



Government of **Western Australia**
Child and Adolescent Health Service



Child and Adolescent Health Service

Public Interest Disclosure (PID) Guidelines

July 2017



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Public Interest Disclosure Officer’s Declaration1

Introduction

These Guidelines have been developed to provide advice and assistance to staff in facilitating a better understanding of the *Public Interest Disclosure Act 2003* (the PID Act) as well as how CAHS will comply with the PID Act.

These Guidelines have been designed to facilitate disclosures of public interest information being made under the PID Act and provides a guide to all parties (including management, appointed Public Interest Disclosure Officers (PID Officers), potential disclosers and people against whom a disclosure has been made as to how PID is to be facilitated within CAHS.

These Guidelines will also apply to any other entities which become part of CAHS.

Guideline statement

CAHS does not condone corrupt or other improper conduct, including mismanagement of public resources, in the exercise of the public functions of CAHS and its officers, employees and contractors.

The PID Act is aimed at encouraging the disclosure of wrongdoing within the State public sector and to ensure accountability in Government. The PID Act provides immunity and protection for those who make a disclosure in good faith.

CAHS is committed to the aims and objectives of the PID Act. It recognises the value and importance of contributions of staff to enhance transparent and accountable administrative and management practices and strongly supports disclosures being made by staff as to corrupt or other improper conduct.

All reasonable steps will be taken by CAHS in order to provide protection to staff that make disclosures from any detrimental action in reprisal or victimisation for making of a public interest disclosure.

CAHS will not condone any of its officers, employees or contractors engaging in acts of victimisation or reprisal against those who make public interest disclosures.

CAHS acknowledges that deciding to make a disclosure under the PID Act is not an easy decision to make and deserves to be recognised as ethical and courageous, and can make a valuable contribution to the organisation and to the public health system.

Designated positions and authorities - roles and responsibilities

Public Interest Disclosure Officers

Relevant officers across CAHS and WA Health have been designated as Public Interest Disclosure (PID) Officers. These officers are situated in all Health Services and a number of Departmental Divisions/Directorates. Information relating to PID Officers is available through the [Public Interest Disclosures page](#) on the [Integrity tab](#) of the CAHS intranet site or through the [Public Sector Commission](#) website.

Alternatively, the Manager, Integrity and Ethics can be contacted on 9340 8481 for further information.

To be accepted as a PID matter, all disclosures of public information must be made to an authorised PID Officer.

Principal Public Interest Disclosure Officer

While the position of Principal PID Officer does not have any statutory role under the PID Act, the position of CAHS Manager, Integrity and Ethics, has been appointed as this central co-ordinating role.

The Principal PID Officer is responsible for:

- organising all relevant external PID reporting
- providing assistance and advice to PID officers
- reviewing and updating the CAHS PID Guidelines
- maintaining the CAHS PID Officer Register
- ensuring that the PSC is kept advised of any changes to the authorised PID Officers within CAHS

Oversight body

The Public Sector Commission (the PSC) is the oversight body responsible for the PID Act.

The PSC is located at:

Public Sector Commission
Locked Bag 3002
West Perth WA 6872

Dumas House
2 Havelock St
West Perth WA 6005

Telephone: (08) 6552 8888

Facsimile: (08) 6552 8501

Website: www.PSC.wa.gov.au/pid

Email: pid@PSC.wa.gov.au

Other proper authorities

There are additional authorities¹ that have been identified as proper authorities that can also receive disclosures:

- **The Corruption and Crime Commission**

The PID Act provides for the Corruption and Crime Commission (CCC) to receive public interest disclosures of information relating to an offence under State law.

- **The WA Police**

The PID Act provides for any police officer to receive public interest disclosures of information relating to an offence under State law.

- **The Ombudsman**

The PID Act provides for the Ombudsman to receive public interest disclosures of information relating to matters of administration within the jurisdiction of the Ombudsman, and matters relating to police officers and most public officers.

- **The Auditor General**

The PID Act provides for the Auditor General to receive public interest disclosures of information relating to substantial unauthorised or irregular use of, or substantial mismanagement of, public resources.

¹ Section 5 (3) of the PID Act provides for a disclosure of public interest information to be made to the relevant proper authority.

Procedures

Making and receiving a PID

Under the PID Act, any person can make a disclosure relating to CAHS public interest information and therefore if assessed as a PID for the purposes of the PID Act, is afforded the protections offered under the PID Act.

This means that a staff member (including full time, part time, permanent, temporary, voluntary), a member of the public and/or contractors can make a disclosure under PID, and if accepted, has a level of protection under the PID Act.

The disclosure must be made to an authorised PID Officer.

When making a disclosure, the discloser must:

- believe on reasonable grounds the information is or may be true
- consider the disclosure to be public interest information
- ensure the disclosure is made to the appropriate proper authority (an authorised PID Officer).

The PID Officer must advise any person who chooses to make a disclosure that:

- they can choose to remain anonymous
- if they choose to reveal their identity when making a disclosure, their identity will not be disclosed, except in accordance with the Act.

(Note: disclosure of their identity may be required in the course of the investigation or in taking action in some circumstances)

If they choose to make a disclosure under the PID Act, for having made that disclosure, it will not result in:

- any civil or criminal liability
- liability for any disciplinary action under a written law
- be able to be dismissed or have his/her services dispensed with or otherwise terminated
- liability for any breach of a duty of secrecy or confidentiality or any other applicable restriction on disclosure
- if they choose to make a disclosure, they may have the right to take civil proceedings if they are subject to detrimental action as a result of making the disclosure². In the first instance, a discloser would go to their employer for protection
- they may also apply to the Supreme Court for an order remedying any detrimental action or for an injunction that the Court deems appropriate
- a public sector employee may apply in writing to his or her employing authority for relocation to avoid suffering from possible or further detrimental action as a result of disclosing public interest information.

² Section S23.(b) of the PID Act – the Principal Executive Officer is to provide protection for employees for detrimental action.

If they choose to make a public interest disclosure, then they will have the right to be informed at regular intervals of the progress and outcome of the investigation and any subsequent action that may be taken.

If they choose to make a public interest disclosure:

- they cannot withdraw the disclosure once it is made and they must agree to assist in the investigation of the disclosure once it has been assessed and accepted as a PID.
- they are only protected if they believe on reasonable grounds that the information to be disclosed is or may be true. It would not be assessed as a PID for the purposes of the PID Act if they did not believe it was true.
- they will commit an offence, and may lose some protections under the Act, if they know the information to be false or misleading.
- the protections under the Act will be forfeited if they breach confidentiality and disclose information about the disclosure to any other person outside the PID Act.
- they must continue to assist with the investigation to which the disclosure relates. If they fail to assist without a reasonable excuse, the protections afforded under the Act will be forfeited.
- they commit an offence if they disclose information that might identify or tend to identify anyone about whom a disclosure has been made.

The discloser will only be protected if the PID Officer is the proper authority for receiving that kind of information, as indicated in the table below:

| When the disclosure relates to... | The proper authority is... |
|---|---|
| The sphere of responsibility of a public authority (e.g. matters about the public authority or its officers, or which the public authority has the function of investigating) | The PID Officer of the Public Authority |
| Offences under State law (e.g. a crime such as fraud, stealing, etc.) | 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 Commissioner for Public Sector Standards |
| A person or a matter of a prescribed class | A person declared by the regulations to be a property authority |

Important Note:

The information disclosed to the above authorities must be public interest information as defined in the PID Act.

