



SHIRE OF
VICTORIA PLAINS

PUBLIC INTEREST
DISCLOSURE PROCEDURES
2021

Public Interest Disclosures Guidelines

Procedure Owner: Governance Section
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Public Interest Disclosures Guidelines

1. Policy Supported

N/A The Shire CEO is the Principal Executive Officer (PEO) regarding the PID process as a corporate function.

2. Related Documents and/or Forms

PID Code of Conduct and Integrity (Attachment 1)

Consent to Disclosure of Identifying Information Form (Attachment 2)

Notification of Disclosure of Identifying Information Form (Attachment 3)

Public Interest Disclosure Lodgement Form (Attachment 4)

Assessment and Case Management Form for a Public Interest Disclosure (Attachment 5)

3. Purpose

The Shire of Victoria Plains (**the Shire**) Chief Executive Officer must prepare and publish internal procedures under s. 23(1)(e) of the Public Interest Disclosures Act 2003 (**PID Act**).

These procedures outline how we will meet our obligations under the PID Act. The procedures are to be read in conjunction with the PID Act, *Public Interest Disclosure Regulations 2003* and *Don't be afraid to speak up: Guide for Disclosers*™ brochure on the Public Sector Commission's website https://publicsector.wa.gov.au/sites/default/files/documents/guide_for_disclosers.pdf

The PID Act aims to ensure openness and accountability in government by encouraging people to speak up about public interest information without fear of reprisal. The PID Act provides a system for matters disclosed to be investigated and for appropriate action to be taken. It does not provide public authorities with any additional powers to investigate or take action in relation to public interest disclosures. The PID Act provides protections for people who make disclosures.

General information about public interest disclosures and how the Shire will manage a disclosure is available on our website www.victoriaplains.wa.gov.au While these procedures focus on public interest disclosures, the Shire is committed to dealing with all reports of suspected wrongdoing.

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4. Scope and application of internal procedures

These procedures apply to all people involved in the public interest disclosure process, including the CEO, PID Officer(s), employees of the Shire and/or any person making a public interest disclosure and any subject(s) of a disclosure.

PID Officers must comply with the Public Sector Commission’s Code of Conduct and Integrity (**the Code**) at all times (**Attachment 1**). A breach of the Code may result in disciplinary action.

A public authority can receive many different types of complaints. These can range from workplace disputes, harassment, bullying or occupational health concerns through to allegations of improper conduct or corruption. Not all of these disclosures will be a PID to which the Act will apply. If your information is not covered by the Act you can still make your disclosure to the Shire using its grievance process (if you are or were an employee at the time the incident occurred) or its complaints management process (if you are a member of the public).

5. Overview of roles and responsibilities of parties involved in the disclosure process at the Shire of Victoria Plains

Person / role	Responsibilities
<p>Principal Executive Officer (Chief Executive Officer)</p>	<ul style="list-style-type: none"> • Designates the occupant of a specified position (a PID Officer) to receive public interest disclosures related to the Shire (s. 23(1)(a)). • Provides protection from detrimental action or the threat of detrimental action for any employee of the Shire who makes a public interest disclosure (s. 23(1)(b)). • Ensures the Shire complies with the PID Act and the Code established by the Public Sector Commissioner (ss. 23(1)(c) and (d)). • Prepares and publishes internal procedures, consistent with those prepared by the Public Sector Commission, detailing how the Shire will meet its obligations under the PID Act (s. 23(1)(e)). • Provides information (s. 23(1)(f)) to the Public Sector Commissioner on the: <ul style="list-style-type: none"> – number of disclosures received by the Shire; – results of any investigations conducted as a result of the disclosures; – action, if any taken, as a result of each disclosure; – any matters as prescribed. • May have a role in enabling an investigation to be undertaken or taking disciplinary action against individuals under functions and powers separately from the PID Act.

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<p>The Proper Authority (s. 5(3), s. 7 and s. 18) or PID Officer(s 23(1)(a)):</p>	<ul style="list-style-type: none"> • As is designated by ss. 5(3)(a-g) or by the Shire's CEO, under s. 23(1)(a) the PID Officer is to receive disclosures related to the Shire. • Provides information to potential disclosers about their rights and responsibilities consistent with the Code established under s. 20(1). • Receives and manages public interest disclosures in accordance with the PID Act (s. 5(3)). • Notifies the discloser within three months of the disclosure being made about what action is planned in dealing with the disclosure (s. 10(1)). • Where appropriate, investigates, or causes an investigation of, the matters in the disclosures (s. 8(1)). • Where appropriate, provides information to subjects of a disclosure about their rights, responsibilities, duties and potential offences (s. 9(2), s. 14, s. 15, s. 16 and s. 24). • Where appropriate, takes such action as is necessary and reasonable, within their functions and powers in accordance with s. 9. • Maintains confidentiality of the identity of the discloser and subject(s) of disclosures, in accordance with the requirements of the PID Act (s. 11 and s. 16). • Provides progress reports where requested and a final report to the discloser in accordance with s. 10. • Creates and maintains proper and secure records in relation to the disclosures in accordance with the Code established under s. 20(1) and the <i>State Records Act 2000</i>. • Completes a PID Register for each disclosure lodged (s. 23(1)(f)). • Acts in accordance with the rules of natural justice (s. 9(2) and s. 16(1)(b)). • Acts in accordance with the Code established by the Public Sector Commissioner (s. 20(1)) and any authority-specific code of conduct established separately from the PID Act.
<p>The discloser:</p>	<ul style="list-style-type: none"> • Makes a public interest disclosure to a proper authority or the Shire's PID Officer if the matter relates to the Shire. (s. 5(1)). • Believes on reasonable grounds the information in their

