

## Public Interest Disclosure Policy

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### Purpose:

To establish a framework for making of disclosures under Public Interest Disclosure Act 2003 (the Act), the investigation of such disclosures, the protection of disclosers from reprisals, and to enable compliance with the Act.

### Preamble:

- Murdoch University is subject to the Act which has the following objectives:
  - Facilitating the disclosure of public interest information;
  - Providing protection for those making such disclosures; and
  - Providing protection for those who are the subject of disclosures.
- Murdoch University will not accept corrupt or improper conduct or misuse of public resources by its Officers, Staff, Contractors and Members of the Senate and Committees, in the exercise of the public functions of the University. The University recognises the values of accountability and integrity in its learning, teaching and research activities, administrative and management practices.
- The University undertakes to have an adequate process in place to protect people who make public interest disclosures, from any detrimental action in reprisal for making the disclosure. The University is also mindful of the rights of persons against whom allegations are made and will provide natural justice to all parties including the person who is the subject of the disclosure.

### Audience:

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

### Objectives:

- To provide a framework for:
  - making of disclosures under the Act;
  - the investigation of such disclosures; and
  - the protection of disclosers from reprisals.

## **Definitions:**

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

- “Staff” means all full time and part time employees on permanent, fixed term or casual employment and honorary appointments.
- The “Principal Executive Officer” (PEO) is the Vice-Chancellor of the University.
- “Commissioner” means the person holding the office of Public Sector Commissioner established by the Public Sector Management Act 1994 section 16.

## **Policy Statement:**

### **1. PRINCIPLES OF NATURAL JUSTICE**

- 1.1 The principles of natural justice will be followed in any investigation of a disclosure under the Act to ensure procedural fairness. The University will adhere to the following principles:
  - 1.1.1 The person who is the subject of the disclosure will be informed of the allegations made against him or her and given the right to respond within a reasonable time;
  - 1.1.2 The investigator or any decision maker will be independent and not have any interest in the matter being investigated;
  - 1.1.3 All relevant parties to a matter will be heard and all submissions considered in an objective manner;
  - 1.1.4 A decision will be made only after all reasonable inquiries have been made; and
  - 1.1.5 All proceedings will be fair and reasonable.

### **2. PUBLIC INTEREST DISCLOSURE**

- 2.1 The Act only applies to disclosures of public interest information. Public interest information means information that tends to show that, in relation to its performance of a public function, a public authority, a public officer, or a public sector contractor is, has been, or proposes to be, involved in:
  - 2.1.1 improper conduct; or
  - 2.1.2 an act or omission that constitutes an offence under a written law; or
  - 2.1.3 a substantial unauthorised or irregular use of, or substantial mismanagement of, public resources; or
  - 2.1.4 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

- 2.1.5 a matter of administration that can be investigated under section 14 of the Parliamentary Commissioner Act 1971;
- 2.2 Any person may make a public interest disclosure related to the matters stated in section 2.1 of this Policy.

### **3. APPROPRIATE AUTHORITY FOR DISCLOSURE**

- 3.1 A disclosure will only be a public interest disclosure if it is made to a Proper Authority. It is important that the disclosure be made to a Proper Authority as disclosures to other persons will not be protected. Disclosures to a journalist, the media or other persons who are not specified as Proper Authorities are not protected by the Act.

The Proper Authorities within the University are the designated Public Interest Disclosure Officers (PID Officers) of the University mentioned in Annexure 1 to this Policy.

- 3.2 In addition to the University PID officers, any public interest disclosure under the Act in connection with the University can be made to one of the authorities in Western Australia mentioned in Annexure 1 to this Policy.

### **4. ROLES AND RESPONSIBILITIES**

#### **Senate and Audit and Risk Committee**

- 4.1 The Senate oversees and monitors the Public Interest Disclosure framework through its Audit and Risk Committee (ARC). The Senate is responsible for the approval of the University's *Public Interest Disclosure Policy* and satisfies itself that the University has an appropriate system in place for disclosure and investigation of public interest disclosure and for actions to be taken in accordance with the Act.

