treatment in workplace			
6	Interference to personal items			
7	Excluded from legitimate access to information			
8	Excluded from promotion			
9	Excluded from workplace sanctioned social events			
10	Unjustified change to duties/hours of work			
11	Dismissal			
12	Unjustified refusal of leave			
13	Onerous/unjustified audit of access to ICT/Time sheets			
14	Onerous/unjustified audit of expenditure of Commonwealth money/Cab charge use			
15	Other (describe)			