

City of Albany
Policy & Procedure

Rights & Obligations under the Public Interest Disclosure Act 2003

(WHISTLEBLOWER PROTECTIONS)

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Objective

The Public Sector Commissioner has developed guidelines in accordance with s. 21 of the *Public Interest Disclosure Act 2003* (PID Act) to assist authorities develop their own internal procedures.

The City of Albany acknowledges its responsibility under s. 23(1)(e) and s. 23(2) principal executive officers (PEOs) of public authorities (authorities) to prepare and publish internal procedures relating to their obligations under the PID Act.

The guidelines only cover the minimum requirements.

This policy position and associated guidelines have been adapted and enhanced to reflect our operating context and ensure the City's PID Officers and persons raising issues in the public interest have the appropriate resources to:

- receive, investigate, take appropriate action and provide reports to disclosers.

These policies have been reviewed to align with the following Public Sector Resources:

- the [Public Interest Disclosure Act 2003](#)
- the [Public Interest Disclosure Regulations 2003](#)
- [Public Interest Disclosure \(PID\): Supporting information for Principal Executive Officers and PID Officers \(proper authorities\)](#)
- [Don't be afraid to speak up](#)
- [Information for managers.](#)

Scope

These procedures apply to all people involved in the public interest disclosure process, including our City of Albany's PEO], PID Officer(s), employees of the City of Albany and/or any person making a public interest disclosure and any subject(s) of a disclosure.

These procedures should be read in conjunction with:

- [Public Interest Disclosure Act 2003](#)
- [Public Interest Disclosure Regulations 2003](#)
- [Employee Code of Conduct Policy](#)
- [Code of Conduct for Council Members, Committee Members and Candidates](#)

The behaviour of all employees involved in the public interest disclosure process must accord with our Code of Conduct at all times. A breach of the Code of Conduct may result in disciplinary action.

Legislative & Strategic Context

The *Public Interest Disclosure Act 2003* (the Act) promotes accountability within government agencies by facilitating the disclosure of public interest information involving misconduct, offences, misuse of public resources or risks to public health or safety.

The Act also serves as a means to protect those who make disclosures to appropriate authorities, and those who are the subject of disclosures.

Review Position and Date

This policy and procedure is to be reviewed by the document owner annually.

Policy Statements

A: The City of Albany (the City) endorses the following statements as a local government public authority:

- The City does not tolerate corrupt or other improper conduct.
- The City is committed to the aims and objectives of the Public Interest Disclosure Act 2003 (PID Act). The PID Act recognises the value and importance of reporting as a means to identify and address wrongdoing.
- We strongly support disclosures being made by employees about corrupt or other improper conduct. We also strongly support contractors and members of the community making disclosures about corrupt or improper conduct.
- The City does not tolerate any of its employees, contractors or subcontractors taking reprisal action against anyone who makes or proposes to make a public interest disclosure.
- The City will take all reasonable steps to protect employees from any detrimental action in reprisal for the making of a public interest disclosure.
- The commitment to effectively manage public interest disclosures extends to a proper authority of the City. The persons responsible for receiving disclosures of public interest information designated under s. 23(1)(a) of the PID Act will abide by the PID Code of conduct and integrity in performing their duties.
- The City is also committed to responding to the disclosure thoroughly and impartially. We will treat all people in the disclosure process fairly, including those who may be the subject of a disclosure.

- The City will provide as much information as possible to people considering making a public interest disclosure. These internal procedures are accessible to all employees and contractors. Copies are available from the designated persons appointed as the proper authority (Public Interest Disclosure (PID) Officers) and will be made available on the City's intranet and public website.
- General information about public interest disclosures and how the City as a public authority will manage a disclosure is available for external clients and members of the community on our website.
- While these procedures focus on public interest disclosures, we are committed to dealing with all reports of suspected wrongdoing. We encourage people to report, if they witness any such behaviour. The City will consider each matter under the appropriate reporting pathway and make every attempt to protect staff members making reports from any reprisals.

B: Acknowledge the need to make PID internal procedures accessible.

The internal procedures outline how we, as a public authority, will meet our obligations under the PID Act.

The Chief Executive Officer as the City's PEO, acknowledges that these internal procedures under s. 23(1)(e) of the PID Act must be published and publically accessible.

As they cover the roles and responsibilities of:

- The City's Chief Executive Officer as the public authority's PEO] in accordance with s.23(1)(a) and s.5(3)(h).
- Person designated as PID Officers.
- The discloser.
- The subject of the disclosure.