Not all proper authorities to which a disclosure may be made may have the power to investigate the information disclosed. In some case it may be necessary for the discloser or information to be referred to another proper authority with power to investigate the information.

For the purposes of these Guidelines, CAHS is deemed the 'proper authority' and accordingly, references will be made to "CAHS" unless otherwise required.

Assessing a Public Interest Disclosure

The CAHS PID Officer must, on receiving a disclosure, consider whether:

- The information disclosed relates to CAHS, a CAHS public officer or a public sector contractor.
- The information disclosed relates to the performance of a public function performed by CAHS.
- The information disclosed is an appropriate disclosure, of public interest information made to a proper authority of improper conduct.
- The improper conduct is of the kind for which the PID Officer is the proper authority (i.e. in this instance, CAHS) (see table above).
- The information is not protected by legal professional privilege.
- The discloser believes on reasonable grounds that the information is or may be true.
- The discloser, after receiving the advice on aspects of the PID process, wishes to make a public interest disclosure under the Act.

If the above questions are all answered 'yes', then the disclosure is a public interest disclosure to which the PID Act will apply.

The PID Officer should use Part One of the [Assessment Form for a Public Interest Disclosure](#) to assist in this assessment.

The CAHS PID Officer should immediately report this matter to the Principal PID Officer.

Lodging a PID

If a disclosure is assessed as a PID, the discloser and the PID Officer should complete a [Public Interest Disclosure Lodgement Form](#).

On completion of this form, the PID Officer should create a separate confidential file for the Public Interest Disclosure. This confidential file is to be kept by the PID Officer in a secure location.

Important Note:

Once the matter has been finalised, all records are to be forwarded to the CAHS Integrity and Ethics unit for secure storage via CAHSIntegrityandEthics@health.wa.gov.au

Following advice from the CAHS PID Officer, the [CAHS Principal PID Officer](#) will be responsible for recording the PID on the CAHS [Public Interest Disclosure Register](#).

Determining whether the matter must be investigated

After receiving the disclosure, the PID Officer must consider whether:

- The disclosure relates to CAHS, its officers or contractors
- The disclosure relates to a matter or person that CAHS has a function or power to investigate.

If the answer to both of these questions is 'no', the PID Officer is not required by the PID Act to investigate the matter.

The PID Officer must also consider whether:

- 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 occurrence of the matter
- The matter is being or has been properly investigated by another proper authority.

To assist the PID Officer, Part 3 of the [Assessment Form for a Public Interest Disclosure](#) should be completed.

If the answer to any of these questions is 'yes', the PID Officer is not required to investigate the matter.

Where the PID Officer determines that the matter should be investigated, the PID Officer must either investigate the matter themselves, or arrange for another person or appropriate investigative body to carry out the investigation.

Where the PID Officers considers they lack sufficient power to effectively investigate the matter, but the information received causes an opinion to be formed that a public authority, public officer or public sector contractor may have engaged in improper conduct, the PID Officer should refer the matter to another appropriate investigative body.

Decisions relating to how the investigation is to be conducted are to be taken in consultation with the Principal PID Officer.

If the disclosure is identified as one of potential misconduct committed by a public officer, the PID Officer should refer the matter to the CAHS Manager Integrity and Ethics as soon as practicable, for assessment as to whether it is to be reported to the Corruption and Crime Commission or the Public Sector Commission (subject to the confidentiality requirements of Section 16 of the PID Act).

Investigating a Disclosure

When conducting an investigation, the PID Officer should:

- Draw up terms of reference, which should clarify the key issues identified by the disclosure.
- Specify a date by which the investigation should be completed.
- Ensure the objectives of the investigation include the collecting and collating information relating to the disclosure, considering the information collected and drawing conclusions objectively and impartially.
- Maintain the [principles of natural justice](#) for the person who is the subject of the disclosure.
- Provide information to the person who is the subject of a disclosure about their rights and obligations under the Act, the [Code of Conduct and Integrity](#), [WA Health Code of Conduct](#) and any other relevant legislation.
- Make contemporaneous notes of discussions and interviews, and if necessary (and with appropriate approvals), record discussions or interviews on audio.
- Ensure **strict security** in order to maintain the confidentiality requirements of the PID Act.

The Principal PID Officer should be contacted for advice and assistance in relation to any investigation undertaken.

Confidentiality

The PID Act imposes strict confidentiality requirements in relation to the identity of the person who made the disclosure as well as the identity of any person named in the disclosure.

The release of information which might identify or tend to identify these persons, except in accordance with the PID Act is a serious offence, punishable with a maximum penalty of \$24,000 or two years imprisonment.

There is also the possibility for a person to make an anonymous Public Interest Disclosure.

The confidentiality provisions of the PID Act do not apply to all information disclosed in a disclosure, but only to information which might identify or tend to identify the discloser and persons named in the disclosure.

A person may need to identify the discloser or subject of a public interest disclosure if they have been ordered by a Court or another person/body with the authority to make such an order.

Exemptions

Under the PID Act, there are certain circumstances when information can be released:

- identifying information may be released when the person making the disclosure consents to information being released. In this case, it is important that this consent be appropriately recorded. The [Consent to Disclosure of Identifying Information form](#) should be used
- identifying information relating to a discloser may also be released without the person's consent where:
 - it is necessary to do so, having regard to the rules of natural justice

Exemptions (continued)

- it is necessary to do so to enable the matter to be investigated effectively
- before the information is disclosed for the reasons outlined above, all reasonable steps must be taken to inform the person whose identity is to be disclosed that:
 - the information is to be released
 - the reasons for this release of information
- this information can be provided, where practicable, in the form [Notification of Disclosure of Identifying Information](#) (see Attachment 11)
- identifying information relating to a person in respect of whom a disclosure has been made can also be disclosed at the investigation stage, where the disclosure:
 - is necessary to enable the matter to be investigated effectively
 - there are reasonable grounds to believe that the disclosure of identifying information is necessary to prevent or minimise the risk of injury to any person or damage to any property
- disclosures made in accordance with section 152 or 153 of the *Corruption, Crime and Misconduct Act 2003* are exempt from these confidentiality requirements.

Victimisation and reprisal

CAHS will not condone any acts of victimisation or reprisal as a result of a person making, or proposing to make, a public interest disclosure.

Any victimisation or reprisal must be reported immediately to the Principal PID Officer or authorised PID Officer, who must take immediate action to prevent the continuance of this unlawful conduct.

If a person believes that detrimental action has been or may be taken against them in reprisal for a disclosure of public interest information, they can apply to the Supreme Court for an order remedying the detrimental action or for an injunction that the Court deems appropriate.

They may also have the right to take civil proceedings for damages or make a complaint under the *Equal Opportunity Act 1984*, but cannot pursue both of these avenues.

A public service employee may apply in writing to his or her employing authority for relocation to avoid suffering from possible or further detrimental action as a result of disclosing public interest information.

Where victimisation or reprisal is reported, a record of the report and the action taken must be placed on the file relating to the disclosure.

Taking action following an investigation

The PID Officer must take action when an opinion is formed that a person may be, has been, or may in the future, be involved in improper conduct.

Action that may be taken includes:

- preventing the matter to which the disclosure relates from continuing or occurring.
- referring the matter to the WA Police or other appropriate body, including the Corruption and Crime Commission.
- take or initiate disciplinary action against a person responsible for the matter ensuring that any disciplinary action initiated must be undertaken in accordance with the WA Health Disciplinary Policy and relevant industrial agreement or instrument- **advice must be sought from the Principal PID Officer prior to taking or commencing any such action.**

Before taking any action, the person against whom the action is to be taken is to be given the opportunity to make written or oral submissions (unless it prejudices any Corruption and Crime Commission or criminal investigation).