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	<p>disclosure is, or may be, true (s. 5(2)).</p> <ul style="list-style-type: none"> • Does not disclose information subject to legal professional privilege (s. 5(6)). • Does not knowingly and recklessly make a false or misleading disclosure (s. 24(1)). • Maintains confidentiality of the information disclosed and the identity of the person(s) to whom the information relates, in accordance with the requirements of the PID Act (s. 16 and s. 17(1)(b)). • Assists any person investigating the matter to which the disclosure relates by supplying the person with any information requested (s. 17(1)(a)).
<p>The subject of the disclosure (person about whom disclosure is made):</p>	<ul style="list-style-type: none"> • Is afforded the opportunity to make a submission, either orally or in writing, in relation to the matter before preventative or disciplinary action is taken (s. 9(2)). • Maintains confidentiality of the identity of the discloser, in accordance with the requirements of the PID Act (s. 16(1)). • Is to be treated in accordance with the rules of natural justice (s. 16(1)(b)). • Does not take or threaten to take detrimental action (defined in s. 3) against a person because they have made or intend to make a disclosure (s. 14(1)). • Does not incite another person to take detrimental action against another because they have made or intend to make a disclosure (s. 14(2)). • 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 (s. 15(1)).

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An investigating officer:	<ul style="list-style-type: none">• May investigate matters of public interest information on behalf of the Shire in accordance with the terms of reference given to them.• Maintains confidentiality of the identity of the disclosure and any persons subject to the disclosure, in accordance with s. 16.• Makes, and keeps secure, comprehensive records of any investigation undertaken.
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6. Managing public interest disclosures

The following procedures describe how the Shire will manage the PID process.

6.1 Overarching requirements of the Public Interest Disclosure Act 2003

The PID Act sets out overarching requirements for handling disclosures. These requirements separate the PID process from other reporting or complaint handling processes. The PID Act does not, however, displace the notification or reporting requirements of the *Corruption, Crime and Misconduct Act 2003*, which are paramount. The following section outlines how the Shire will meet these requirements, as well as expectations of a discloser, and any subject(s) of a disclosure.

6.2 What is 'public interest information'?

The PID Act only applies to disclosures of public interest information (defined in s. 3). Public interest information means information that:

- relates to the performance of a public function by a public authority, public officer or public sector contractor (either before or after the commencement of the PID Act) and
- shows or tends to show that a public authority, a public officer, or a public sector contractor is, has been or proposes to be involved in:
 - improper conduct e.g corruption, bribery, fraud or theft; or
 - an act or omission that constitutes an offence under a written law or
 - substantial unauthorised or irregular use of, or substantial mismanagement of, public resources or
 - 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
 - a matter of administration that can be investigated under section 14 of the *Parliamentary Commissioner Act 1971* by the Parliamentary Commissioner (Ombudsman Western Australia).

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6.3 Confidentiality

Maintaining confidentiality is an important part of managing a PID. The confidentiality requirements of the PID Act (s. 16) not only protects the discloser, but also any other people affected by the disclosure.

The confidentiality requirements do not apply to all information in a disclosure, although, we are committed to maintaining confidentiality around:

- any information that may identify the discloser or any person who may be the subject of a disclosure, including the fact a disclosure has been made
- information relating to a disclosure that, if known, may cause detriment.

Throughout the disclosure process and after its completion, the PID Act provides for the disclosers identity and the identity of any persons, that is, any subject of the disclosure to be kept confidential, except in certain circumstances. Disclosing information which might identify, or tend to identify the disclosers s. 16(1)) or any person, that is, the subject(s) (s. 16(3)) of your disclosure, except in accordance with the PID Act, is an offence punishable with a penalty of a \$24 000 fine or imprisonment for two years.

6.4 Confidentiality regarding the discloser

Maintaining confidentiality is an important part of protecting the discloser, from any detrimental action in reprisal for making or intending to make a disclosure.

If the discloser consents to having their identity revealed to assist the Shire in dealing with the disclosure, the PID Officer will record this using the **Consent to Disclosure of Identifying Information Form** (Attachment 2).

Sometimes there may be the need to identify the discloser, without the discloser's consent s. 16(1) (b)-(f) but only where:

- it is necessary to do so having regard to the rules of natural justice; or
- it is necessary to do so to enable the matter to be investigated effectively; or
- ordered by a court or any other person or body having authority to hear, receive or examine evidence; or
- required by ss.152 or 153 of the *Corruption, Crime and Misconduct Act 2003*.

Before the Shire identifies the discloser for any of the reasons above, our PID Officer will take all reasonable steps to inform the discloser that this will happen and the reasons why. The PID Officer will use the **Notification of Disclosure of Identifying Information Form** (Attachment 3) to do this.

If the Shire needs to provide information about the identity of the discloser to another person for the reasons above, the PID Officer will inform the other person that further disclosure to a third person may put them at risk of committing an offence.

The PID Officer will also consider whether it is necessary to inform any external investigator about the identity of the discloser. Where it is necessary to provide this identifying information, the PID Officer will notify as described above.

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6.5 Confidentiality regarding the person, that is, the subject of the disclosure

The subject of a disclosure may consent to having their identity revealed to assist with the disclosure process s. 16(3)(a). the PID Officer will use the **Consent to Disclosure of Identifying Information Form** (Attachment 2) to record this.

Additionally, the Shire may need to reveal identifying information about the subject(s) of a disclosure without their consent, ss. 16(3)(b)-(g) where:

- it is necessary to do so to enable the matter to be investigated effectively;
- it is necessary to do so in the course of taking action under s. 9;
- there are reasonable grounds to believe that it is necessary to prevent or minimise the risk of injury to any person or damage to any property;
- ordered by a court or any other person or body having authority to hear, receive or examine evidence; or,
- required by ss. 152 or 153 of the *Corruption, Crime and Misconduct Act 2003*.

There is no obligation to advise the subject of a disclosure that identifying information will be released.

