

Public Interest Disclosure Procedure

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Policy Supported:

[Public Interest Disclosure Policy](#)

Audience:

Staff, Members of the Senate and Committees, Students, External parties, Regulatory bodies, Public

Objectives:

- To detail the procedures to be followed when disclosures are made or purported to be made under the *Public Interest Disclosure Act 2003* (the Act).

Definitions:

Any defined terms below are specific to this document. The definition of common terms appears in the Murdoch University Dictionary of Terms.

There are no terms.

Implementation Steps:

1. Making of a public interest disclosure

- 1.1 A disclosure will only be a public interest disclosure under the Act if it is made to the appropriate *proper authority*. The proper authority within Murdoch University are the designated Public Interest Disclosure (PID) Officers of the University. The details of the University's PID Officers are mentioned in the University's Public Interest Disclosure Policy.

2. Advice to Disclosers

- 2.1 Before a discloser makes a public interest disclosure to the PID Officer, the PID Officer shall advise the discloser of the following matters:
 - 2.1.1 If they choose to make a public interest disclosure they will not as a result:
 - 2.1.1.1 Incur any civil or criminal liability.
 - 2.1.1.2 Be liable to any disciplinary action under state law.

- 2.1.1.3 Be liable to be dismissed or have his or her services dispensed with or otherwise terminated.
 - 2.1.1.4 Be liable for any breach of a duty of secrecy or confidentiality or any other applicable restriction on disclosure.
 - 2.1.2 If they choose to make a public interest disclosure, they may have the right to take civil proceedings if they are subject to detrimental action as a result of making the disclosure.
 - 2.1.3 If they choose to make a public interest disclosure then their identity will not be disclosed except in accordance with the Act (disclosure of their identity may be required in the course of the investigation or in taking action in some circumstances).
 - 2.1.4 If they choose to make a public interest disclosure then they will have the right to be informed of the progress and outcome of the investigation and action taken as a result.
- 2.2 However in the event of anonymous public interest disclosure by a person, the PID Officer will not be able to notify the discloser the status or outcome of any investigation initiated as a result of the disclosure.
- 2.3 If they choose to make a public interest disclosure:
 - 2.3.1 They are only protected if they believe on reasonable grounds that the information to be disclosed is or may be true.
 - 2.3.2 They will commit an offence, and lose the protection of the Act, if they know the information to be false or misleading in a material particular or are reckless about whether the information is false or misleading in a material particular.
 - 2.3.3 They will forfeit the protection given by the Act if they disclose the information otherwise than under the Act (i.e. if they provide the information to the media or a person who is not a proper authority).
 - 2.3.4 They will forfeit the protection given by the Act if they fail, without reasonable excuse, to assist a person investigating the matter to which the information relates, by supplying any information requested.
 - 2.3.5 They may commit an offence if they disclose information that might identify or tend to identify anyone as a person in respect of whom a disclosure of public interest information has been made.
- 2.4 The disclosure will only be protected if the PID Officer is the proper authority for receiving that kind of information.
- 2.5 Where a person makes an allegation about improper conduct, but the person has not referred to the Act, the person should be advised that they might want to make a public interest disclosure under the Act. If they may wish to do so, they should be referred to the PID Officer for guidance on how to make a disclosure under the Act and on the implications of making a public interest disclosure.

3. Assessing whether it is a public interest disclosure

- 3.1 The University's PID Officer must, on receiving the disclosure or information, make an initial assessment of whether:
 - 3.1.1 The information disclosed relates to a public authority, a public officer or a public sector contractor;
 - 3.1.2 The information disclosed relates to the performance of a public function;
 - 3.1.3 The information disclosed tends to show improper conduct;
 - 3.1.4 The improper conduct is of the kind for which the university's PID Officer is the proper authority;
 - 3.1.5 The discloser believes on reasonable grounds that the information is or may be true;
 - 3.1.6 The information is not protected by legal professional privilege; and
 - 3.1.7 The discloser wishes to make a public interest disclosure under the Act.
- 3.2 If the above questions are all answered "yes", then the disclosure of information is a public interest disclosure to which the Act will apply.

4. Forms for public interest disclosure

- 4.1 If a disclosure is a public interest disclosure, the discloser and the University's PID Officer will complete the Public Interest Disclosure Lodgement Form. The PID Officer will also complete the Assessment and Case Management Form for Public Interest Disclosures.
- 4.2 The making of the public interest disclosure should also be recorded in the Public Interest Disclosure Register, described in Section 5 of these procedures.

