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Public Interest Disclosure Procedure

Purpose

The objective of this procedure is to assist in the protection of integrity in the South Australia Police (SAPOL) by seeking to ensure compliance with the Public Interest Disclosure Act 2018 (PID Act) and informing employees as to the impact and operation of the Act. The PID Act replaces the *Whistleblowers Protection Act 1993*.

The PID Act establishes a scheme that encourages and facilitates the *appropriate disclosure of public interest information* (which comprises of both *public administration information and environmental and health information*) to certain persons or authorities.

It provides protections for *public officers* who make an *appropriate disclosure of public administration information* and sets out processes for dealing with those disclosures.

The term 'public officer' is defined in Schedule 1 of the Independent Commission Against Corruption Act 2012 (ICAC Act) and includes public sector employees (including public servants), police officers and protective security officers [ICAC Guidelines](#).

Responsibilities

All employees will comply with the PID Act. Where employees are considering a disclosure of public interest information under the PID Act, they should also consider if they have obligations under the Directions and Guidelines issued by the Independent Commission Against Corruption. [ICAC Guidelines](#).





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Definitions

Informant – A person who makes an *appropriate disclosure of public interest information* is referred to in these Procedures and throughout the PID Act as an informant.

Relevant authority – The PID Act section 4, designates certain persons or organisations who can receive an appropriate disclosure of public interest information, depending on who or what the information relates to.

Principal officer – The PID Act section 4 defines this role, for SAPOL this is the Commissioner of Police.

Responsible officer – Under section 12(1) of the PID Act, the Commissioner has appointed *responsible officers* as the persons occupying the positions for SAPOL of:

- Officer in Charge, Ethical and Professional Standards Branch (EPSB)
- Officer in Charge, Internal Investigation Section (IIS)
- Officer in Charge, Anti-Corruption Section (ACS)

What is Public Interest Information?

'Public Interest Information' consists of two categories of information;

- *public administration information* – information that raises a potential issue of corruption, misconduct or maladministration in public administration. The definition of corruption, misconduct and maladministration in public administration are the same as those found in the [ICAC Act](#) and can be found in the [ICAC Guidelines](#).
- *environmental or health information* – information that raises a potential issue of a substantial risk to the environment or to the health or safety of the public generally or a significant section of the public.





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Protecting informants

While anyone can make a disclosure of *public administration information*, only *public officers* who make such a disclosure are eligible for the protections provided by the PID Act. The protections given by the PID Act to the person making an appropriate disclosure are that they;

- incur no liability for making the disclosure;
- are protected from victimisation; and they
- have a limited right to have their identity kept confidential.

It does not matter whether the events which are the subject of the information occurred before or after the commencement of the PID Act (July 2019) as the PID Act operates retrospectively in this manner.

For an informant to obtain the PID Act's protections, their disclosure must meet the following statutory requirements:

- The information disclosed must be about *particular subject matter* (ie public interest information);
- The informant must hold *a particular state of mind* in relation to the information;
- The disclosure must be of a *type which the person is entitled to make*; and
- The informant must tell an *appropriate person or body*.

Where these statutory requirements are met, the PID Act protections are automatically applied.

Responsible Officers

All *responsible officers* (RO) are required to have the prescribed qualifications pursuant to section 12(2) of the PID Act and regulation 4 of the *Public Interest Disclosure Regulations 2019*. Further information in relation to responsible officer training is available through the [ICAC Training website](#).

In accordance with Section 13 of the PID Act, the *responsible officer* must:

- Receive *appropriate disclosures of public interest information* relation to SAPOL and ensure compliance with the PID Act in relation to such disclosures, and
- Make appropriate recommendations to the Commissioner in relation to dealing with such disclosures, and





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- Provide advice to officers and employees of SAPOL in relation to the administration of the PID Act.

It is important to note that an appropriate disclosure of public interest information can also be made to a person who is responsible for the management or supervisor of the public officer. That supervisor or manager is therefore required to comply with the provisions of the PID Act and if in doubt, seek advice from an RO.

False or misleading disclosures

A public officer should consult the responsible officer if they suspect a disclosure to be false or misleading.