In taking any action, the PID Officer remains limited by the powers and functions that are conferred by the legislation under which the PID Officer operates. The PID Act does not give the PID Officer any additional power to take action.

In addition to keeping other records, the PID Officer shall complete Part 5 of the [Assessment Form for a Public Interest Disclosure](#) and forward this information to the Principal PID Officer who will record a summary of the action taken in the Public Interest Disclosure Register. All reporting requirements to the Public Sector Commission required under the *PID Act* will be based on extracts from this Register.

Reporting to a Discloser on the progress and outcome of an investigation (not applicable to anonymous disclosures)

Where the PID Officer decides not to investigate information disclosed under the PID Act, or discontinues an investigation, the PID Officer must give the discloser reasons for doing so.

Important Note:

Within three months of the disclosure being made, the PID Officer must notify the discloser of the action taken or proposed to be taken in relation to the disclosure.

At any time prior to the completion of the investigation, the PID Officer can provide a progress report to the discloser. Equally, the discloser may also request a progress report.

If an investigation is complete, the PID Officer must provide a final report to the discloser, advising the outcome of the investigation and the reason for taking action following the investigation.

In providing information and reports to the discloser, the PID Officer must not give information that, in the PID Officer's opinion, would be likely to adversely affect:

- any person's safety
- the investigation of an offence or possible offence
- necessary confidentiality as to the existence or identity of another person who has made a disclosure of public interest information under the Act.

-

Recording the outcome of an investigation

The outcome of an investigation should be clearly and comprehensively recorded. In addition to any investigation report, the person conducting the investigation should complete Part 4 of the [Assessment Form for a Public Interest Disclosure](#).

The result of the investigation should also be recorded in the CAHS PID Register. This recording is to be undertaken by Principal PID Officer, based on advice from the PID Officer or officer tasked with the carriage of the investigation (should this be the case).

Record keeping

Once a PID has been finalised, the confidential PID file is to be forwarded to the CAHS Principal PID Officer for secure storage via CAHSIntegrityandEthics@health.wa.gov.au.

Recording, reporting and the availability of information

Public Interest Disclosure Register

CAHS (through the Principal PID Officer) will maintain a PID Register, recording a unique register number and key information for each disclosure.

Reporting requirements

Under the PID Act, CAHS is required to report to the Public Sector Commission each year. This report is to include:

- the number of public interest disclosures received over the reporting period
- the results of any investigations conducted as a result of the disclosures
- the action, if any, taken as a result of each investigation.

Making information available

These guidelines are available on the [Public Interest Disclosure page](#) on the Integrity tab of CAHS intranet site.

Rights and obligations under the Public Interest Disclosure Act 2003

Overview of the Public Interest Disclosure Act

The *Public Interest Disclosure Act 2003* facilitates the disclosure of public interest information, and provides protection for those making such disclosures and those who are the subject of disclosures. The PID Act provides a system for the matters disclosed to be investigated and for appropriate action to be taken.

The PID Act does not confer additional powers on CAHS or any other public authority to investigate or take action in relation to public interest disclosures. Rather, it provides protection for people who make disclosures that may result in a proper authority (in the case of these guidelines, CAHS) exercising its existing powers to investigate and take action in relation to the subject matter of the disclosure. In some circumstances, the PID Act requires CAHS to investigate a matter and to notify the person making the disclosure of the action taken.

Under the PID Act, CAHS is required to prepare and publish internal procedures relating to its obligations under the PID Act. These procedures must be consistent with the Guidelines issues by the Public Sector Commission, [PSC PID Guidelines](#).

What is a Public Interest Disclosure?

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 the information is or may be true
- a disclosure of public interest information
- made to an appropriate proper authority (in this instance, CAHS).

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 name of the discloser or the information provided in the disclosure, may need to be referred to another proper authority external to CAHS to enable an effective response to the disclosure to be made.

What are the protections?

When a person makes an appropriate disclosure of public interest information to a nominated CAHS PID Officer, the PID Act:

- protects the person making the disclosure from legal or other action
- provides for the confidentiality of the identity of the person making the disclosure and a person who is the subject of a disclosure
- provides remedies for act of reprisal and victimisation that may occur substantially because the person has made a disclosure.

In general terms, for people who make disclosures, protection is provided against detrimental action, which may include:

- injury
- intimidation
- harassment
- adverse treatment
- reprisal.

The PID Act also provides penalties for disclosing the identity of those persons about whom public interest disclosures are made, as well as emphasising the need for those persons to be afforded natural justice or procedural fairness.

Key aspects of the legislation

There are certain aspects of the PID Act that require careful consideration, particularly:

- Part 2 of the PID Act is concerned with the action of **making a disclosure**

It clarifies who may make a disclosure, to whom it can be made and their obligations, including investigation, action and notification.

- Part 3 of the PID Act deals with **protection**

It describes the forms of protection available and when protection is lost. It provides for offences relating to the disclosure of the identity of informants and those in respect of whom a public interest disclosure is made.

- Part 5 of the PID Act enumerates the **obligations of principal executive officers of public authorities**

Of particular importance is the requirement for a principal executive officer to designate a person within the authority who is responsible for receiving disclosures and to provide protection for their employees from detrimental action arising from their making a disclosure.

A copy of the [PID Act](#) is available from the State Law Publisher, www.slp.wa.gov.au

Frequently asked questions - making, receiving and assessing a public interest disclosure

What is different about a public interest disclosure?

Not all complaints about the government can be considered to be public interest disclosures.

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

- made by someone who believes on reasonable grounds that the information is or may be true
- of public interest information
- made to the appropriate proper authority

Who can make a disclosure?

Any person may make a disclosure of public interest information.

While public officers may make disclosures of public interest information, the PID Act also allows for members of the public to make these disclosures.

A person making a public interest disclosure is called a discloser.

A person making a public interest disclosure must believe on reasonable grounds the information disclosed is true or may be true.

A person making a disclosure purporting to be a disclosure of public interest commits an offence where they:

- know the information to be false or misleading in a material particular
- are reckless about whether the information is false or misleading in a material particular.

The discloser does not necessarily need to be able to identify any person to whom the disclosure concerns.

What is public interest information?

The PID Act only applies to disclosures of public interest information. Public interest information must meet a number of criteria.

It must:

- relate to a public authority, public officer or public sector contractor
- relate to the performance of a public function of the public body
- tend to show that the public body is, has been, or proposes to be, involved in improper conduct or
- relate to an act or omission that constitutes an offence under a written law; or a substantial unauthorised or irregular use of, or substantial mismanagement of, public resources; or
- related to 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;

What are the public bodies to which public interest information must relate?

The following are public authorities to which public interest information may relate:

- a department in the public service
- an agency within the public sector
- a local government or regional local government

- a body established under State law for a public purpose, e.g. public universities, port authorities, government boards, etc.
- bodies established by the Governor or a Minister.

The following are public officers to whom public interest information must relate:

- Ministers, Parliamentary Secretaries and Members of Parliament
- judicial officers
- police officers
- officers such as a bailiff serving or executing the process of a Court or tribunal for remuneration
- public sector officers
- members, officers and employees of public authorities
- holders of offices under the State and offices established by the Governor or a Minister
- officers of the Commonwealth exercising a function on behalf of the State.