5. Public interest disclosure register

- 5.1 The University maintains a public interest disclosure register recording a unique register number and key information for each disclosure. The register includes a summary of information relevant to each disclosure relating to:
 - 5.1.1 The discloser;
 - 5.1.2 Public authorities about which a disclosure is made;
 - 5.1.3 People named in the disclosure;
 - 5.1.4 The nature of the disclosure;
 - 5.1.5 Communication with the discloser;
 - 5.1.6 The investigation process and the action, if any, taken;
 - 5.1.7 Disclosure of the discloser's identity, if applicable;

- 5.1.8 Disclosure of the identity of persons named in the disclosure (subject of the disclosure);
- 5.1.9 Claims of unlawful disclosure of discloser's identity or identity of persons named in the disclosure;
- 5.1.10 Claims of victimisation;
- 5.1.11 Order or injunction application at Supreme Court;
- 5.1.12 Request for relocation, if any
- 5.1.13 Allegations of non-compliance with the Act and the PID Officer's code of conduct and integrity, if any;
- 5.1.14 Disclosure to journalists (if known)
- 5.1.15 Key dates; and
- 5.1.16 Any other information considered necessary.
- 5.2 Reporting requirements to the Commissioner required under the Act will be based on extracts from this Register. This register is to be kept strictly confidential and in a secure place.

6. Investigating a public interest disclosure

Determining whether the matter must be investigated

- 6.1 After receiving a disclosure, the University's PID Officer must consider whether:
 - 6.1.1 The disclosure relates to the University, its officers or contractors; and
 - 6.1.2 The disclosure relates to a matter or person that the University has a function or power to investigate.
- 6.2 If the answer to both of these questions is "no", the University's PID Officer is not required by the Act to investigate the matter.
- 6.3 The University's PID Officer must also consider whether:
 - 6.3.1 The matter is trivial;
 - 6.3.2 The disclosure is vexatious or frivolous;
 - 6.3.3 There is no reasonable prospect of obtaining sufficient evidence due to the time that has elapsed since the occurrence of the matter; and
 - 6.3.4 The matter is being or has been adequately or properly investigated by another proper authority to which an appropriate disclosure of public interest information has been made under the Act.
- 6.4 If the answer to any of these questions is "yes", the University's PID Officer is not required by the Act to investigate the matter.
- 6.5 Where the University's PID Officer considers that he or she lacks sufficient power to effectively investigate the matter, but the information received causes him or her to form the opinion that a public authority, public officer

or public sector contractor may have engaged in improper conduct, the PID Officer should refer the matter to another appropriate investigative body.

- 6.6 The questions to be considered in the initial assessment by the University's PID Officer are indicated in Part 1 of the Assessment and Case Management Form for Public Interest Disclosures and should be completed.
- 6.7 In assessing whether a public interest disclosure should be investigated, a PID Officer should complete Part 2 of the Assessment and Case Management Form for Public Interest Disclosures.
- 6.8 The PID Officer can engage the services of external specialists immediately on receiving information on any suspected fraud or misconduct to ensure that any related evidence is not lost or compromised.

Investigating information received in a public interest disclosure

- 6.9 Where the University's PID Officer determines that the disclosure is a public interest disclosure that should be investigated, he or she must either investigate the disclosed matter, or engage another person to carry out the investigation.
- 6.10 In conducting an investigation, typical procedures could include:
 - 6.10.1 Drawing up terms of reference, which should clarify the key issues identified by the disclosure;
 - 6.10.2 Specifying a date by which the investigation should be completed;
 - 6.10.3 Ensuring the objectives of the investigation include collecting and collating information relating to the disclosure, considering the information collected and drawing conclusions objectively and impartially;
 - 6.10.4 Maintaining procedural fairness for the person who is the subject of the disclosure;
 - 6.10.5 Giving information to the person who is the subject of a disclosure about their rights and obligations under the Act, the office of public sector standards code of conduct and integrity, the university's code of conduct, and the law;
 - 6.10.6 The investigator making contemporaneous notes of discussions and interviews and, where practicable and appropriate, recording discussions and interviews on audio or videotape; and
 - 6.10.7 Ensuring strict security with all investigations, so as to maintain the confidentiality requirements of the Act.
- 6.11 If a disclosure is withdrawn, the University or any other proper authority to which a public interest disclosure is made may still continue to investigate the issues raised.

Recording the outcome of an investigation

- 6.12 The outcome of an investigation should be clearly and comprehensively recorded. In addition to any investigation report, the person conducting the

investigation should complete Part 4 of the Assessment and Case Management Form for Public Interest Disclosures.

