

Information for employees: *Public Interest Disclosure Act* 2003



June 2024

What is a public interest disclosure?

The *Public Interest Disclosure Act 2003* (The PID Act) came into effect on 1 July 2003 and amended in 2012. The PID Act facilitates the disclosure of public interest information by providing protection for those who make disclosures and those who are the subject of disclosures.

The Shire of Augusta Margaret River is committed to the aims and objectives of the PID Act. It recognises the value and importance of contributions of employees to enhance administrative and management practices and strongly supports disclosures being made by employees regarding corrupt or other improper conduct.

A public interest disclosure is made when a person discloses to a proper authority information that tends to show past, present or proposed future improper conduct by a public body in the exercise of public functions.

In order to be a disclosure to which the PID Act applies, a disclosure must be:

- Made by a discloser who believes on reasonable grounds that the information is or may be true
- A disclosure of public interest information
- Made to the appropriate proper authority.

While the PID Act provides for the protection of all public interest disclosures, not every proper authority will have the obligation or power to investigate and take action in relation to the disclosure. In some cases the discloser or information may need to be referred to another proper authority to enable an effective response to the disclosure to be made.

What do I need to know before making a disclosure?

The PID Act deals with disclosures by anyone (not just government employees) but the information must be specific to the following areas:

Improper conduct	Irregular or unauthorised use of public resources
An offence under State law, including corruption	Substantial unauthorised or irregular use of, or substantial mismanagement of, public resources
Administration matter(s) affecting you	Conduct involving a substantial and specific risk of injury to public health, prejudice to public safety or harm to the environment

If your information falls outside the above areas then you may still be able to make a complaint, but this will not be a public interest disclosure under the PID Act.

Before making a disclosure it is important that you are aware of the rights and responsibilities imposed on disclosers and others under the PID Act. In particular you need to be aware that:

- At the time you make your disclosure, you must believe on reasonable grounds that the information you have is, or may be, true;
- It is an offence to make a disclosure if you know, or are reckless about, it being false and misleading;
- With some exceptions, the public authority will investigate your information and in doing so you will be expected to cooperate;
- You will have to keep your information confidential – or else you may lose protection under the PID Act and may commit an offence under the PID Act.

The PID Act only confers protection where a disclosure is made to an appropriate proper authority. The identity of the appropriate proper authority will vary according to the kind of information to be disclosed.

The Public Interest Disclosure Officers (PID Officer) of the Shire of Augusta Margaret River are:

- Director Corporate and Customer Services, Melanie Stevens, PO Box 61, Margaret River, WA 6285, mstevens@amrshire.wa.gov.au, 9780 5279, 0424 447 996; and
- Manager Legal, Governance and Property, Ian McLeod, PO Box 61, Margaret River, WA 6285, imcleod@amrshire.wa.gov.au, 9780 5267, 0422 337 393.

The PID Officer is responsible for receiving disclosures of public interest information relating to matters falling within the sphere of responsibility of the Shire of Augusta Margaret River.

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 (eg 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.	The 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 <i>Parliamentary Commissioner Act 1971</i> .	The PID Officer of the public authority concerned, the Ombudsman or the Public Sector Commissioner.

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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 is at Level 2 Westralia Square 141 St Georges Terrace, Telephone (08) 9216 3900.

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 Shire of Augusta Margaret River 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 Shire of Augusta Margaret River 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.

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.cc.wa.gov.au

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- 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 or website: www.police.wa.gov.au