The PID Act does not apply to information relating to Commonwealth Government bodies, apart from officers of the Commonwealth exercising functions for the State under State law.

Public sector contractors to whom public interest information may relate are contractors engaged by public authorities for the supply of goods and services or the performance of public functions.

What is a public function to which public interest information must relate?

The PID Act does not apply to the disclosure of information concerning improper conduct, unless the conduct relates to the performance of the functions of the public authority, public officer or public sector contractor.

So, for example, the PID Act would not apply to information about a CAHS employee who had engaged in criminal behaviour that was not connected with their employment.

Important Note:

If such criminal behaviour did occur, even though PID is not applicable, reference should be made to the WA Health Disciplinary Policy.

What is improper conduct to which public interest information must relate?

Public interest information must tend to show involvement of a public body in:

- improper conduct or wrongdoing
- 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 matters of administration affecting someone in their personal capacity falling within the jurisdiction of the Ombudsman.

CAHS receives many different types of complaints. These range, for example, from workplace disputes, bullying or occupational health concerns, to allegations of improper conduct or corruption. Not all of these disclosures would be of public interest information to which the PID Act will apply.

The various CAHS policies and procedures which relate to these various types of actions (e.g. the CAHS Preventing and Responding to Workplace Bullying Policy and the CAHS Employee Grievance Resolution Policy, etc.) should be considered.

To give some guidance as to when PID could be applied, the chart below identifies some of the differences between a grievance (to which the PID Act **would not apply**) and a public interest disclosure.

| Grievance | Public Interest Disclosure |
|--|---|
| Aims to resolve a complaint or dispute | Does not aim to resolve a grievance or dispute |
| Aims to deal with the complaint as close to the source as possible, i.e. to resolve differences directly between the parties concerned | This principle is not relevant to the handling of a public interest disclosure |
| Usually a dispute between an employee and management, or between two parties | More than a dispute between two parties – relates to a matter of public interest |
| A complainant generally ‘owns’ the complaint and can withdraw it at any stage | The informant doesn’t ‘own’ the disclosure once it has been made and cannot withdraw it |
| Generally can be resolved by agreement between two parties | The aim is not resolve the issue between two or more parties |

To whom must a public interest disclosure be made?

A disclosure will only be a public interest disclosure if it is made to the appropriate proper authority.

Depending on the nature of the disclosure, the identity of the appropriate proper authority will vary.

It is important that the disclosure be made to the appropriate proper authority as disclosures to other persons will not be protected.

In the case of CAHS, a disclosure must be made to an appropriately authorised PID Officer. PID Officers are located throughout CAHS. Information relating to these officers can be obtained from the CAHS intranet [Integrity and Ethics intranet](#), [Public Sector Commission](#) or the CAHS Integrity and Ethics unit (CAHSIntegrityandEthics@health.wa.gov.au).

Disclosures to a journalist, the media or other persons who are not specified as proper authorities are not protected by the PID Act.

However, a person may make a disclosure to a journalist² of substantially the same information as that of a disclosure of public interest information that the person has already made under the Act, if the proper authority to which the disclosure was made has:

- refused to investigate, or has discontinued the investigation of a matter raised by the disclosure
- not completed an investigation of a matter raised by the disclosure within the period ending 6 months after the disclosure was made
- completed an investigation of a matter raised by the disclosure but has not recommended the taking of action in respect of the matter
- not complied with the notification requirements to the discloser.

A person who makes a disclosure to a journalist, under the circumstances outlined above, is to be taken to be a person who makes a public interest disclosure (and they will receive all the associated protections under the Act).

A public interest disclosure may be made internally within CAHS or, in appropriate cases, externally to the proper authorities named in the PID Act.

An authorised PID Officer within CAHS is the proper authority for the disclosure of information relating to a matter falling within CAHS's sphere of responsibility.

It is important that all CAHS PID Officers should become familiar with these procedures.

In addition, PID Officers have a responsibility to keep up to date with all information made available by the Public Sector Commission. The PID Officer must also comply with the [Code of Conduct and Integrity](#) under the PID Act.

Can a disclosure of public interest information be made to more than one proper authority?

Yes – the PID Act refers to a disclosure being made to more than one proper authority. In such a case the protection and obligations created by the PID Act will apply to each of the disclosures.

CAHS may not have to investigate a matter raised by a public interest disclosure where it considers the matter is being or has been adequately investigated by another person in another public authority to whom a disclosure under the PID Act has been made.

In some cases the proper authority to which the disclosure is made may refer the matter to some other person having power to investigate the matter.

In general, a disclosure about CAHS or its officers or contractors, or a disclosure falling within the sphere of CAHS's responsibility should in the first instance be made to a registered CAHS PID Officer.

² A journalist is defined under the PID Act as someone engaged in the profession or occupation of journalism in connection with the publication of information in a medium for dissemination to the public of news and observation of news

No Time Limit on a Disclosure

A disclosure may relate to matters that occurred before the commencement of the PID Act. There is no time limit to the retrospectivity of a disclosure.

However, a claim cannot be made in relation to victimisation that occurred prior to the Act coming into effect on 1 July 2003.

Can information protected by legal professional privilege be disclosed?

The PID Act does not protect disclosures of information protected by legal professional privilege.

Legal professional privilege protects confidential communications between public authorities and their legal advisers, and associated documents.

This protection exists where the communication was made or document was created for the dominant purpose of:

- obtaining or giving legal advice
- with reference to current or contemplated litigation.

Dealing with public interest disclosures

How should a public interest disclosure be made?

The PID Act does not specify a form in which an appropriate disclosure of public interest must be made, however these Guidelines have been prepared in order to provide for the manner in which disclosures of public interest information may be made to CAHS.

Important Note:

It is necessary to enable public interest disclosures to be identified for reporting purposes, and to be distinguished from ordinary complaints made to CAHS.

It is also necessary to ensure that the information identified as information to which the protection and confidentiality provisions of the PID Act apply.

Must a public interest disclosure be investigated?

CAHS is not obliged to investigate every public interest disclosure made to it.

The obligations in relation to investigations do not apply to the Corruption and Crime Commission or the Ombudsman where they have functions in relation to the disclosure under their own legislation. These provisions are made in the legislation.

The PID Act does not give CAHS investigative powers they do not otherwise have. It must look to any other legislation under which it operates under for any investigative powers.

Where CAHS lacks sufficient power to effectively investigate the matter but the information received causes an opinion to be formed that a public body has engaged in improper conduct, CAHS may need to refer the matter to another investigative body (e.g. the WA Police, the Corruption and Crime Commission etc.).

What action must CAHS take following an investigation?

If CAHS does not form a view that a person may be, may have been, or may in the future be involved in improper conduct to which the PID Act applies, it is not required to take further action, other than reporting to the discloser, and recording the outcome.

However, if CAHS forms the view that a person may be, may have been, or may in the future be, involved in improper conduct to which the PID Act applies, then it will be required to take action in relation to the matter.

In taking that action, CAHS remains limited by the powers and functions that are conferred by the legislation under which it operates. The PID Act does not give CAHS any additional powers to take action.

As well as being limited to matters within its functions and powers, any action taken is to be guided by what is considered necessary and reasonable.

Having regard to those matters, CAHS must take action to:

- prevent the matter to which the disclosure relates from continuing or occurring in future
- refer the matter to the Commissioner of Police or another person, body or organisation having power to investigate the matter
- take disciplinary action or commence or enable disciplinary proceedings to commence against a person responsible for the matter.

Important Note:

Any disciplinary action taken must be undertaken in accordance with the WA Health Disciplinary Policy and relevant industrial agreements or instruments.