C: Procedures to assist with managing Public Interest Disclosures

It is acknowledged that the Public Interest Disclosure Act 2003 (PID Act) has overarching requirements to handle disclosures.

These requirements separate the public interest disclosure process from other reporting or complaint handling processes.

The PID Act does not displace the notification or reporting requirements of the Corruption, Crime and Misconduct Act 2003, which are paramount.

Strategic Context:

This policy and procedure supports our community's expectation.

Objectives:

- To establish and maintain sound business and governance structures.
- To provide strong, accountable leadership supported by a skilled & professional workforce.

Community Priorities:

- Implement systems and controls that ensure the prudent use of rates and ensure value for money in all aspects of Council operations.
- Provide informed and transparent decision making that is consistent with our strategic direction, meets our legal obligations, reflect the level of associated risk and are adequately explained to community.

Associated Documents

The procedures are to be read in conjunction with the PID Act, Public Interest Disclosure Regulations 2003 and Don't be afraid to speak up.

Public interest disclosure resources for people interested or involved in the public interest disclosure process can be sourced at:

<https://www.wa.gov.au/government/document-collections/public-interest-disclosure-resources>

Definitions

Key terms and acronyms used in the policy are sourced from the PID Act and referenced guidelines.

MANAGING PUBLIC INTEREST DISCLOSURE PROCEDURES

What is 'public interest information'?

The PID Act only applies to disclosures of public interest information (defined in s. 3). Public interest information means information that:

- relates to the performance of a public function by a public authority, public officer or public sector contractor (either before or after the commencement of the PID Act) and
- shows or tends to show that a public authority, a public officer, or a public sector contractor is, has been or proposes to be involved in improper conduct or
- an act or omission that constitutes an offence under a written (State) law or
- substantial unauthorised or irregular use of, or substantial mismanagement of, public resources or
- an act done or omission that involves a substantial and specific risk of injury to public health or
- prejudice to public safety or
- harm to the environment or
- a matter of administration that can be investigated under section 14 of the Parliamentary Commissioner Act 1971 by the Parliamentary Commissioner (Ombudsman Western Australia).

A: Confidentiality

Maintaining confidentiality is an important part of managing a disclosure. The confidentiality requirements of the PID Act (s. 16) not only protects the discloser, but also any other people affected by the disclosure.

The confidentiality requirements do not apply to all information in a disclosure, although, we are committed to maintaining confidentiality around:

- any information that may identify the discloser or any person who may be the subject of a disclosure, including the fact a disclosure has been made
- information relating to a disclosure that, if known, may cause detriment.

Throughout the disclosure process and after its completion, the PID Act provides for the disclosers identity and the identity of any persons, that is, any subject of the disclosure to be kept confidential, except in certain circumstances.

Disclosing information which might identify, or tend to identify the disclosers s. 16(1)) or any person, that is, the subject(s) (s. 16(3)) of your disclosure, except in accordance with the PID Act, is an offence punishable with a penalty of a \$24 000 fine or imprisonment for two years.

B: Confidentiality regarding the discloser

Maintaining confidentiality is an important part of protecting the discloser, from any detrimental action in reprisal for making or intending to make a disclosure.

If the discloser consents to having their identity revealed to assist us in dealing with the disclosure, our PID Officer will record this using the [Consent to disclosure of identifying information form](#).

Sometimes we may need to identify the discloser, without the discloser's consent s. 16(1)(b)-(f) but only 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 or
- we are ordered by a court or any other person or body having authority to hear, receive or examine evidence or
- we are required by ss.152 or 153 of the Corruption, Crime and Misconduct Act 2003.

Before we identify the discloser for any of the reasons above, our PID Officer will take all reasonable steps to inform the discloser that this will happen and the reasons why. Our PID Officer will use the [Notification of disclosure of identifying information form](#) to do this.

If we need to provide information about the identity of the discloser to another person for the reasons above, our PID Officer will inform the other person that further disclosure to a third person may put them at risk of committing an offence.

Our PID Officer will also consider whether it is necessary to inform any external investigator about the identity of the discloser. Where it is necessary to provide this identifying information, our PID Officer will notify as described above.

Confidentiality plan

The plan is to provide support and protect the discloser from the risk of reprisal.

If a disclosure's confidentiality cannot be maintained, the City is committed to developing and implementing a plan to support and protect disclosing persons from any potential risks of detrimental action.