6.6 Protections

The PID Act provides a range of protections for disclosers. It also requires that the CEO provides protection for any employees who make disclosures (s. 23(1(b))).

The “*Don’t be afraid to speak up*” brochure contains general information about the protections provided by the PID Act. The PID Officer will be able to expand on this information specific to the Shire.

The Shire is committed to ensuring that no detrimental action, including workplace reprisals by managers or other employees, occurs as a result of a person making a disclosure. If any of the above does occur, the discloser can request that the Shire take action to protect them.

The PID Act also provides that the discloser may lose the protections provided in s. 13 in some circumstances, including where they on-disclose information or fail, without reasonable excuse, to assist any person investigating the matters of the disclosure.

6.7 Notification requirements

The PID Officers will ensure that the Shire completes all reporting in accordance with the legislative and administrative requirements of the PID Act.

Provided it is not an anonymous disclosure, our PID Officers will provide the following reports:

- within three months of making a disclosure, the action taken, or proposed to be taken, in relation to the disclosure (s. 10(1))
- when the disclosure process has concluded, the outcome of the investigation and the reasons for taking any action following the investigation (s. 10(4)).

The PID Officers may also provide a progress report during any investigation, either on their initiative or upon request (ss. 10(2) and (3)).

PID Officers have some limits on what they can include in their reports. Section 11 prevents provision of information that would be likely to adversely affect:

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- any person's safety s(1)(a); or
- the investigation of an offence or possible offences s(1)(b); or
- confidentiality as to the existence or identity of any other person who made a public interest disclosure s(1)(c).

The PID Officer is also prevented from giving any information they must not disclose under ss. 151, 152 or 153 of the *Corruption, Crime and Misconduct Act 2003*.

6.8 Record keeping

During the investigation the PID Officer may make comprehensive and contemporaneous records of any discussions and interviews. These records along with any other documentation or files relating to the disclosure, whether paper or electronic, will be stored securely and only accessed by authorised persons.

6.9 PID Register

To assist with annual reporting to the Public Sector Commissioner the Shire will maintain a public interest disclosure register. We will assign a unique register number to each disclosure and record key information about the disclosure, any investigation and the outcome in the public interest disclosure register. This register (paper and/or electronic) is kept strictly confidential and maintained in a secure location.

7. How to make a public interest disclosure

7.1 Before you make a disclosure

The Shire strongly encourages anyone thinking about making a public interest disclosure to seek advice from the PID Officer ('proper authority') before they do. A disclosure must be made to a proper authority for it to be covered by the PID Act.

A number of other requirements apply to the discloser, so it is important to understand the rights and responsibilities in the process. This information is outlined generally in "*Don't be afraid to speak up*", available from the Public Sector Commission website at www.publicsector.wa.gov.au, and the Shire of Victoria Plains website: www.victoriaplains.wa.gov.au

For the purposes of this procedure a PID Officer(s) is the proper authority designated under s.5(3)(h) for dealing with information that falls within the sphere of responsibility for the Shire. At the Shire, the occupant(s) of the following designated position(s) are specified with the authority as the person(s) responsible for receiving disclosures of public interest information in accordance with s.23(1)(a):

- Governance Officer

Initial discussions between the discloser and the PID Officer should be general in nature and should not discuss the specific details of the disclosure until the discloser understands their rights and responsibilities under the PID Act.

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The PID Officer will also let the discloser know that they need to make the disclosure voluntarily and consciously. This is because the discloser cannot withdraw the disclosure once it is made. Once disclosed the PID Officer is obliged to take action and may continue to look into the matters disclosed irrespective of continued approval.

These initial discussions with the PID Officer may help in deciding whether to make a public interest disclosure and also enable the PID Officer to ascertain if the information would be covered by the PID Act. If the information appears not to be the type covered by the PID Act, the PID Officer will discuss other mechanisms through which issues may be made, for example, the general complaints or grievance resolution process.

Contact the Public Sector Commission Advisory Line on (08) 6552 8888 (or 1800 676 607 for country callers) for general information about the disclosure process.

7.2 What is 'sphere of responsibility'?

Under s.5(3)(h) of the PID Act, the PID Officer for the Shire can receive information relating to a matter which falls within the 'sphere of responsibility'. 'Sphere of responsibility' is not defined in the PID Act but may include:

- matters that relate to the Shire of Victoria Plains; or
- a public officer or public sector contractor of the Shire of Victoria Plains; or
- a matter or person that the Shire of Wanneroo has a function or power to investigate.

The proper authority to which a disclosure should be made depends on the type of disclosure information. Where the information is outside of our PID Officer's sphere of responsibility, it may need to be made to another proper authority for it to be considered as a public interest disclosure and for the discloser to receive the protections of the PID Act. A list of proper authorities and the information they can receive is covered in "*Don't be afraid to speak up*" brochure.

7.3 Making the disclosure

Disclosures are made in writing using the Shire's Public Interest Disclosure Lodgement Form (Attachment 4)

A discloser needs to clearly identify that they are making a public interest disclosure. For the purposes of accountability and certainty, persons wishing to make a disclosure of public interest information under the PID Act are encouraged to do so in writing using the **Shire's Public Interest Disclosure Lodgement Form** (Attachment 4).

Whilst there is no requirement to use the form, the form will help to define the details of the disclosure. Disclosers may fill out the form themselves or the PID Officer may complete the form if they are speaking with the discloser and then have them sign the form to acknowledge they are making a disclosure voluntarily and consciously.

The Shire must also accept anonymous disclosures, but if a discloser decides to make an anonymous disclosure they should understand that it may be more difficult for the PID Officer to investigate or take action about the disclosure. This is because they cannot come back to seek any further information. The Shire is also not required to provide any reports about the progress or final outcome of the disclosure, if the discloser chooses to remain anonymous.