#### **Vice Chancellor**

The Vice Chancellor has the following responsibilities:

- 4.2 Designate the occupant of a specified position with the University as the person responsible for receiving public interest disclosures;
- 4.3 Ensure protection is provided from detrimental action or threat of detrimental action for any Staff member who makes or intends to make an appropriate disclosure;
- 4.4 Ensure that the University complies with the Act and the code established by the Commissioner;
- 4.5 Ensure that internal procedures, consistent with the guidelines prepared by the Commissioner are prepared and published; and
- 4.6 Provide information to the Commissioner as required by the Act.
- 4.7 The Vice-Chancellor may have a role in enabling an investigation, or disciplinary action against individuals, to be undertaken under functions and powers separate to the Act.

## **Officers, Staff, Members of the Senate and Committees, Contractors and Students**

- 4.8 All Officers, Staff, Members of the Senate and Committees and Students are required to:
- 4.8.1 Comply with this policy;
  - 4.8.2 Refrain from any activity that is, is intended to be, or could be perceived to be, victimisation or harassment of a person who makes a disclosure; and
  - 4.8.3 Protect and maintain the confidentiality of a person they know or suspect to have made or intends to make a disclosure.

## **Public Interest Disclosure Officer**

- 4.9 The Public Interest Disclosure Officer has a pivotal role and has the following responsibilities:
- 4.9.1 As is designated by the Vice Chancellor, to receive disclosures related to the University;
  - 4.9.2 Provide information to potential disclosers about their rights and responsibilities consistent with the Code of conduct and integrity established under the Act;
  - 4.9.3 Receive and manage public interest disclosures in accordance with the Act;
  - 4.9.4 Notify the discloser within three months of the disclosure being made about what action is planned in dealing with the disclosure;
  - 4.9.5 Where appropriate, investigate, or cause an investigation of, the matters in the disclosures;
  - 4.9.6 Where appropriate, provide information to subjects of a disclosure about their rights, responsibilities, duties and potential offences;
  - 4.9.7 Where appropriate, take such action as is necessary and reasonable, within their functions and powers in accordance with the Act;
  - 4.9.8 Maintain confidentiality of the identity of the discloser and subject(s) of disclosures, in accordance with the requirements of the Act;
  - 4.9.9 Provide progress reports where requested and a final report to the discloser;
  - 4.9.10 Create and maintain proper and secure records in relation to the disclosures in accordance with the Code of conduct and integrity established under the Act and the State Records Act 2000;
  - 4.9.11 Complete a PID Register for each disclosure lodged;
  - 4.9.12 Act in accordance with the rules of natural justice; and
  - 4.9.13 Act in accordance with the code of conduct and integrity established by the Commissioner.

## **Investigator**

4.10 The Investigator is responsible for:

- 4.10.1 Conducting investigations of public interest information on behalf of the University's PID Officer within the terms of reference given and in an appropriate manner;
- 4.10.2 Maintaining confidentiality in accordance with the requirements of the Act; and
- 4.10.3 Keeping secure and comprehensive records of any investigation undertaken.

## **Public Interest Discloser**

4.11 The Public Interest discloser is required to:

- 4.11.1 Make the disclosure to a Proper Authority and in the belief on reasonable grounds that the information is, or may be, true;
- 4.11.2 Not disclose information subject to legal professional privilege;
- 4.11.3 Not knowingly or recklessly make a false or misleading disclosure;
- 4.11.4 Maintain confidentiality of the information disclosed and, in particular, the identity of the persons to whom the information relates; and
- 4.11.5 Assist any person investigating the matter to which the disclosure relates by supplying the person with any information requested.