These options are not mutually exclusive, and CAHS may take more than one of the above steps. For example, CAHS may decide to commence disciplinary action against an officer suspected of stealing and also to refer the matter to the WA Police.

Before taking preventative or disciplinary action, CAHS is to afford any person against whom, or in respect of whom, the action is to be taken the opportunity to make a submission, either orally or in writing, in relation to the matter, unless this would prejudice any Corruption and Crime Commission or criminal investigation.

The above obligations to take action do not apply to the Corruption and Crime Commission or the Ombudsman where they have functions in relation to the disclosure under their own legislation. Provision relating to their actions after investigation is made in their legislation.

Is the discloser given details of the investigation and action taken?

Where CAHS refuses to investigate information disclosed under the PID Act or discontinues an investigation, it must give the discloser reasons for doing so.

Within three months after a disclosure is made, CAHS must notify the discloser of the action taken or proposed to be taken in relation to the disclosure.

A discloser may also request a progress report.

If an investigation is not complete, CAHS may provide a progress report on the current status of the investigation to the discloser.

If an investigation is complete, CAHS must provide a final report to the discloser, stating the outcome of the investigation and the reason for taking action following the investigation.

In providing information and reports to the discloser, CAHS must not give information that, in its opinion, would be likely to adversely affect:

- any person's safety
- the investigation of an offence or possible offence
- necessary confidentiality about the existence or identity of another person who has made a disclosure of public interest information under the PID Act.

The obligations to report do not apply to the Corruption and Crime Commission or the Ombudsman where they have functions in relation to the public interest disclosure under their own legislation.

Can a discloser withdraw a public interest disclosure?

No - once a disclosure of public interest information is made, CAHS is required to investigate it and take action, regardless of the subsequent attitude of the discloser.

In addition, a discloser may forfeit the protection given by the PID Act if they fail, without reasonable excuse, to assist a person investigating the matter to which the information relates by supplying any information requested, unless a Court otherwise orders.

What if a discloser does not agree with the action taken by CAHS?

The PID Act does not provide for any right of appeal against decisions as to investigations and subsequent action that may be taken by CAHS, as a proper authority.

If a discloser is dissatisfied with a decision made by CAHS, they may make a further disclosure of the information to another proper authority. For example, where a discloser is dissatisfied with the response to a disclosure about a matter of administration made to a CAHS PID Officer, the discloser may disclose the information to the Ombudsman.

However, any proper authority to which a subsequent disclosure is made need not investigate the matter if it considers the matter has been adequately or properly investigated by CAHS. In deciding whether this is the case, the second proper authority may need to contact CAHS in relation to its investigation.

Record Keeping

It is extremely important that comprehensive and secure records are kept for each disclosure made.

As well as being normal administrative practice, proper records enable CAHS to give account of their decisions and actions.

The period for which any record should be kept and the manner of disposal must be in accordance with the provisions of the *State Record Act 2000*.

The PID Act also requires CAHS to provide information annually to the Public Sector Commission about the number of disclosures received, investigations conducted and actions taken.

This reporting is conducted by CAHS's Principal PID Officer, in consultation with all CAHS PID Officers.

Code of Conduct and Integrity

Persons who are deemed Proper Authority (CAHS PID Officers) must comply with the Public Interest Disclosure [Code of Conduct and Integrity](#).

Confidentiality and protection for disclosers

What protection does the PID Act provide to disclosers?

The PID Act offers protection to disclosers by:

- providing immunity from legal or other action in relation to the disclosure
- providing for an offence of reprisal
- providing for civil remedies for acts of victimisation
- providing for confidentiality of the identity of the discloser, subject to exceptions
- requiring CAHS to provide protection from detrimental action for disclosers who are their employees.

What immunity do disclosers have?

Making an appropriate disclosure of public interest information to CAHS results in a discloser not:

- incurring any civil or criminal liability
- being liable to any disciplinary action under State law
- being liable to be dismissed or have his or her services dispensed with or otherwise terminated
- being liable for any breach of a duty of secrecy or confidentiality or any other applicable restriction on disclosure.

Is it an offence to take reprisals against a discloser?

Yes - a person must not take, or threaten to take, detrimental action against another because someone has made, or intends to make, a disclosure against the PID Act.

This is the offence of reprisal.

Detrimental action for these purposes includes action causing:

- injury, damage or loss
- intimidation or harassment
- adverse discrimination, disadvantage, or adverse treatment in relation to a person's career, profession, employment, trade, or business
- a reprisal.

A person who attempts to commit the offence of reprisal, or incites another to commit that offence, is also guilty of this offence.

The maximum penalty for the offence of reprisal is a fine of \$24,000 or imprisonment for two years.

This may also be a breach of the WA Health Code of Conduct where the person undertaking reprisal is a Health Service employee.

What remedies does a discloser have against victimisation?

A person who takes, or threatens to take detrimental action against another because someone has made, or intends to make, a disclosure of public interest information, commits an act of victimisation.

A person who is subject to detrimental action may either take civil proceedings for damages or make a complaint under the *Equal Opportunity Act 1984*. Instituting one of these alternative avenues of relief extinguishes the other.

Civil proceedings may be taken against either the perpetrator of the act of victimisation or any employer of the perpetrator.

For example, the employer of the perpetrator may be:

- the State, in the case of public sector officers
- the public authority which employs the perpetrator (e.g. CAHS)
- a public sector contractor whose employees engage in victimisation.

However, an employer may have a defence to civil proceedings for damages where it provides that it:

- was not knowingly involved in the act of victimisation
- did not know and could not reasonably be expected to have known about the act of victimisation
- could not, by the exercise of reasonable care, have prevented the act of victimisation.

A public service employee may apply in writing to his or her employing authority for relocation to avoid suffering from possible or further detrimental action as a result of disclosing public interest information.

Is a discloser's identity to be kept confidential?

Generally, a person must not make a disclosure of information that might identify or tend to identify anyone as a person who has made an appropriate disclosure of public interest information under the PID Act.

This prohibition against releasing information applies both to disclosures that identify a discloser and disclosures that might tend to identify a discloser.

For example, to disclose that a young woman in a small accounts section has made a public interest disclosure about irregularities she has detected in the accounts of a particular area might tend to identify the discloser, even though she is not named.

Exceptions arise where the disclosure of the discloser's identity:

- is made with the discloser's consent
- is made under the *Corruption, Crime and Misconduct Act 2003*
- is necessary, having regard to the rules of [natural justice](#)
- is necessary to enable the matter to be investigated effectively.

In the case of the last three points above, the person making the disclosure must take all reasonable steps to inform the person whose identity is to be disclosed:

- that the disclosure is being made
- the reasons for the disclosure being made.

Those steps to inform the person must be taken a reasonable time before the identifying disclosure is made.

A breach of these confidentiality requirements is an offence punishable with a penalty of \$24,000 or imprisonment for two years.

Managing person(s) subject to disclosure

Is the identity of a person about whom a disclosure is made to be kept confidential?

The protection that the PID Act gives to the discloser is largely mirrored in the protection offered to a person about who disclosed public interest information relates.

A person must not make a disclosure of information that might identify or tend to identify anyone as a person who may be the subject of a disclosure made under the PID Act.

Exceptions arise where:

- the disclosure is made with the consent of that person
- the disclosure is made under the *Corruption, Crime and Misconduct Act 2003*
- the disclosure is necessary to enable the matter to be investigated effectively
- the disclosure is necessary in the course of taking action following the investigation
- there are reasonable grounds to believe that the disclosure of identifying information is necessary to prevent or minimise the risk of injury to any person or damage to any property.