An anonymous disclosure may not prevent the discloser from being identified during an

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investigation. Additionally, if the PID Officer does not know who made the disclosure, it will be difficult for them to ensure the discloser is protected and to prevent any reprisal or detrimental action.

7.4 Determining whether your matter is an appropriate disclosure

Once the PID Officer has received the disclosure they will assess whether it meets the requirements under the PID Act. It may be that the PID Officer undertakes initial inquiries and decides not to take the matter any further, as it does not constitute an appropriate public interest disclosure. The assessment is conducted in accordance with Part 1 of the ***Assessment and Case Management Form for a Public Interest Disclosure*** (Attachment 5).

If the disclosure is not one to which the PID Act applies, the PID Officer will let the discloser know the reasons for their decision (unless you made an anonymous disclosure) and make proper and adequate records about it. Some matters raised within the disclosure may not be matters to which the PID Act applies and the PID Officer may discuss with the discloser other pathways to report these matters.

If the disclosure is one to which the PID Act applies, the PID Officer will ensure proper and adequate records are made and will communicate with the discloser further, unless it is an anonymous disclosure.

The PID Officer will notify the discloser within three months about what action the Shire intends to take in dealing with the disclosure, unless it is an anonymous disclosure.

7.5 Determining whether your public interest disclosure will be investigated

After assessing the disclosure as one to which the PID Act applies, the PID Officer will consider whether it will be investigated, guided by the requirements in s.8 of the PID Act and following Part 2 of the ***Assessment and Case Management Form for a Public Interest Disclosure*** (Attachment 5).

The reasons a PID Officer may not investigate the disclosure include:

- the matter is trivial;
- the disclosure is vexatious or frivolous;
- there is no reasonable prospect of obtaining sufficient evidence due to the time that has elapsed since the matter(s) occurred; or
- the matter is being or has been adequately or properly investigated by another proper authority, s. 5(3).

The PID Officer will make proper and adequate records of their decision and reasons about whether to investigate or not.

7.6 Referring public interest matters

Where the PID Officer assesses the disclosure as one to which the PID Act applies, but they do not have the functions or power to investigate one or more matters within the disclosure, they will refer the information to the appropriate authority for investigation as provided for under the PID Act. Alternatively, a discloser may also be able to make a disclosure directly to this new authority, if they wish to receive reports from them about the disclosure. For example, the PID Officer may need to refer an allegation of an offence supported by evidence to the Western Australia Police for investigation.

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7.7 Investigating the disclosure

The PID Officer will investigate, or cause to be investigated, any matters in the disclosure within the sphere of responsibility. The PID Officer may cause the disclosure to be investigated by engaging a suitably skilled staff member within the Shire or an externally contracted investigator.

If causing the disclosure to be investigated, the PID Officer will ensure that the person undertaking the investigation understands the requirements of the PID Act, in particular the confidentiality requirements and protections for disclosers. The PID Officer will only provide the name of the discloser and that of the subject of the disclosure to the investigator in accordance with s. 16 of the PID Act.

When investigating the disclosure, the PID Officer or investigator is limited by the functions and powers derived from the operating legislation. The PID Act does not provide for any additional investigative powers.

If you are an employee, you are expected to cooperate with any investigation into the disclosure to maintain the protections under the PID Act. A discloser is also expected to act in accordance with the Code at all times.

Employees who are the subject of the disclosure can clarify the process and what to expect with the PID Officer. The PID Officer may also decide to discontinue an investigation, in accordance with s. 8(2). If this happens, they will give the discloser reasons for their decision in accordance with s. 8(3), unless they made an anonymous disclosure. The PID Officer may also notify any subject(s) of the disclosure, if they discontinue the investigation.

To ensure the disclosure is adequately and properly investigated the PID Officer, or another investigator, will be guided by the procedures below.

Internal investigative procedures (Refer Part 3 - *Assessment and Case Management Form for a Public Interest Disclosure* (Attachment 5))

Where the PID Officer determines that the disclosure is a public interest disclosure that should be investigated, the officer **must** investigate the disclosed matter himself or herself or engage another person to carry out the investigation.

In conducting an investigation, relevant to the Shire, the following investigative procedures will apply:

- It is understood that the PID Officer (proper authority) is the appropriate authority to authorise an investigation and determine who will conduct the investigation (the investigator);
- The investigator is responsible for establishing the framework of the investigation i.e.:
 - Compiling the Terms of Reference including clarifying the key issues identified by the disclosure;
 - Development of an investigation plan. As a minimum specifying the date by which the investigation should be completed by, the objectives of the investigation, key processes, and that a report will be provided to the discloser about the final outcome;
- Key processes include:
 - Documents used in the assessment must be reviewed;
 - Collecting and collating information relating to the disclosure, consideration of the information collected and drawing conclusions objectively and impartially;
 - Maintaining natural justice (procedural fairness) for the person who is the subject of the disclosure;
 - Giving information to the person who is the subject of a disclosure about their rights and obligations under the Act, the Shire's Codes of Conduct and PID Code of Conduct and

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Integrity and the law;

- Conducting interviews and making contemporaneous notes of discussions and interviews and, where practicable and appropriate, recording discussions and interviews on audio or by video;
- Ensuring strict security with all investigations, so as to maintain the confidentiality requirements of the Act;
- Compilation of a report with background, process undertaken, appropriate documents, findings and recommendation(s);

- The PID Officer is to Issue progress report to the discloser and update the PID Register.

Note: If a disclosure is withdrawn, the Shire may still continue to investigate the issues raised.

7.8 What are your responsibilities if you are the subject of a disclosure?

A subject of a disclosure is a person of interest about whom an allegation of a public interest disclosure has been made.

