
Public Interest Disclosure (PID)

The *Public Interest Disclosure Act 2013 (PID Act)*, which commenced on 15 January 2014, building on practices established to protect Australian Public Service (APS) employees who disclose information on suspected breaches of the APS Code of Conduct.

The purpose of the PID Act is to promote the integrity and accountability of the Commonwealth public sector by:

- encouraging and facilitating the making of disclosures of wrongdoing by public officials
- ensuring that public officials who make protected disclosures are supported and protected from adverse consequences relating to the making of a disclosure
- ensuring that disclosures are properly investigated and dealt with

The PID Act complements existing notification, investigation and complaint handling schemes in the Commonwealth public sector. For example, where a public interest disclosure concerns suspected fraud, the investigation should be conducted in accordance with the Commonwealth Fraud Control Guidelines. The PID Act provides additional protections for disclosers and reporting obligations for agencies.

For more information see the Ombudsman's publication: [The Public Interest Disclosure Act 2013 – what's it all about?](#)

In summary, a **public interest disclosure** is made when:

- a person who is or has been a public official (this includes all current and former Screen Australia employees, contractors, consultants, and Board members)
- discloses to their supervisor or manager, or an authorised officer of an agency
- information which tends to show, or the discloser believes on reasonable grounds tends to show, one or more instances of disclosable conduct.

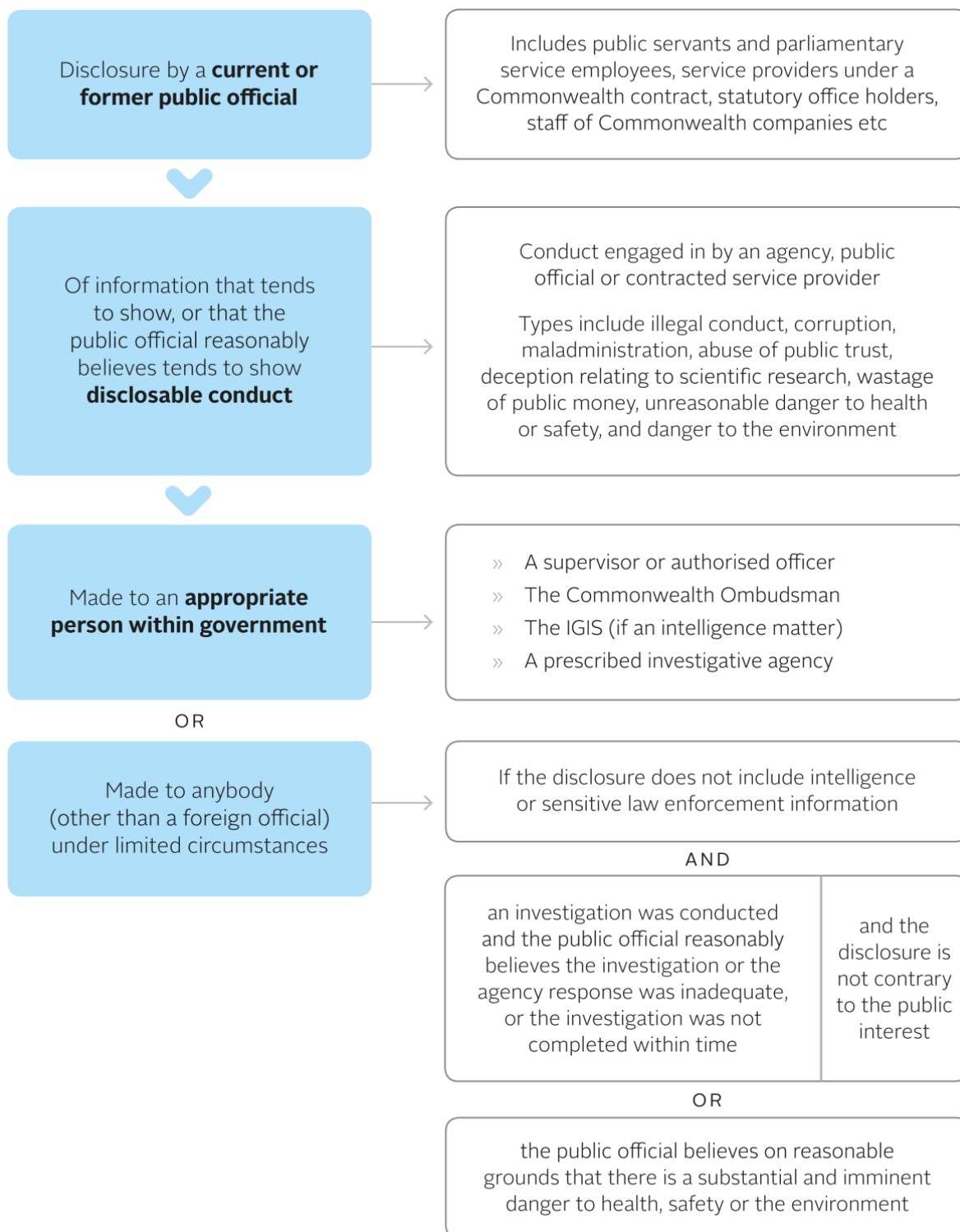
This is defined as an '**internal**' disclosure; when a public official discloses information to a person inside government.