A breach of these confidentiality requirements is an offence punishable with a penalty of \$24,000 or imprisonment for two years.

Providing natural justice

The PID Act requires that natural justice, or procedural fairness, be afforded to those who may be the subject of a public interest disclosure.

An exception to the obligation to keep identifying information confidential arises where, having regard to the rules of natural justice, disclosing identifying information is necessary.

The rules of natural justice will generally include a requirement that, before disciplinary or other action is taken against them, those subject to a disclosure be given the opportunity to:

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

Important Note:

The precise requirements of the rules of natural justice will vary according to the circumstances, and legal advice should be obtained in cases where there is any doubt as to these requirements.

Roles and responsibilities

What is the role of the Public Sector Commissioner?

The role of the Public Sector Commissioner under the PID Act is to:

- develop a Code setting out the minimum standards of conduct and integrity to be complied with by proper authorities
- monitor compliance with the PID Act and the Code
- assist public authorities and public officers to comply with the PID Act and the Code
- prepare and publish guidelines on internal procedures relating to the functions of a proper authority under the PID Act
- report annually to Parliament on the performance of his/her obligations and the compliance or non-compliance with the PID Act and Code
- at any time report to Parliament on any matter arising in connection with the exercise of his/her functions under the PID Act.

What are the responsibilities of CAHS?

The CAHS Chief Executive must ensure that CAHS complies with the PID Act and Code.

In particular, the Chief Executive must:

- designate the occupant of a specified position(s) as the person responsible for receiving disclosures of public interest information, and
- prepare and publish internal procedures relating to CAHS's obligations under the PID Act, which are consistent with the guidelines published by the Public Sector Commission

The Chief Executive must also provide protection from detrimental action or the threat of detrimental action for any employee of CAHS who makes an appropriate disclosure of public interest information.

There is also an obligation to report to the Public Sector Commission annually on:

- the number of disclosures made to CAHS under the PID Act
- the outcome of investigations conducted as a result of disclosures
- the action taken as a result of the investigation
- other matters prescribed.

In order to enable these reports to be consolidated into the Commissioner’s report to Parliament, it will be necessary for the information to be provided in a common format.

Roles and responsibilities of persons directly involved in a public interest disclosure

In the case of a typical public interest disclosure there will be a number of people involved with different roles and responsibilities. The main players and their principal roles and responsibilities are noted in the chart below.

| Who | Role and Responsibilities |
|--|--|
| The discloser | <ul style="list-style-type: none"> • makes a Public Interest Disclosure • Believes on reasonable grounds the information in their disclosure is, or may be, true. • Does not disclose information subject to legal professional privilege. • Does not knowingly and recklessly make a false or misleading disclosure. • Assists any person investigating the matter to which the disclosure relates by supplying the person with any information requested. • maintains confidentiality of the information disclosed and, in particular, the identity of the persons to whom the information relates |
| CAHS (proper authority) | <ul style="list-style-type: none"> • receives a Public Interest Disclosure • considers whether an investigation is required • carries out, or causes to be carried out, any investigation • maintains confidentiality of the identity of the discloser and persons subject to the disclosure, in accordance with the requirements of the PID Act |
| The person about whom the disclosure is made | <ul style="list-style-type: none"> • may be subject to investigation and other action if improper conduct is established • maintains confidentiality of the identity of the informant |

| | |
|--------------------------|---|
| An investigating officer | <ul style="list-style-type: none"> • may conduct investigations of public interest information on behalf of a proper authority, within the terms of reference given • maintains confidentiality of the identity of the discloser and persons subject to the disclosure, in accordance with the requirements of the Act • makes and keeps secure, comprehensive records of any investigation undertaken |
| Principal PID Officer | <ul style="list-style-type: none"> • responsible for recording and maintaining the PID Register, which includes information regarding PIDs made to CAHS and their outcome • coordinates reporting of PID matters to the Public Sector Commission • assists and advises CAHS PID Officers |
| PID Officer | <ul style="list-style-type: none"> • receives public interest information which may be assessed as a disclosure under the PID Act • determines whether the matter falls within the definitions of public interest • determines whether a disclosure is to be investigated and if so, undertakes or arranges to undertake the appropriate investigation • provides periodic reports to the discloser • maintains contact with the Principal PID Officer for CAHS in relation to the progress and finalisation of the disclosure |

Further information

CAHS

Principal PID Officer

Manager Integrity and Ethics

7th Floor, General Administration Building

Princess Margaret Hospital

1 Roberts Road, Subiaco WA 6008

Telephone: (08) 9340 8481

Mobile: 0402 060 353

Email: CAHSIntegrityandEthics@health.wa.gov.au

Public Sector Commission

Dumas House 2
Havelock St
West Perth WA 6005

Telephone: (08) 6552 8888
Facsimile: (08) 6552 8501
Website: www.psc.wa.gov.au/pid
Email: pid@psc.wa.gov.au

For advice or information related to an act or omission that constitutes an offence under a written law, contact:

Corruption and Crime Commission

PO Box 7667 Cloisters Square
St George's Terrace
Perth WA 6850

186 St George's Terrace
Perth WA 6000
Telephone: (08) 9215 4888
Facsimile: (08) 9215 4884
Email: info@ccc.wa.gov.au
Website: www.ccc.wa.gov.au

Commissioner of Police

Police Headquarters
2 Adelaide Terrace
East Perth WA 6004
Toll-free: 1800 809 000
Website: www.police.wa.gov.au

For information about proper use and management of public resources, and more generally on public authorities' accountability and performance requirements, contact:

Office of the Auditor General

7th Floor, Albert Facey House
469 Wellington St
Perth WA 6000

Telephone: (08) 6557 7500
Facsimile: (08) 6557 7600
Email: info@audit.wa.gov.au
Website: www.audit.wa.gov.au

On what may constitute a matter of administration and what can be investigated under Section 14 of the Parliamentary Commissioner Act 1971, contact:

State Ombudsman

PO Box Z5386

St George's Terrace
Perth WA 6831

2nd Floor, Albert Facey House
469 Wellington St

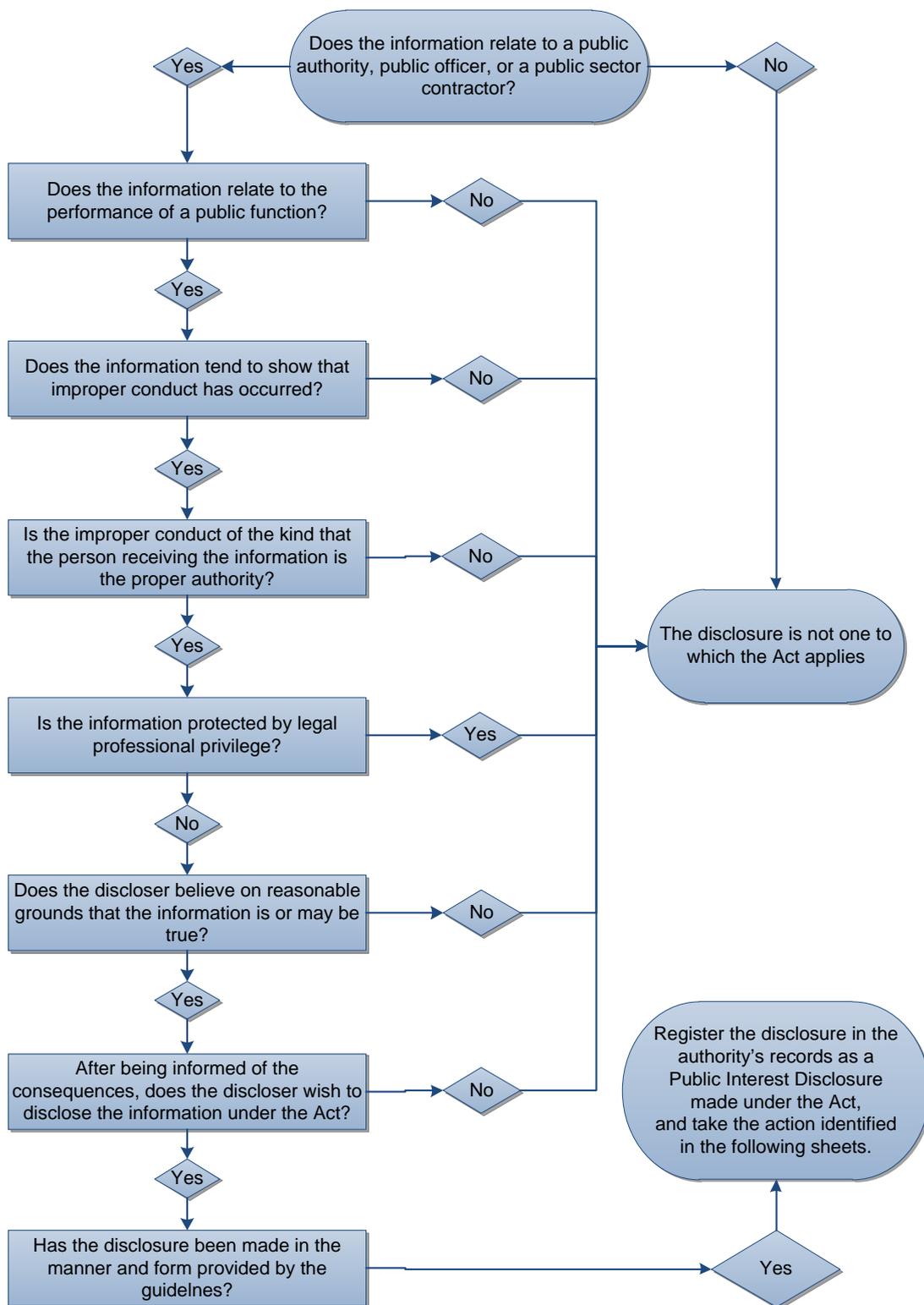
Perth WA 6000

Telephone: (08) 9220 7555
Outside Metro: 1800 117 000
Facsimile: (08) 9220 7500
Email: mail@ombudsman.wa.gov.au
Website: www.ombudsman.wa.gov.au