- 6.13 The result of the investigation should also be recorded in the Public Interest Disclosure Register.

7. Taking action following an investigation

- 7.1 The University's PID Officer must take action where he or she forms the opinion that a person may be, or has been or may in the future be, involved in improper conduct. Action that may be taken includes:
- 7.1.1 Preventing the matter to which the disclosure relates from continuing or occurring;
 - 7.1.2 Referring the matter to the police or other appropriate body; or
 - 7.1.3 Taking disciplinary action against a person responsible for the matter.
- 7.2 Before taking any action, the person against whom the action is to be taken is to be given the opportunity to make written or oral submissions. In taking that action the University's PID Officer remains limited by the powers and functions that are conferred by the legislation under which the officer operates. The Act does not give the University's PID Officer additional powers to take action. As well as being limited to matters within the functions and powers of the University's PID Officer, the action to be taken is guided by what is necessary and reasonable. In addition to keeping other records, the PID Officer must record a summary of the actions taken in the PID Register.

8. Reporting to a discloser on the progress and outcome of an investigation

- 8.1 Where the University's PID Officer decides not to investigate information disclosed under the Act, or discontinues an investigation, he or she must give the person who made the disclosure reasons for doing so.
- 8.2 Within three months of the disclosure being made, the University's PID Officer must notify the discloser of the action taken or proposed to be taken in relation to the disclosure.
- 8.3 A discloser may also request on a progress report.
- 8.4 If an investigation is not complete, the University's PID Officer may provide to the discloser a progress report on the current status of the investigation. A discloser may also request a progress report.
- 8.5 If an investigation is complete, the University's PID Officer must provide a final report to the discloser, stating the outcome of the investigation and the reason for taking action following the investigation.
- 8.6 In providing information and reports to disclosers, the University's PID Officer must not give information that, in the PID Officer's opinion, would be likely to adversely affect:
- 8.6.1 Any person's safety;

- 8.6.2 The investigation of an offence or possible offence; or
- 8.6.3 Necessary confidentiality as to the existence or identity of another person who has made a disclosure of public interest information under the Act.

9. Confidentiality

- 9.1 The Act imposes strict confidentiality requirements in relation to the identity of the discloser and persons in respect of whom a public interest disclosure has been made. The disclosure of information which might identify or tend to identify these persons, except in accordance with the Act, is a serious offence, punishable with a maximum penalty of \$24,000 or two years imprisonment.
- 9.2 The confidentiality provisions of the Act do not apply to all information disclosed in a public interest disclosure, but only to information that might identify or tend to identify the discloser and persons in respect of whom a public interest disclosure has been made.
- 9.3 One of the circumstances in which identifying information may be disclosed is with the consent of the person concerned. It is important that this consent be recorded. The Consent to Disclosure of Identifying Information form should be used for this purpose.
- 9.4 Identifying information relating to a discloser may be disclosed without the discloser's consent where:
 - 9.4.1 It is necessary to do so, having regard to the rules of natural justice; or
 - 9.4.2 It is necessary to do so to enable the matter to be investigated effectively.
- 9.5 However, before information is disclosed for these reasons the person making the disclosure must take all reasonable steps to inform the person whose identity is to be disclosed:
 - 9.5.1 That the disclosure is being made; and
 - 9.5.2 The reasons for the disclosure being made.
- 9.6 This information should be given, where practicable, in the form for Notification of Disclosure of Identifying Information.
- 9.7 Where identifying information in relation to a discloser is conveyed to another person for these reasons, the other person should be warned that disclosure of the information to a third person may involve a serious offence.
- 9.8 Identifying information relating to a person in respect of whom a public interest disclosure has been made can be disclosed at the investigation stage where the disclosure:
 - 9.8.1 Is necessary to enable the matter to be investigated effectively; or