## **Subject of Public Interest Disclosure**

4.12 The Subject of the Public Interest Disclosure:

- 4.12.1 Is afforded the opportunity to make a submission either orally or in writing, in relation to the disclosure;
- 4.12.2 Is required to maintain confidentiality of the identity of the discloser;
- 4.12.3 Is treated in accordance with the principles of natural justice;
- 4.12.4 Does not take or threaten to take detrimental action against a person because they have made or intends to make a disclosure;
- 4.12.5 Does not incite another person to take or threaten to take detrimental action against a person because they have made or intends to make a disclosure; and
- 4.12.6 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.

## **5. CONFIDENTIALITY AND PROTECTION**

### **Confidentiality**

- 5.1 No disclosure of information shall be made that might result in identification of anyone as a person who has made or intends to make a public interest disclosure under the Act. This applies both to disclosures that identify a discloser and disclosures that might tend to identify a discloser.
- 5.2 Exceptions arise where the disclosure of a discloser's identity is:
- 5.2.1 Made with the discloser's consent; or
  - 5.2.2 It is necessary to do so having regard to the rules of natural justice; or
  - 5.2.3 It is necessary to do so to enable the matter to be investigated effectively; or
  - 5.2.4 Is required by an order of a court or any other person or body having authority to hear, receive or examine evidence; or
  - 5.2.5 As required by the Corruption, Crime and Misconduct Act 2003.
- 5.3 A reasonable time before making a disclosure in the circumstances described in Sections 5.2.2 and 5.2.3, the person making the identifying disclosure must take all reasonable steps to advise the person whose identity is to be disclosed
- that the disclosure is to be made; and
  - the reason for the disclosure being made.

### **Protection**

- 5.4 A person who makes an appropriate disclosure of public interest information under the Act:
- incurs no civil or criminal liability for doing so; and
  - is not, for doing so, liable
    - to any disciplinary action; or
    - to be dismissed; or
    - to have his or her services dispensed with or otherwise terminated; or
    - for any breach of a duty of secrecy or confidentiality or any other restriction on disclosure (whether or not imposed by a written law) applicable to the person.
- 5.5 A person must not take or threaten to take detrimental action against another because anyone has made, or intends to make, a disclosure of public interest information under the Act.
- 5.6 A person who has made an appropriate disclosure of public interest information under this Act and who —

- fails, without reasonable excuse, to assist a person investigating a matter to which the disclosure relates by supplying the person with any information requested, whether orally or in writing, by the person in such manner, and within such period, as is specified by the person making the request; or
- discloses information contained in a disclosure of public interest information otherwise than under this Act,

forfeits the protection given by the Act.

## **6. DISCLOSER NOT SATISFIED WITH A DECISION**

- 6.1 If a discloser is dissatisfied with a decision made by the University's PID Officer, the discloser may make a further disclosure of the information to another proper authority.

### **Performance Indicators:**

There are no performance indicators.

### **Related Documents:**

[Public Interest Disclosure Procedure](#)

[Public Interest Disclosure Act 2003](#)

[Public Interest Disclosure Regulations 2003](#)

[Conflict of Interest Policy](#)

[Fraud, Corruption and Misconduct Policy](#)

[Code of Ethics](#)

[Staff Code of Conduct](#)

[Student Code of Conduct](#)

### **Related Procedures:**

The Director Audit and Risk Management is authorised to approve related procedures.

### **References:**

There are no references.

**Approval and Implementation:**

<b>Approval Authority:</b>	Senate
<b>Responsible Officer(s):</b>	Director Audit and Risk Management
<b>Approval Authority for supporting procedures:</b>	Director Audit and Risk Management
<b>Contact Officer:</b>	Director Audit and Risk Management

**Revision History:**

<b>Approved/ Amended/ Rescinded</b>	<b>Date Approved</b>	<b>Effective Date</b>	<b>Next Review Date</b>	<b>Resolution No. (if applicable)</b>
Approved	25/09/2019		25/09/2022	S/23/2019
Recommended to Senate by ARC	18/09/2019			ARC/11/2019
Annexure 1	02/10/2018			
Approved	14/10/2015		25/09/2022	S/35/2015
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Approved	05/12/2012		05/12/2015	S/40/2012
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