It is an offence against the PID Act, with a maximum penalty of \$20,000 or imprisonment for 2 years, to make a disclosure of public interest information knowing that it is false or misleading in a material particular (whether by reason of the inclusion or omission of a particular).

Such a disclosure of public interest information is not protected by the PID Act.

Preventing or hindering disclosures

It is an offence against the PID Act for a person to prevent another person from making an appropriate disclosure of public interest information or to hinder or obstruct another person in making such a disclosure.

The offence carries a maximum penalty of \$20,000 or imprisonment for 2 years.





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Victimisation

It is a criminal offence to victimise a person who makes an *appropriate disclosure of public interest information*.

The PID Act provides that a person who personally commits an act of victimisation under the PID Act is guilty of an offence. The offence carries a maximum penalty of a \$20,000 fine or imprisonment for 2 years.

Making an appropriate disclosure of public interest information

You can make a disclosure:

By Email: SAPOL.PID@police.sa.gov.au

By Mail: Address it in writing to one of the following responsible officers:
Officer in Charge, Ethical and Professional Standards Branch (EPSB)
Officer in Charge, Internal Investigation Section (IIS)
Officer in Charge, Anti-Corruption Section (ACS)
GPO Box 1539
Adelaide SA 5001

By URL <https://www.police.sa.gov.au/about-us/key-contacts> - Complaints

Where information relates to a risk to the environment consideration should be given to making a disclosure to the Environment Protection Authority (EPA).

Where the information relates to a location within the area of a particular local council, you should consider making a disclosure to a member, officer or employee of that council.



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Concerns about the action taken

If you are concerned or believe (as an informant) that your *appropriate disclosure* is not being dealt with by SAPOL properly:

If your disclosure was made to a *relevant authority* other than a SAPOL *responsible officer*, please contact one of the SAPOL *responsible officers* who have obligations under the PID Act to assist you.

If your disclosure was made to a SAPOL responsible officer, contact other relevant authorities such as OPI or the Office of the Commissioner for Public Sector Employment (OCPSE).

If you are concerned or suspect (as an informant) that you may have been or will be the subject of detriment on the grounds of having made, or being about to make, an *appropriate disclosure of public interest information*, you are encouraged to report that suspicion to one of the SAPOL responsible officers, OPI or the OCPSE.

Disclosure to a journalist or member of Parliament

In instances where a longer period of time is required to take appropriate action in relation to the disclosure, the recipient or the referral recipient may give written notice to the informant within the 90 days, specifying a longer period as is required to deal with the disclosure and provide notification of the outcome of the action being in relation to the appropriate disclosure.

Neither the PID Act nor the regulations specify any upper limit on the duration of the 'longer period' which may be specified, therefore the person who bears the duty to act is to make a reasonable judgement about the period of time required.

It is only after the statutory timeframes have expired **and** there is a failure to observe adherence to those statutory timeframes that the informant is able to disclose the public interest information to the media or a member of Parliament whilst attracting the PID Act protections in relation to that subsequent disclosure.





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SAPOL - PID Act Disclosure Procedure

Appendix 1

STEP 1

Before making a disclosure

- Ensure the information is Public Interest Information or Environment and Health Information.
- Determine if you wish your identity to be known.

STEP 2

Before making a disclosure

- Ensure the information is Public Interest Information or Environment and Health Information.
- Determine if you wish your identity to be known.

STEP 3

Before making a disclosure

- Ensure the information is Public Interest Information or Environment and Health Information.
- Determine if you wish your identity to be known.

STEP 4

Before making a disclosure

- Ensure the information is Public Interest Information or Environment and Health Information.
- Determine if you wish your identity to be known.

STEP 5

Before making a disclosure

- Ensure the information is Public Interest Information or Environment and Health Information.
- Determine if you wish your identity to be known.

STEP 6

Before making a disclosure

- Ensure the information is Public Interest Information or Environment and Health Information.
- Determine if you wish your identity to be known.

STEP 7

Before making a disclosure

- Ensure the information is Public Interest Information or Environment and Health Information.
- Determine if you wish your identity to be known.



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SAPOL PID Act Disclosure Reporting Procedure - Flowchart

Appendix 2