The Shire will treat the person fairly and impartially throughout the process, and inform them of their rights and obligations. The Shire will generally keep the parties involved informed during any investigation, although the Shire cannot release any information to the person that may prejudice the investigation. As an employee it is expected that they will act in accordance with the Shire's Code of conduct at all times.

The PID Act provides the person with some rights and obligations as a person subject to a disclosure. Firstly, the subject has a right to have their identity kept confidential under s. 16(3), unless one of the following conditions apply:

- consent to their identity being disclosed;
- it is necessary to enable the matter to be investigated effectively;
- it is necessary to do so in taking action within s. 9;
- there are reasonable grounds to believe that it is necessary to prevent or minimise the risk of injury to any person or damage to any property;
- it is made in accordance with a court order or other body having authority to hear evidence;
- it is made in accordance with s. 152 or 153 of the *Corruption, Crime and Misconduct Act 2003*.

The Shire will also provide appropriate natural justice. This means that, before taking any disciplinary or other action against the person under s. 9, the Shire will provide the person with the the opportunity to:

- be informed of the substance of the allegations and
- make a submission either verbally or in writing in relation to the matter.

The subject of a disclosure must not identify or tend to identify the identity of the discloser or a person who they think might be the discloser, as they also have rights to confidentiality under the PID Act. It is an offence under s. 16 to identify or tend to identify any person who has made a disclosure under the PID Act.

Also a person must not engage in reprisal action, threaten anyone with reprisal action or have someone else conduct this action because someone has made, or intends to make, a disclosure. It is still an offence to conduct this action against any person that is believed to have made the disclosure even if they were not the individual who actually made the disclosure. This is an offence

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under s. 14(1) of the PID Act.

7.9 Taking action

The PID Officer will take action where they form the opinion that a person may be, may have been or may in the future be involved in conduct which may be the subject of a public interest disclosure. Usually, the PID Officer will form this opinion at the conclusion of an investigation, although there may be instances where they need to take immediate action and the PID Act enables them to do this.

The PID Officer may take action under s. 9 and this includes, but is not limited to:

- preventing the matter disclosed from continuing or occurring;
- referring the matter to the Western Australia Police or other appropriate body; or
- cause disciplinary action to be taken against a person responsible for the matter.

Part 4 of the **Assessment and Case Management Form for a Public Interest Disclosure** (Attachment 5) encapsulates the assessment applicable in determining a course of action. The options above are not mutually exclusive. The PID Officer may take more than one action depending on the circumstances. For example, the PID Officer may refer the matter to the Western Australia Police as well as invoke the Shire's internal disciplinary procedures that may result in the termination of an employee.

In taking action the PID Officer and/or the Shire is limited by the powers and functions derived from the operating legislation. The PID Act does not provide for any additional powers to take action. The Shire will be guided by what is necessary and reasonable in the circumstances.

Before taking any action the Shire will give the person against whom the action is to be taken (the subject of the disclosure) an opportunity to respond, either verbally or in writing, to ensure procedural fairness.

7.9.1 Confidentiality and record keeping when taking action

The Shire will maintain confidentiality in accordance with the PID Act when taking action.

The PID Officer will keep appropriate records about any action taken, as well as recording a summary of this action in the public interest disclosure register.

8. After the public interest disclosure process has been finalised

The PID Act places no further obligations on the Shire or the PID Officers after the disclosure process is complete. The confidentiality requirements of the PID Act, however, continue to apply to all people and all other people involved with the disclosure.

The PID Act does not provide for an appeal of the outcome of the disclosure process. You may be able to make another disclosure to another proper authority, if the information relates to their functions or sphere of responsibility (s. 5). See *Don't be afraid to speak up* brochure for the correct proper authority for your disclosure.

However, this 'new' proper authority may be able to decline to investigate the disclosure under s. 8, if they consider the matter(s) has already been properly or adequately investigated as a public interest disclosure.

9. Making a disclosure to a journalist

The PID Act provides for certain circumstances where a discloser may make a protected disclosure to a journalist under s. 7A(d). These circumstances apply where the discloser has first

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made a disclosure to the PID Officer or another proper authority named in the PID Act (outlined in s. 5 or *Don't be afraid to speak up*).

Importantly, the PID Act states that to attract the privileges and protections of the PID Act when disclosing to a journalist, the discloser must disclose information that is substantially the same as what was disclosed in the original disclosure and the PID Officer that received the original disclosure:

- did not notify the discloser within three months of making the disclosure about actions they propose to take or have already taken; or
- refused to investigate, or discontinued the investigation of, a matter raised in the disclosure; or
- did not complete an investigation within six months of the discloser making the disclosure; or
- completed an investigation but did not recommend that action be taken; or
- did not provide the discloser with a report stating the outcome of any investigation or any action proposed or taken and the reasons for those actions.

The Shire is committed to ensuring that notifications required under the PID Act are provided and that the discloser understands the reasons for the decisions and actions. If a discloser is considering making a disclosure to a journalist because they believe their circumstances meet one or more of the requirements outlined above, the Shire encourages the discloser to discuss this with the PID Officer prior to disclosure to a journalist.

It is also recommended that the discloser seek their own legal advice before taking any action in relation to matters that have been disclosed under the PID Act.

If a discloser makes an anonymous disclosure they may not be able to demonstrate they meet the above requirements and the Shire is not obliged to provide the discloser with any notifications about what happens to the disclosure.

10. Contact Details and Further Information

Governance Section

Governance Officer (Tel: 9628 7004)

Shire's Website

www.victoriaplains.wa.gov.au

Public Sector Commission

Visit the Public Sector Commission's website at www.publicsector.wa.gov.au or alternatively contact their Advisory Line on (08) 6552 8888 or 1800 676 607.