The Disclosure must be involved in developing this plan.

Confidentiality regarding the person, that is, the subject of the disclosure

The subject of a disclosure may consent to having their identity revealed to assist with the disclosure process s. 16(3)(a).

Our PID Officers will use the [Consent to disclosure of identifying information form](#) to record this.

Additionally, we may need to reveal identifying information about the subject(s) of a disclosure without their consent, ss. 16(3)(b)-(g) where: it is necessary to do so to enable the matter to be investigated effectively

- it is necessary to do so in the course of taking action under s. 9
- there are reasonable grounds to believe that it is necessary to prevent or minimise the risk of injury to any person or damage to any property
- we are ordered by a court or any other person or body having authority to hear, receive or examine evidence or
- we are required by ss. 152 or 153 of the Corruption, Crime and Misconduct Act 2003.

There is no obligation to advise the subject of a disclosure that identifying information will be released.

C: Protections

The PID Act provides a range of protections for disclosers (Part 3). It also requires that our Chief Executive Officer of the City (public authority's PEO) provides protection for any employees who make disclosures (s. 23(1)(b)).

Don't be afraid to speak up contains general information about the protections provided by the PID Act.

Our PID Officers will be able to expand on this information specific to the City of Albany.

We are committed to ensuring that no detrimental action, including workplace reprisals by managers or other employees, occurs as a result of a person making a disclosure.

If any of the above does occur, the discloser can request that we take action to protect them. Tell the PID Officer who is handling the disclosure immediately.

The PID Act also provides that the discloser may lose the protections provided in s. 13 in some circumstances, including where they on-disclose information or fail, without reasonable excuse, to assist any person investigating the matters of the disclosure.

D: Notification requirements

The City's Designated PID Officers (detailed on the front of this document) will ensure that they complete all reporting in accordance with the legislative and administrative requirements of the PID Act.

Provided it is not an anonymous disclosure, our PID Officers will provide the following reports:

- within three months of making a disclosure, the action taken, or propose to take, in relation to the disclosure (s. 10(1))
- when the disclosure process has concluded, the outcome of the investigation and the reasons for taking any action following the investigation (s. 10(4)).

Our PID Officers may also provide a progress report during any investigation, either on their initiative or upon your request (ss. 10(2) and (3)).

Our PID Officers have some limits on what they can include in their reports. Section 11 prevents provision of information that would be likely to adversely affect:

- any person's safety s(1)(a) or
- the investigation of an offence or possible offences s(1)(b) or
- confidentiality as to the existence or identity of any other person who made a public interest disclosure s(1)(c).

Our PID Officers are also prevented from giving any information they must not disclose under ss. 151, 152 or 153 of the *Corruption, Crime and Misconduct Act 2003*.

E: Record keeping

During the investigation our PID Officers may make comprehensive and contemporaneous records of any discussions and interviews.

These records along with any other documentation or files relating to the disclosure, whether paper or electronic, will be stored securely and only accessed by authorised persons.

F: PID Register

To assist with annual reporting to the Public Sector Commissioner we will maintain a public interest disclosure register.

We will assign a unique register number to each disclosure and record key information about your disclosure, any investigation and the outcome in the public interest disclosure register.

This register (paper and/or electronic) is kept strictly confidential and maintained in a secure location.

Appendix 1: Overview of roles and responsibilities of parties involved in the disclosure process