In limited circumstances a public official may disclose such information to a person outside government – this is known as an 'external' disclosure or 'emergency' disclosure.

For more information, please see the Ombudsman's publication [Speaking up about Wrongdoing – A guide to making a disclosure under the Public Interest Disclosure Act 2013](#)

The **elements of making a disclosure** under the PID Act are summarised in the following diagram:

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Disclosable conduct

What is disclosable conduct?

Disclosable conduct is conduct by an agency, public official or contracted service provider that:

- contravenes a Commonwealth, State or Territory law
- perverts the course of justice
- is corrupt
- constitutes maladministration, including conduct that is based on improper motives or is unreasonable, unjust, oppressive or negligent
- involves fabrication, falsification, plagiarism or deception relating to scientific research, or other misconduct in relation to scientific research, analysis or advice
- results in wastage of public money or public property
- is an abuse of public trust
- in a foreign country, contravenes a foreign law that applies to the agency, official or service provider
- unreasonably endangers health and safety
- endangers the environment
- is prescribed by the PID rules (s 29(1)).

Disclosable conduct also includes conduct by a public official that involves or is engaged in for the purposes of abusing their position as a public official, and conduct that could give reasonable grounds for disciplinary action against the public official.

It does not matter if the conduct occurred before or after 15 January 2014 (when the Act came into force), or if the public official or contracted service provider alleged to have committed the wrongdoing has since ceased to be a public official or contracted service provider.

Disclosures must be made after 15 January 2014 in order to seek the protections offered by the PID Act.

Making a disclosure

Employees can make a public disclosure to their supervisor, or to Screen Australia's Authorised Officer (AO) for Public Interest Disclosures. The AO is the Manager, Governance who can be contacted at 02 8113 1011 at PID@screenaustralia.gov.au, or by mail at:

GPO Box 3984
Sydney NSW 2001.

Disclosures can also be made to the CEO, to the Ombudsman or to a prescribed investigative agency. Disclosures may be made anonymously; however, please bear in mind that providing as much information as possible about the situation may aid any investigation.

For more information, please see the Ombudsman's publication [How to make a public interest disclosure](#).

Screen Australia's procedures for the Public Interest Disclosure Act 2013 are available on request.

What to include in a disclosure?

In order to assist the AO in making a fully informed decision on how to proceed with a disclosure, as much of the following information ought to be provided as possible:

- the discloser's name and contact details
- the nature of the wrongdoing
- who the discloser thinks committed the wrongdoing
- when and where the wrongdoing occurred
- relevant events surrounding the issue
- if the discloser did anything in response to the wrongdoing
- others who know about the wrongdoing and have allowed it to continue
- whether it is believed the information is a Public Interest Disclosure under the PID Act (it does not have to be described as such for it to be treated as a Public Interest Disclosure)
- if there are concerns about any possible reprisals as a result of making a disclosure.

It is important to be clear and factual, and to avoid speculation, personal attacks and emotive language as this will only divert attention from the real and relevant issues. A matter should not be investigated by the discloser before making a disclosure as doing so may hinder any future investigation.

The AO may ask for further 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 may be able to verify what is being disclosed.

What happens next?

All disclosures are treated in the strictest of confidence, and there are severe penalties for breaching the confidence of the discloser.

Screen Australia's AO for Public Interest Disclosures has been delegated authority by the CEO to investigate Public Interest Disclosures on the CEO's behalf.

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Based on the information provided to him/her, the AO must decide whether the disclosure constitutes an internal disclosure. The AO must inform the discloser as soon as possible of the decision about whether it is an internal disclosure, and of their decision to allocate.

If the AO determines that the disclosure is an internal disclosure, the AO may decide to allocate the investigation to another agency, or to have the matter investigated within Screen Australia. The AO must inform the Ombudsman if a decision is taken not to investigate, or how the investigation has been allocated (i.e. internally or to another agency).

If the disclosure is determined to be an internal disclosure, the discloser enjoys protection from reprisals and from civil and criminal liability, even if the subsequent investigation determines that there was no wrongdoing. However, this protection does not apply if the discloser makes a statements that is knowingly false and misleading.

The investigation is undertaken by the CEO's delegate (the Delegate). At Screen Australia, this is the Manager, Governance.

At the end of the investigation, the CEO receives a copy of the report. The discloser also receives a copy of the report, but this may be redacted.

The Manager, Governance therefore has responsibility for:

- receiving the disclosures
- for determining whether the disclosure is an internal one
- informing the discloser of that determination
- deciding where to allocate the investigation, if the disclosure is deemed to be internal
- informing the Ombudsman and the discloser of the allocation decision
- exercising discretion on whether to investigate
- informing Ombudsman if that discretion not to investigate is exercised
- informing the discloser of requirement to investigate, and length of investigation
- conducting the investigation
- preparing the final report on the investigation
- providing a copy of the report to discloser and CEO
- providing information to the Ombudsman on the operation of the PID Act.

See diagram for an overview of the steps in the process.

1. What is the process?