Don't Be Afraid To Speak Up – Guide for Disclosers

When Someone Speaks Up – Guide for Managers of Employees

Legislation

Public Interest Disclosure Act 2003

Public Interest Disclosure Regulations 2003

Public Interest Disclosures Guidelines

Shire Codes of Conduct

Model Code of Conduct (Elected Members)

Interim Code of Conduct - Employees

11. Responsibility for Implementation and Review

Governance Section

REVISION HISTORY

Office Use Only				
Relevant Policy/Delegations	Misconduct Framework (To be Developed)			
CEO Implementation	Date	26 February 2020	SMT Meeting #	
Last reviewed	Date	N/A	SMT Meeting #	
Next review due	Date	Next Change to the PID Act		

Public Interest Disclosures Guidelines

Attachment 1 – Code of Conduct and Integrity

Code of conduct and integrity

Established by the Public Sector Commissioner under Section 20 of the *Public Interest Disclosure Act 2003* (PID Act).

The Code operates from 1 July 2003.

The Code is to be complied with by any person to whom a disclosure is made under the PID Act.

The Code

The Code uses as its ethical base the principles of personal integrity, relationships with others and accountability as referred to in the Western Australian Public Sector Code of Ethics.

Consistent with those principles, to meet the minimum standards of conduct and integrity, persons receiving disclosures, must:

- be professional and courteous to those involved in a disclosure, and give prompt attention to all their lawful requirements
- not use any circumstance or information connected to a disclosure for personal profit or gain
- take all reasonable steps to seek to ensure informants who make a public interest disclosure are protected in accordance with the provisions specified in the PID Act
- take all reasonable steps to seek to ensure that persons who are the subject of a disclosure are also provided with appropriate safeguards and protections as specified in the PID Act
- maintain records that ensure all action taken about the receipt and processing of a disclosure is reviewable
- declare to an appropriate person, in writing, any interests that may conflict with their obligations to impartially receive and process disclosures
- immediately report corrupt behaviour that has been, or may be occurring, to an appropriate authority
- provide information to the informant about their rights and responsibilities and the possible implications of lodging a public interest disclosure.

Public Interest Disclosures Guidelines

Attachment 2 – Consent to Disclosure of Identifying Information



OFFICE USE ONLY Register No: # Date: / /
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Consent to disclosure of identifying information form

Public Interest Disclosure Act 2003

Personal details	
Family name	
Given name	
Disclosure No.	(to be completed by proper authority/Public Interest Disclosure (PID) Officer)

Consent	
<p>Consent to disclosure of identifying information by discloser I consent to the disclosure of information that might identify or tend to identify me as a person who has made an appropriate disclosure of public interest information under section 16(1)(a) of the <i>Public Interest Disclosure Act 2003</i>.</p>	<input type="checkbox"/>
<p>Consent to disclosure of identifying information by subject I consent to the disclosure of information that might identify or tend to identify me as a person in respect of whom a disclosure of public interest information has been made (subject) under section 16(3)(a) of the <i>Public Interest Disclosure Act 2003</i>.</p>	<input type="checkbox"/>

Limitations on consent	
This consent only applies to disclosures made to the following persons	
This consent only applies to the following information	

Authorisation	
Signature of discloser/subject: (delete as appropriate)	
Date	
Signature of proper authority/PID Officer	
Date	

Public Interest Disclosures Guidelines

Attachment 3 – Notification of Disclosure of Identifying Information Form



OFFICE USE ONLY Register No: # Date: / /
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Notification of disclosure of identifying information form

Public Interest Disclosure Act 2003

To					
Title	<input type="checkbox"/> Mr	<input type="checkbox"/> Ms	<input type="checkbox"/> Mrs	<input type="checkbox"/> Dr	<input type="checkbox"/> Other:
Given name					
Family name					
Provided by	<input type="checkbox"/> email	<input type="checkbox"/> mail	<input type="checkbox"/> in person		

I intend to make a disclosure of information that might identify or tend to identify you as a person who has made an appropriate disclosure of public interest information under section 16 of the *Public Interest Disclosure Act 2003*.

The disclosure of this information

Is necessary, having regard to the rules of natural justice (section 16(1)(b))	<input type="checkbox"/>
Is necessary to enable the matter to be investigated effectively (section 16(1)(c))	<input type="checkbox"/>
The reason(s) why the disclosure of this information is necessary is (specify reason(s))	

Important: A person making an identifying disclosure for these reasons must take all reasonable steps to provide this information to the discloser within a reasonable time before making the disclosure in accordance with section 16(2).

Authorisation

Signature of person proposing to make disclosure	
Name	
Position	
Contact details	
Date	

Public Interest Disclosures Guidelines

Attachment 4 – Public Interest Disclosure Lodgement Form



OFFICE USE ONLY

Register No: #

Date: / /

Public interest disclosure lodgement form

Public Interest Disclosure Act 2003

The Shire of Victoria Plains strongly encourages anyone thinking about making a public interest disclosure to seek out a nominated proper authority to discuss their issues first. Our proper authority(ies) (Public Interest Disclosure (PID) Officer(s)) are:

Position	Governance Officer
Name of PID Officer	Sean Fletcher
Contact details	9628 7004

Ensure you understand your rights and responsibilities under the *Public Interest Disclosure Act 2003* (PID Act) before you sign this lodgement form. You may wish to seek external legal advice about those rights and responsibilities. Lodge your public interest disclosure form with the Shire of Victoria Plain's proper authority (PID Officer), not the Public Sector Commission.

Personal details

Family name					
Given name					
Title	<input type="checkbox"/> Mr	<input type="checkbox"/> Ms	<input type="checkbox"/> Mrs	<input type="checkbox"/> Dr	<input type="checkbox"/> Other
Address					
Work phone					
Mobile					
Email					

I wish to make an anonymous public interest disclosure. I understand that:

- I will not receive any information about what happens to this disclosure
- it may be more difficult for the proper authority to look into the matter(s) as they cannot come back to me for further information
- it may be more difficult for the proper authority/public authority to protect me
- this anonymous disclosure may not prevent me from being identified during any investigation or when action is being taken.