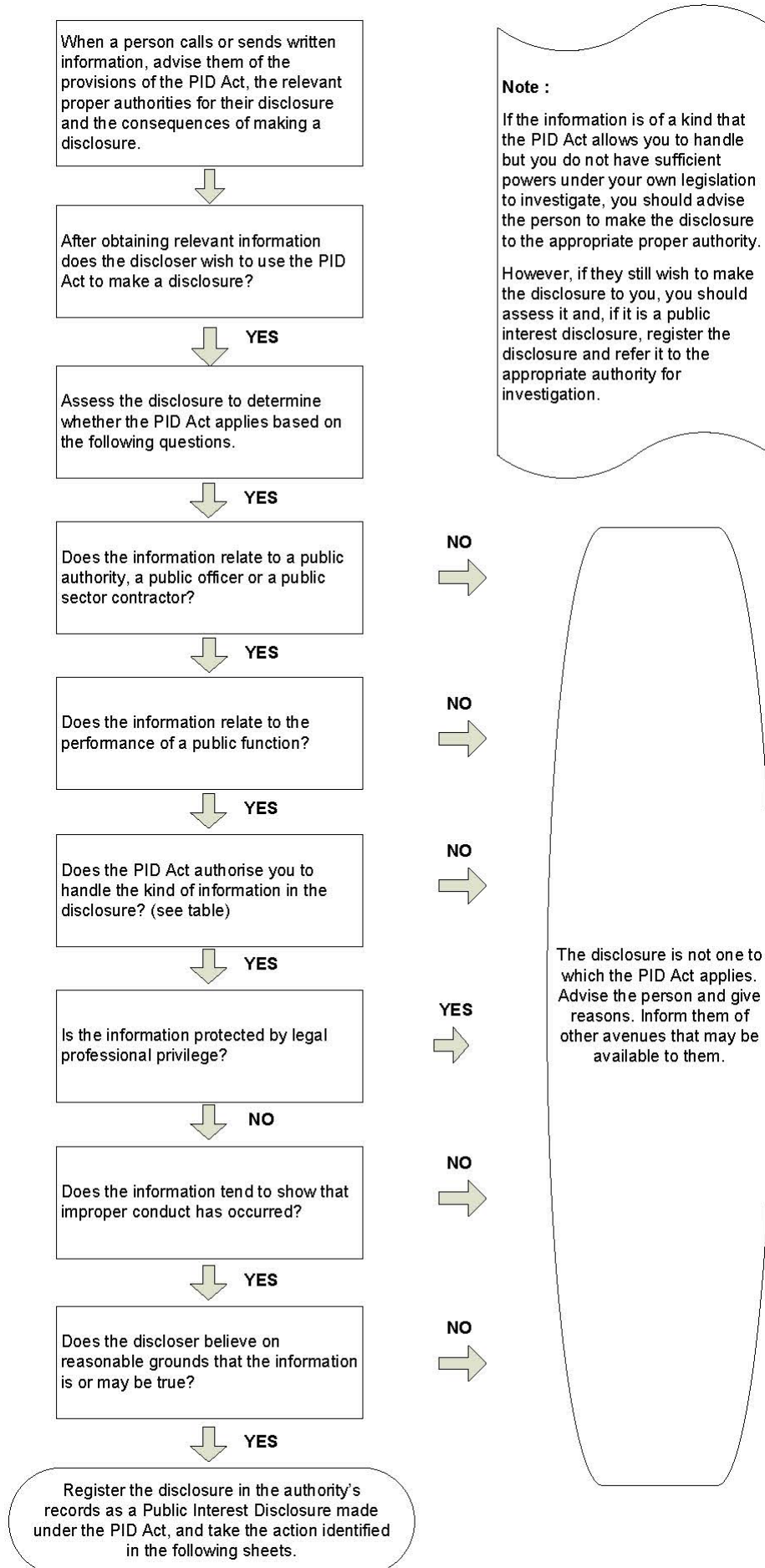
Person / role	Responsibilities
<p>Principal executive officer (s. 23) in the City of Albany the Chief Executive Officer is the public authority's PEO:</p>	<ul style="list-style-type: none"> • Designates the occupant of a specified position (a PID Officer) to receive public interest disclosures related to the City of Albany (the City) (s. 23(1)(a)). • Provides protection from detrimental action or the threat of detrimental action for any employee of the City who makes a public interest disclosure (s. 23(1)(b)). • Ensures the City complies with the PID Act and the code of conduct and integrity established by the Public Sector Commissioner (ss. 23(1)(c) and (d)). • Prepares and publishes internal procedures, consistent with those prepared by the Public Sector Commission, detailing how the City will meet its obligations under the PID Act (s. 23(1)(e)). • Provides information (s. 23(1)(f)) to the Public Sector Commissioner on the: <ul style="list-style-type: none"> • number of disclosures received by the City. • results of any investigations conducted as a result of the disclosures • action, if any taken, as a result of each disclosure • any matters as prescribed. • May have a role in enabling an investigation to be undertaken or taking disciplinary action against individuals under functions and powers separately from the PID Act.
<p>The Proper Authority PID Officer(s) 23(1)(a):</p>	<ul style="list-style-type: none"> • As is designated by public authority's PEO (the City's Chief Executive Officer) under s. 23(1)(a) the PID Officer is to receive disclosures related to the City. • Provides information to potential disclosers about their rights and responsibilities consistent with the Code of conduct and integrity established under s. 20(1). • Receives and manages public interest disclosures in accordance with the PID Act (s. 5(3)). • Notifies the discloser within three months of the disclosure being made about what action is planned in dealing with the disclosure (s. 10(1)). • Where appropriate, investigates, or causes an investigation of, the matters in the disclosures (s. 8(1)).