- 9.8.2 There are reasonable grounds to believe that the disclosure of identifying information is necessary to prevent or minimise the risk of injury to any person or damage to any property.
- 9.9 However the discloser or the subject matter of the disclosure need to be identified if they have been ordered by the Court or another person/body with the authority to make such an order.
- 9.10 Disclosures made in accordance with section 152 or 153 of the Corruption and Crime Commission Act 2003 are exempt from these confidentiality requirements.
- 9.11 In particular where a discloser works for the University, protecting the identity of the discloser is an important part of protecting the discloser from reprisals and victimisation. Careful consideration has to be given as to whether the disclosure of information that might identify or tend to identify a discloser is necessary for the effective investigation of the matter or having regard to the rules of natural justice.
- 9.12 Where the University's PID Officer appoints a third person to conduct an investigation in relation to the public interest disclosure, he or she must consider whether it is necessary to inform the investigator of the identity of the discloser. In some cases, it may not be necessary to provide the investigator with the identity of the discloser. Where it is necessary, to enable an effective investigation, or having regard to the rules of natural justice, to provide identifying information to the investigating officer, then the discloser should be notified in the manner described above.
- 9.13 When taking action, the confidentiality of identifying information must be maintained, unless its disclosure is authorised by the Act. The only additional exception, beyond those identified in relation to investigations, is where disclosure of the identity of a person who is the subject of a public interest disclosure is necessary in taking action following the investigation.
- 9.14 All files relating to a public interest disclosure, whether paper or electronic, must be secure and accessible only by authorised persons. Files should carry clear warnings that there are penalties for unauthorised divulgence of information concerning a disclosure. Sensitive information is not emailed or faxed to machines with general or shared access.

10. Protecting disclosers

- 10.1 When a discloser makes an appropriate disclosure to the University's PID Officer, the Act:
- 10.1.1 Provides immunity for the discloser for making the disclosure;
 - 10.1.2 Makes it an offence for others to take detrimental action against another because anyone has made, or intends to make, a public interest disclosure;
 - 10.1.3 Allows a person who has made a disclosure and believes they have or will be subject to detrimental action in reprisal for making a disclosure, to apply to the Supreme Court for either an order remedying the detrimental action or an injunction;

- 10.1.4 Requires the University to provide protection from detrimental action for disclosers who are employees, including by relocating an employee if they request;
- 10.1.5 Provides civil remedies or for complaints to be made under the Equal Opportunity Act 1984 for acts of victimisation (detrimental action) that occur because, or substantially because, the person has made a disclosure; and
- 10.1.6 Provides for the identity of the discloser to be kept confidential, subject to some exceptions.

11. Reporting requirements

Reporting to the Commissioner

11.1 The University is required under the Act to report to the Commissioner each year as outlined below:

Vice Chancellor's report

Under section 23 (f) of the PID Act, the University will report annually to the Commissioner on:

- 11.1.1 The number of public interest disclosures received over the report period;
- 11.1.2 The results of any investigations conducted as a result of the disclosures; and
- 11.1.3 The action, if any, taken as a result of each investigation.

12. Proper Authorities for Public Interest Disclosure

12.1 In addition to the University PID Officer, any public interest disclosure under the Act in connection with the University can be made to the following authorities in Western Australia:

Proper Authority in WA	Contact details
Corruption and Crime Commission	Email: info@ccc.wa.gov.au Telephone: + 61 8 9215 888 https://www.ccc.wa.gov.au/report_misconduct
Ombudsman	Email: mail@ombudsman.wa.gov.au Telephone: + 61 8 9220 7555
Police	Telephone: +61 8 9223 1000 www.police.wa.gov.au
Auditor General	Telephone: +61 8 6557 7500 and speak to the Public Interest Disclosure Officer http://www.audit.wa.gov.au/contact.php

12.2 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 PID Officer of the University.
Offences under State law.	Western Australia Police or the Corruption and Crime Commission.
Substantial unauthorised or irregular use of, or substantial mismanagement of, public resources.	The PID Officer of the University, or the State Auditor General.
Matters of administration affecting someone in their personal capacity falling within the jurisdiction of the Parliamentary Commissioner (Ombudsman Western Australia).	The PID Officer of the University or the Ombudsman Western Australia.

12.3 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.

13. Making information available

13.1 These internal procedures are available for access to all employees and members of the public and can be obtained from the University's PID Officers. Information about the public interest disclosure process is also available on the Commission's [website](#).

13.2 The full version of the Public Interest Disclosure guidelines are available at <https://publicsector.wa.gov.au/document/public-interest-disclosure-pid-guidelines-public-authorities>.

14. Review

14.1 The procedures will be reviewed for adequacy and effectiveness by the Director Audit and Risk Management every three years or earlier if the situation warrants due to change in legislation or any other significant development.

Performance Indicators:

There are no performance indicators.

Related Documents:

[Public Interest Disclosure Act 2003](#)

[Public Interest Disclosure Regulations 2003](#)

References:

There are no references.

Approval and Implementation:

Approval Authority:	Director Audit and Risk Management
Responsible Officer(s):	Director Audit and Risk Management
Contact Officer:	Director Audit and Risk Management

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Approved/ Amended/ Rescinded	Date Approved	Effective Date	Next Review Date	Resolution No. (if applicable)
Approved	10/07/2018		10/07/2021	