Public Interest Disclosures Guidelines

Categories of public interest information	Tick relevant box(es)
Improper conduct	<input type="checkbox"/>
An offence under written State law	<input type="checkbox"/>
Substantial unauthorised or irregular use of, or substantial mismanagement of, public resources	<input type="checkbox"/>
Conduct involving a substantial and specific risk of injury to public health, or prejudice to public safety or harm to the environment	<input type="checkbox"/>
Administration matter(s) affecting you personally	<input type="checkbox"/>

Disclosure details	
Name of the public authority(ies) the disclosure relates to	
Do you work for a public authority?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, which public authority and what is your position title?
Does the disclosure relate to one or more individuals?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, provide name(s) and position(s) held by person(s) in the public authority
When did the alleged events occur?	
Summary of the matters to disclose	

Public Interest Disclosures Guidelines

Additional information	
Description of any documents provided or names of witnesses	
Have you reported this information to any other person or agency?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, did you report this information as a Public Interest Disclosure matter?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details

You should read the following information and sign this form prior to lodgement.

Acknowledgement

I believe on reasonable grounds that the information contained in this disclosure is or may be true. I have been informed and I am aware that:

- I will commit an offence under section 24 of the PID Act, if I know that the information contained in this disclosure is false or misleading in a material particular, or I am reckless as to whether it is false or misleading in a material particular.
Penalty: \$12 000 or imprisonment for one (1) year.
- I will forfeit the protection provided by section 13 of the PID Act, if I fail, without reasonable excuse, to assist a person investigating the matter by supplying requested information (s17).
- I will forfeit the protection provided by section 13 of the PID Act, if I subsequently disclose this information to any person other than a proper authority under the PID Act (s17).
- I will commit an offence, if I subsequently make a disclosure of information that might identify or tend to identify anyone as a person in respect of whom this disclosure has been made under the PID Act, except in accordance with section 16(3) of the PID Act.
Penalty: \$24 000 or imprisonment for two (2) years.
- I cannot withdraw my disclosure after I have made it.

Authorisation	
Discloser's signature	
Date	

Public Interest Disclosures Guidelines

Attachment 5 – Assessment and Case Management Form for a Public Interest Disclosure



OFFICE USE ONLY Register No: # Date: / /
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Assessment and case management form for a public interest disclosure

Public Interest Disclosure Act 2003 (PID Act)

Part 1: Receiving the disclosure: Assessment of whether the information is a valid disclosure for the purposes of the PID Act		
Assessment of disclosure	Decision	Notes
Does the disclosure relate to a public authority, a public officer or a public sector contractor? (s. 8)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does the information relate to the performance of a public function? (s. 8)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does the information show or tend to show matters of public interest information? ¹ (s. 3)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does the information show or tend to show public interest information for which the person receiving the information is the proper authority (Public Interest Disclosure (PID Officer))? (s. 5(3)(h) and s. 23(1)(a))	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does the discloser believe on reasonable grounds that the information is, or may be, true? (s. 5(2))	<input type="checkbox"/> Yes <input type="checkbox"/> No	
After being informed of the consequences does the discloser wish to disclose the information under the PID Act, that is, make a public interest disclosure? (s. 5(1))	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Note for proper authority/PID Officer: If any of the 'No' boxes have been ticked, then the disclosure is unlikely to be one to which the PID Act applies. Make proper and secure records about your determination of whether the disclosure is a valid public interest disclosure under the PID Act. Inform the discloser of your determination and reasons (s. 10).

¹ Matter to which public interest information can relate:

- improper conduct
- an offence against State law
- a substantial unauthorised or irregular use of public resources
- a substantial mismanagement of public resources
- conduct involving a substantial and specific risk of injury to public health, prejudice to public safety or harm to the environment
- conduct relating to a matter of administration affecting someone in their personal capacity that falls within the jurisdiction of the Ombudsman.

Public Interest Disclosures Guidelines

Confirmation

I [insert name], the proper authority (Public Interest Disclosure Officer) for [insert name of public authority], confirm that the disclosure made to me on [insert date] by [insert discloser's name, if appropriate] shows or tends to show that the matters described are public interest information. I have registered these matters as a disclosure under the PID Act in the public interest disclosure register of [insert name of public authority] with the registered number [insert number].

Signed (proper authority)		Date	
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Case Management note for the proper authority/PID Officer	Decision
I have created a case file which complies with the recordkeeping plan of [insert name of public authority], as required by the <i>State Records Act 2000</i> .	<input type="checkbox"/> Yes <input type="checkbox"/> No
I have notified the discloser of the proposed action to be taken or the action taken in relation to the disclosure in accordance with s. 10(1) of the PID Act (if applicable, at this point of the enquiry).	<input type="checkbox"/> Yes <input type="checkbox"/> No
This has been in accordance with the requirements of s. 11 and s. 16 of the PID Act.	<input type="checkbox"/> Yes <input type="checkbox"/> No
I have recorded the action(s) in the public interest disclosure register.	<input type="checkbox"/> Yes <input type="checkbox"/> No

Public Interest Disclosures Guidelines

OFFICE USE ONLY Register No: # Date: / /
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Part 2: Assessment of whether the disclosure should be investigated

Assessment of disclosure	Decision	Notes
Does the disclosure relate to the public authority, its officers or contractors? (s. 5(3) and s. 8(1))	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does the disclosure relate to a matter or person that you or your public authority has a function or power to investigate? (s. 5(3)(h) and s. 8(1))	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Is there a reasonable prospect of obtaining sufficient evidence, having regard to the time that has elapsed since the occurrence of the matter? (s. 8(2))	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Note for proper authority/PID Officer: If any of the 'No' boxes have been ticked, then the disclosure is unlikely to be one that the PID Act requires you to investigate (or cause to investigate). Ensure you make proper and secure records of the reason(s) for which you will not be investigating and provide these reasons to the discloser.