Person / role	Responsibilities
	<ul style="list-style-type: none"> • Where appropriate, provides information to subjects of a disclosure about their rights, responsibilities, duties and potential offences (s. 9(2), s. 14, s. 15, s. 16 and s. 24). • Where appropriate, takes such action as is necessary and reasonable, within their functions and powers in accordance with s. 9. • Maintains confidentiality of the identity of the discloser and subject(s) of disclosures, in accordance with the requirements of the PID Act (s. 11 and s. 16). • Provides progress reports where requested and a final report to the discloser in accordance with s. 10. • Creates and maintains proper and secure records in relation to the disclosures in accordance with the Code of conduct and integrity established under s. 20(1) and the State Records Act 2000. • Completes a PID Register for each disclosure lodged (s. 23(1)(f)). • Acts in accordance with the rules of natural justice (s. 9(2) and s. 16(1)(b)). • Acts in accordance with the code of conduct and integrity established by the Public Sector Commissioner (s. 20(1)) and any authority-specific code of conduct established separately from the PID Act.
The discloser:	<ul style="list-style-type: none"> • Makes a public interest disclosure to a proper authority or our PID Officer if the matter relates to the City (s. 5(1)). • Believes on reasonable grounds the information in their disclosure is, or may be, true (s. 5(2)). • Does not disclose information subject to legal professional privilege (s. 5(6)). • Does not knowingly and recklessly make a false or misleading disclosure (s. 24(1)). • Maintains confidentiality of the information disclosed and the identity of the person(s) to whom the information relates, in accordance with the requirements of the PID Act (s. 16 and s. 17(1)(b)). • Assists any person investigating the matter to which the disclosure relates by supplying the person with any information requested (s. 17(1)(a)).

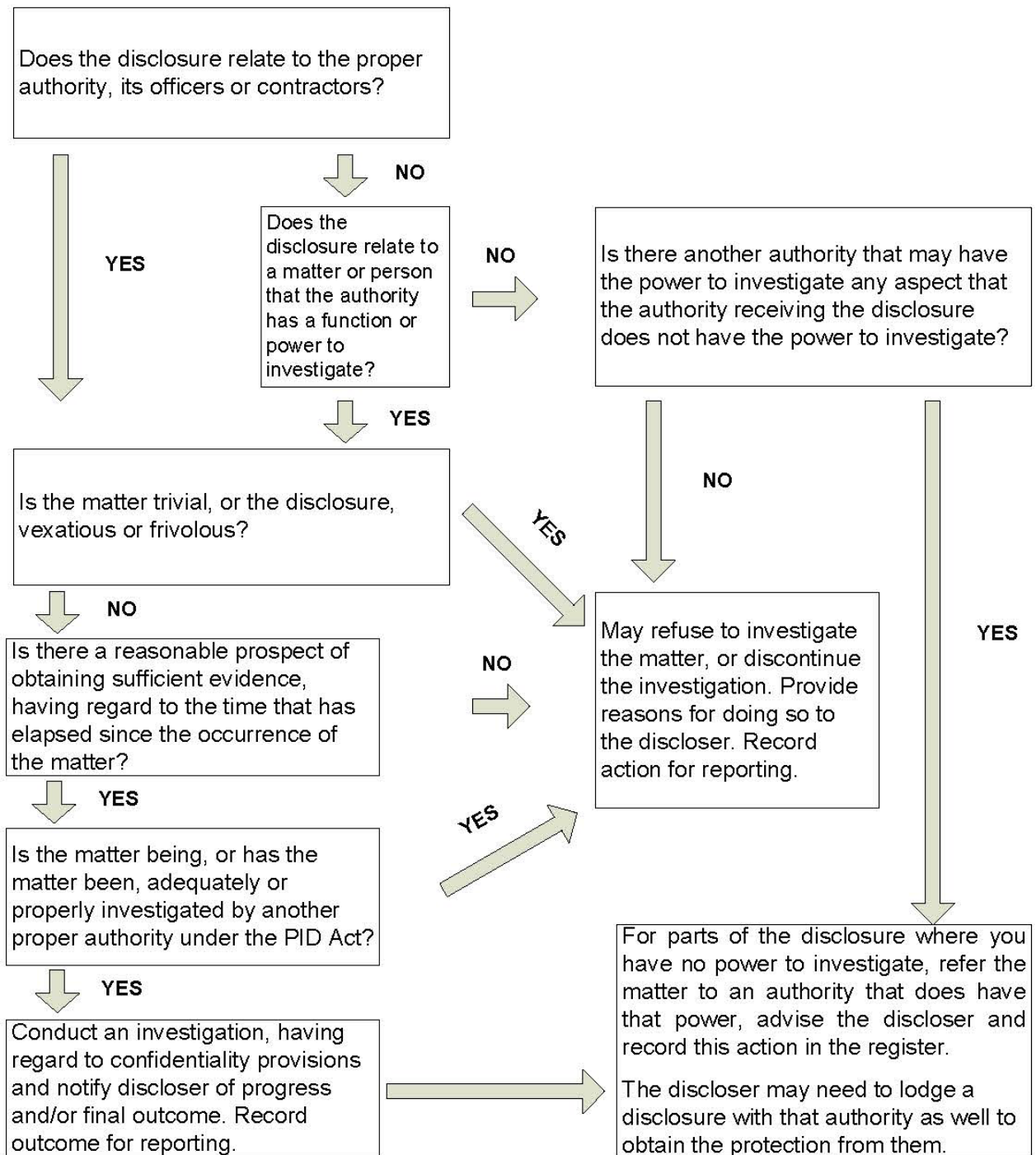
Person / role	Responsibilities
<p>The subject of the disclosure (person about whom disclosure is made):</p>	<ul style="list-style-type: none"> • Is afforded the opportunity to make a submission, either orally or in writing, in relation to the matter before preventative or disciplinary action is taken (s. 9(2)). • Maintains confidentiality of the identity of the discloser, in accordance with the requirements of the PID Act (s. 16(1)). • Is to be treated in accordance with the rules of natural justice (s. 16(1)(b)). • Does not take or threaten to take detrimental action (defined in s. 3) against a person because they have made or intend to make a disclosure (s. 14(1)). • Does not incite another person to take detrimental action against another because they have made or intend to make a disclosure (s. 14(2)). • Does not commit an act of victimisation by taking or threatening to take detrimental action against the person making or intending to make a disclosure (s. 15(1)).
<p>An investigating officer:</p>	<ul style="list-style-type: none"> • May investigate matters of public interest information on behalf of a proper authority of the City, in accordance with the terms of reference given to them. • Maintains confidentiality of the identity of the disclosure and any person subject to the disclosure, in accordance with s. 16. • Makes, and keeps secure, comprehensive records of any investigation undertaken.