Assessment of disclosure	Decision	Notes
Is the matter trivial? (s. 8(2))	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Is the disclosure vexatious? (s. 8(2))	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Is the disclosure frivolous? (s. 8(2))	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Is the matter being, or has the matter been, adequately or properly investigated by another proper authority under the PID Act? (s. 8(2))	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Note for proper authority/PID Officer: If any of the 'Yes' boxes have been ticked, then the disclosure is unlikely to be one that the PID Act requires you to investigate (or cause to investigate). Ensure you make proper and secure records of the reason(s) for which you will not be investigating and provide these reasons to the discloser.

Public Interest Disclosures Guidelines

Confirmation

I [insert name], the proper authority (Public Interest Disclosure Officer) for [insert name of public authority], confirm that the public interest disclosure registered number [insert number] made to me on [insert date] by [insert discloser's name if appropriate] in my opinion meets/does not meet (delete as appropriate) the requirements of the PID Act for a public interest disclosure to be investigated.

I also confirm that I have recorded my opinion in the public interest disclosure register of [insert name of public authority].

Signed (proper authority)		Date	
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Case Management note for the proper authority/PID Officer	Decision
I have notified the discloser of the proposed action to be taken, or the action taken in relation to the disclosure in accordance with s. 10(1) (if not previously provided) or I have provided a progress report to the discloser on the current progress on dealing with the matter in accordance with ss. 10(2) or (3). This is consistent with the requirements of s. 11 and s. 16.	<input type="checkbox"/> Yes <input type="checkbox"/> No
I have recorded the action(s) in the public interest disclosure register.	<input type="checkbox"/> Yes <input type="checkbox"/> No

Public Interest Disclosures Guidelines

OFFICE USE ONLY

Register No: #

Date: / /

Part 3: Engaging an external investigator to investigate the public interest disclosure

Investigating officer's name	
Normal designation of investigating officer	
Address	
Telephone number	
Email address	
Details of authorisation and scope of investigation	
Date investigation was authorised by the proper authority	
Procedures and guidelines provided to external investigator	

The investigation process is not prescribed under the PID Act but the following table is a useful checklist for an investigation.

Assessment of disclosure	Decision	Notes
Have the documents used in the assessment of the disclosure been reviewed?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Was an investigation plan developed?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Were terms of reference developed?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Were people interviewed?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Was confidentiality maintained (s. 16): <ul style="list-style-type: none"> • of the discloser's identity • of the information disclosed • of the identity of the subject(s) of the disclosure? 	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Were the rules of natural justice followed? (s. 9 and s. 16)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Was a report prepared?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Have all documents/evidence/reports been provided to the proper authority?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Public Interest Disclosures Guidelines

Recommendation
I recommend that the proper authority (PID Officer)/public authority form the opinion that

I [insert name] , the investigating officer appointed by [insert name of public authority] to investigate the public interest disclosure registered number [insert number] , confirm that the above is a summary of my investigation undertaken as a result of a disclosure made in accordance with the PID Act.

Signed (investigating officer for public authority)		Date	
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Case Management note for the proper authority/PID Officer	Decision
I have provided a progress report to the discloser on the current progress on dealing with the matter in accordance with ss. 10(2) or (3).	<input type="checkbox"/> Yes <input type="checkbox"/> No
This is consistent with the requirements of s. 11 and s. 16.	<input type="checkbox"/> Yes <input type="checkbox"/> No
I have recorded the action(s) in the public interest disclosure register.	<input type="checkbox"/> Yes <input type="checkbox"/> No

Public Interest Disclosures Guidelines

OFFICE USE ONLY

Register No: #

Date: / /

Part 4: Taking action

Assessment of disclosure	Decision	Notes
Where the matters have been investigated by the PID Officer or an external investigator, do you (the proper authority) accept the recommendation contained in Part 3?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Note for proper authority/PID Officer: If you have ticked the 'yes' box, please indicate below the action you will take.

Assessment of disclosure	Decision	Notes
Take action that is necessary, reasonable and within your functions and powers to prevent the matter continuing or occurring.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Refer the matter to another person, body or organisation with the power to investigate.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Take disciplinary action, or commence disciplinary proceedings, against the person involved, within your powers and functions.	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Note for proper authority/PID Officer: Report to the discloser on the outcome of the investigation and any action taken or proposed to be taken (s. 10), consistent with the requirements of the PID Act (particularly sections 11 and 16). Record the action(s) in the public interest disclosure register.

Details of the actions taken

I recommend that the proper authority (PID Officer)/public authority form the opinion that

Public Interest Disclosures Guidelines

Confirmation
I [insert name] , the proper authority (Public Interest Disclosure Officer) for [insert name of public authority] , confirm that the above action was taken or will be taken following the public interest disclosure registered number [insert register number] . I confirm that I have recorded the outcome of the investigation and the action taken or to be taken in the public interest disclosure register of [insert name of public authority] .

Signed (proper authority)		Date	
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Case Management note for the proper authority/PID Officer	Decision
I have provided a final report to the discloser on the current progress on dealing with the matter in accordance with s. 10(4).	<input type="checkbox"/> Yes <input type="checkbox"/> No
This is consistent with the requirements of s. 11 and s. 16.	<input type="checkbox"/> Yes <input type="checkbox"/> No
The final report details the outcome of the investigation, any action taken, or proposed to be taken, and the reasons for taking those actions (s. 10(4)).	<input type="checkbox"/> Yes <input type="checkbox"/> No
I have recorded the action(s) in the public interest disclosure register.	<input type="checkbox"/> Yes <input type="checkbox"/> No