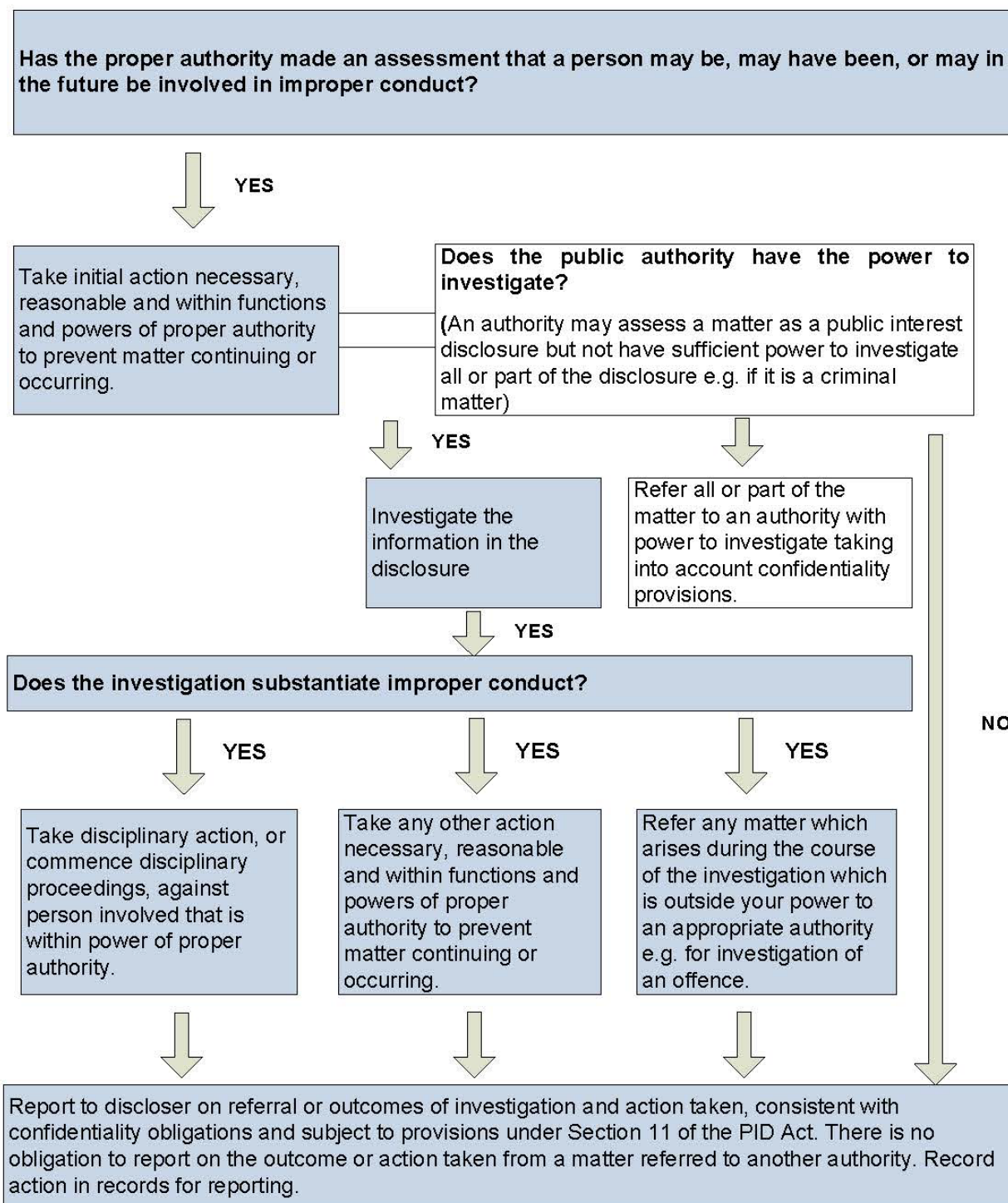
Appendix 2 - Flowchart for receiving and assessing disclosures



Appendix 3 - Flowchart for investigating information disclosed



Appendix 4 - Flowchart for taking action



Note on referrals

The confidentiality provisions apply when you refer a matter and the authority to whom the matter is referred is bound by the confidentiality provisions of the PID Act. However, they will treat it in accordance with their own powers and are not required to treat the matter as a PID for the purposes of reporting the outcome to the discloser.

Nothing precludes the discloser from lodging the matter as a PID in the new authority if they wish to extend the legal protections available to them under the PID Act and receive reports from the new authority on the outcome and action taken.

Appendix 5 –Proper authorities for receiving disclosures of public interest information

When the disclosure relates to...	The proper authority is...
The sphere of responsibility of a public authority (e.g. 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 Corruption and Crime 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 Corruption and Crime Commission
A Member of the Legislative Council	The President of the Legislative Council
A Member of the Legislative Assembly	The Speaker of the Legislative Assembly
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 Parliamentary Commissioner Act 1971.	The PID Officer of the public authority concerned, the Ombudsman or the Public Sector Commissioner
A person or a matter of a prescribed class	A person declared by the regulations to be a proper authority

Important Note: In addition, the information disclosed must be public interest information as defined in the PID Act. Not all proper authorities to which a disclosure may be made will be required or have the power to investigate the information disclosed. In some cases, it may be necessary for the discloser or information to be referred to another proper authority with power to investigate the information.

What you should ask yourself

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

- whether you have reasonable grounds to believe the information you are thinking of disclosing is or may be true
- if the information is something that you think is important to be disclosed because it is in the public interest
- whether you have sought proper advice
- if you fully understand your rights and responsibilities under the PID Act if you make a disclosure.

I have made a disclosure – what next?

After assessing your information, the public authority will have to investigate unless it considers:

- the matter to be trivial
- the disclosure to be vexatious or frivolous
- there is no reasonable prospect of obtaining sufficient evidence, due to the lapse of time
- the matter is being, or has already been, adequately or properly investigated by a proper authority under the PID Act
- the information does not relate to the proper authority, an officer or contractor of the authority or a matter that the proper authority has the function or power to investigate.

Will I be kept informed?

Yes – the public authority must inform you within three months of making the disclosure of what they intend to do about your disclosure.

Where the information is under investigation you will be able to request a progress report. You are entitled to a report on the outcome and any action taken when the investigation is complete.

What about confidentiality and my protection?

As the disclosure is about a public interest matter rather than a specific complaint, the PID Act requires confidentiality to be maintained about:

- The identity of the person making the disclosure
- The identity of any person named in the disclosure.

There are exceptions to these rules in certain circumstances (section 16 of the PID Act) and anyone thinking of making a disclosure should seek advice from the relevant PID Officer or the Public Sector Commission on these prior to making a disclosure.

A person making a disclosure is provided with protection under the PID Act for:

- any reprisals
- civil and criminal liability in the event of making a disclosure
- dismissal or having services dispensed with
- breach of confidentiality or secrecy agreements.

A person alleging victimisation as a result of a disclosure can complain to the Equal Opportunity Commission or may be able to take civil action.

The Equal Opportunity Commission, website: <https://www.wa.gov.au/organisation/equal-opportunity-commission>

After investigation

After making a disclosure you will not normally be required to do anything else other than cooperate with an investigation. If you are unhappy with the public authority's response to your disclosure, there is no right of appeal under the PID Act to challenge the public authority's actions. You may, however, be able to make another disclosure to a different proper authority.

Victimisation and reprisals

The City of Albany will take all reasonable steps to provide protection to employees who make such disclosures from any detrimental action in reprisal for the making of a disclosure.

The City of Albany does not tolerate any of its officers, employees or contractors engaging in acts of victimisation or reprisal against those who make public interest disclosures.

These acts should be reported immediately to the PID Officer or the Chief Executive Officer.

Appendix 6 –Named proper authorities

There are some public authorities that are named as proper authorities in the PID Act that may be able to offer you assistance.

These are listed below:

- The Public Sector Commission provides assistance to public authorities and public officers to comply with the code of conduct and integrity and the PID Act. The Commission also provides general information about the disclosure process to employees and members of the public.
- PID Advice and Referral Line on 6552 8888 1800 676 607 or website: www.publicsector.wa.gov.au
- The Corruption and Crime Commission will be able to provide advice on misconduct and corruption. Telephone (08) 9215 4888 or website: www.ccc.wa.gov.au
- The Ombudsman will be able to provide advice on matters of State and local government administration. Telephone (08) 9220 7555 or website www.ombudsman.wa.gov.au
- The Office of the Auditor General will be able to provide advice on proper use and management of public resources and more generally public authorities' accountability and performance requirements. Telephone (08) 6557 7500 or website www.audit.wa.gov.au.
- The WA Police Service will be able to provide advice on offences under a State law. Telephone (08) 9223 1000 | website www.police.wa.gov.au

Appendix 7 – Public interest disclosure resources

Originals can be sourced at:

<https://www.wa.gov.au/government/document-collections/public-interest-disclosure-resources>

Awareness raising materials

- Please email the [Integrity Advisory Service](#) to access to Speaking out: A guide to public interest disclosures video.
- Guide for disclosers: Don't be afraid to speak up (Public Interest Disclosure) [PDF \(816.66KB\)](#)
- Guide for managers: When someone speaks up (Public Interest Disclosure) [PDF \(1.3MB\)](#)

Guidelines for public authorities

- Guidelines for public authorities (Public Interest Disclosure) [PDF \(1.38MB\)](#)
- Supporting information for Principal Executive Officers and PID Officers (Public Interest Disclosure) [PDF \(625.21KB\)](#)

Resources for PID Officers

- [Public Interest Disclosure Officer Declaration Form](#)
- Public Interest Disclosure Officer Declaration Authorisation by Principal Executive Officer [DOCX \(1.12MB\)](#)
- PID Officers code of conduct and integrity [PDF \(176.28KB\)](#)

Forms and templates

- PID register template [DOCX \(26.71KB\)](#)
- Assessment and case management form for a public interest disclosure [DOCX \(53.83KB\)](#)
- Public Interest Disclosure template lodgement form [DOCX \(33.26KB\)](#)
- Notification of disclosure of identifying information form [DOCX \(29.77KB\)](#)
- Consent to disclosure of identifying information form [DOCX \(29.36KB\)](#)

Contacts

- [Public interest disclosure officer contact directory](#)