Appendix 1: Process Flow

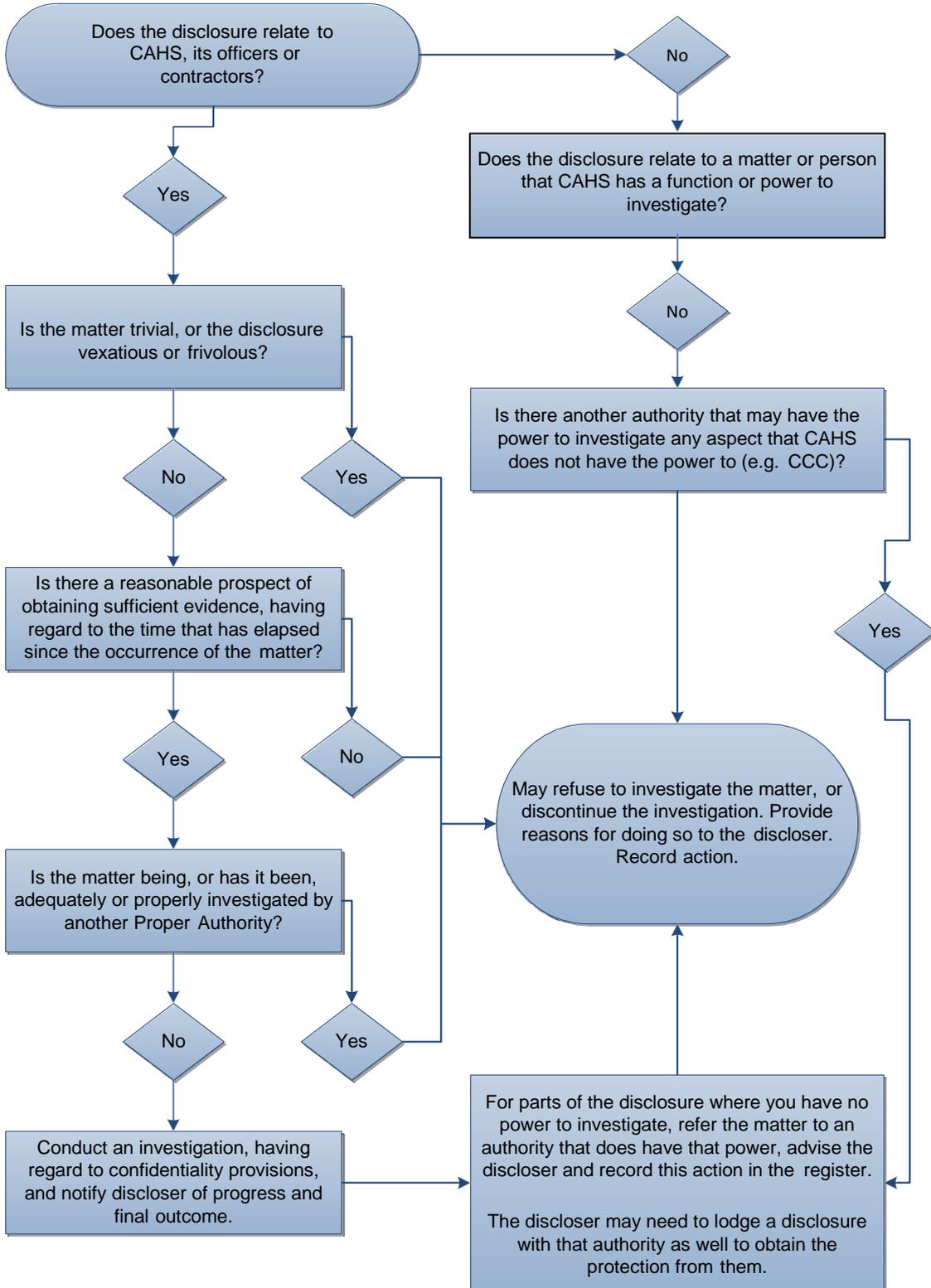
Receiving and Assessing disclosures

Receiving & Assessing Disclosures



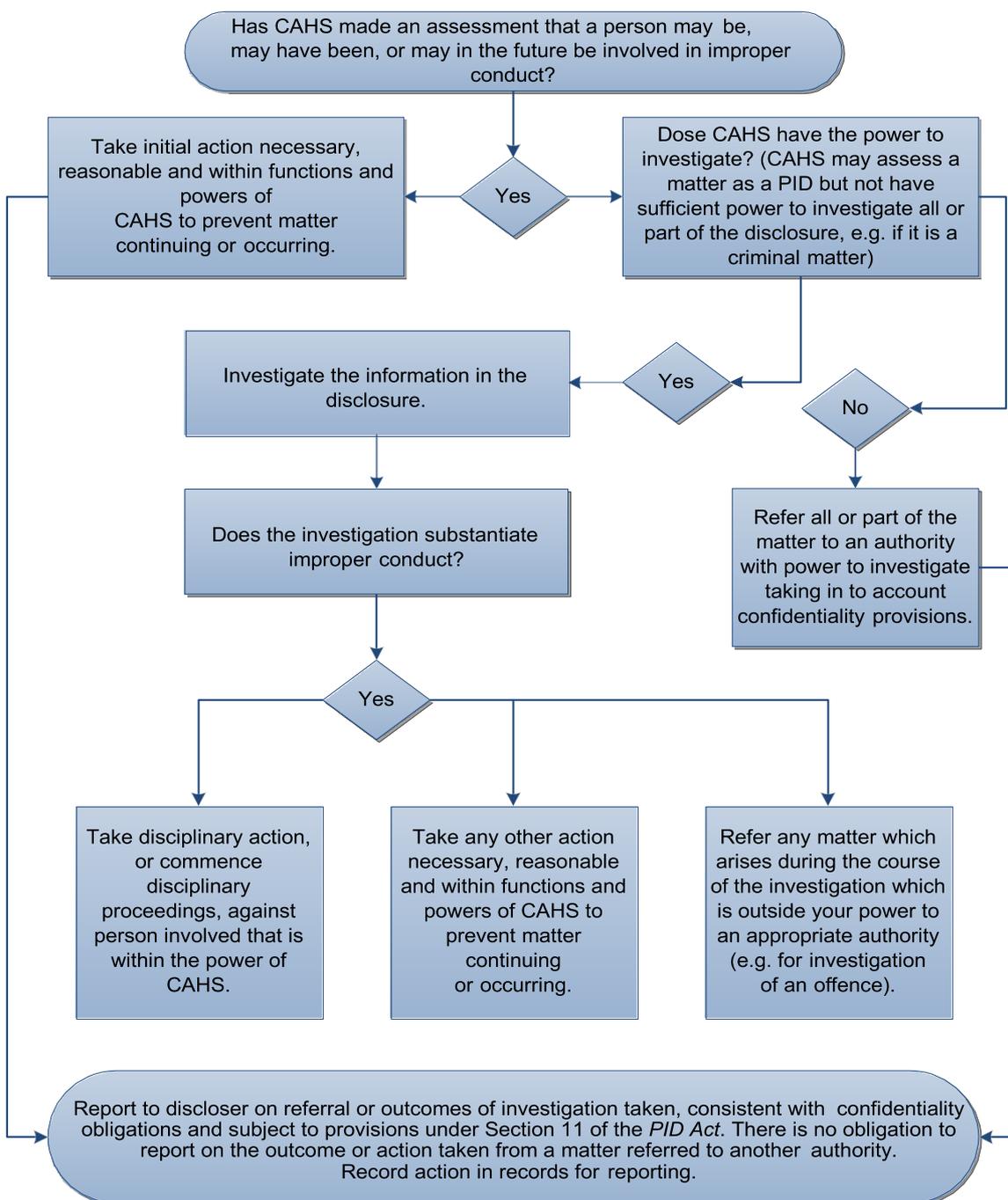
Appendix 2: Process Flow

Investigating information disclosed



Appendix 3: Process Flow

Taking action



Note on Referrals: The confidentiality provisions apply when you refer a matter and the authority to whom the matter is referred is bound by the confidentiality provisions of the *PID Act*. However, they will treat it in accordance with their own powers and are not required to treat the matter as a PID for the purpose of reporting the outcome to the discloser. Nothing precludes the discloser from lodging the matter as a PID in the new authority if they wish to extend the legal protections available to them under the *PID Act* and receive reports from the new authority on the outcome and action taken.

Appendix 4

Public Interest Disclosure Act 2003

 Register #

Assessment Form for a Public Interest Disclosure

Part One: Receiving the disclosure – assessment of whether information is a valid disclosure

| | Tick Box | Notes |
|---|---|-------|
| After being informed of the PID process and their obligations, does the informant wish to disclose the information under the Act? | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| Does the disclosure relate to a public authority, a public officer or a public sector contractor? | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| Does the information relate to the performance of a public function performed by CAHS? | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| Does the information tend to show matters which relate to public interest information ¹ | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| Does the information tend to show public interest information for which the person receiving the information (the PID Officer) is the proper authority? | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| The information is not protected by legal professional privilege. | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| Does the informant believe on reasonable grounds that the information is or may be true? | <input type="checkbox"/> Yes <input type="checkbox"/> No | |

If any of the “No” boxes have been ticked then the disclosure is unlikely to be one that the Public Interest Disclosure Act applies to. The PID officer should ensure a proper record is made of the reasons for the “No” response and should provide his or her response to the discloser.

Public interest information:

- Improper conduct or wrongdoing.
- An offence against State law (the proper authority is WAPOL/CCC).
- An 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

Appendix 5

Public Interest Disclosure Act 2003

| |
|---------------------|
| Register # _____ |
|---------------------|

Assessment Form for a Public Interest Disclosure

Part Two: Internal quality control

| | Tick Box | Notes |
|---|---|--------------------|
| Does the disclosure meet the manner and form required by the Internal Procedures of CAHS? | <input type="checkbox"/> Yes <input type="checkbox"/> No | If no, explain why |

Signature:

I, (name) _____, a Public Interest Disclosure Officer for WA Health, confirm that the disclosure made to me on the _____ day of _____ 20____ by (discloser’s name) _____ is registered as a disclosure under the *Public Interest Disclosure Act 2003* in the Public Interest Disclosure Register of CAHS.

Signed:
PID Officer
 Date:

Appendix 6

Public Interest Disclosure Act 2003

| |
|---------------------|
| Register # _____ |
|---------------------|

Assessment Form for a Public Interest Disclosure

Part Three: Assessment of whether the disclosure should be investigated

| | Tick Box | Notes |
|---|---|-------|
| Does the disclosure relate to the proper authority, its officers or contractors? | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| Does the disclosure relate to a matter or person that the authority has a function or power to investigate? | <input type="checkbox"/> Yes <input type="checkbox"/> No | |

If any of the “No” boxes have been ticked then the disclosure is unlikely to be one that the Public Interest Disclosure Act requires be investigated. The PID officer should ensure a proper record is made of the reasons for the “No” response and should provide his or her response to the discloser.

| | Tick Box | Notes |
|------------------------------|---|-------|
| Is the matter trivial? | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| Is the disclosure vexatious? | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| Is the disclosure frivolous? | <input type="checkbox"/> Yes <input type="checkbox"/> No | |

If any of the “Yes” boxes have been ticked then the disclosure is unlikely to be one that the Public Interest Disclosure Act requires be investigated. The PID officer should ensure a proper record is made of the reasons for the “Yes” response and should provide his or her response to the discloser.

| | Tick Box | Notes |
|---|---|-------|
| Is there a reasonable prospect of obtaining sufficient evidence, having regard to the time that has elapsed since the occurrence of the matter? | <input type="checkbox"/> Yes <input type="checkbox"/> No | |

If the “No” box has been ticked then the disclosure is unlikely to be one that the Public Interest Disclosure Act requires be investigated. The PID officer should ensure a proper record is made of the reasons for the “No” response and should provide his or her response to the discloser.

| | Tick Box | Notes |
|---|---|-------|
| Is the matter being, or has the matter been, adequately or properly investigated by another proper authority under the Act? | <input type="checkbox"/> Yes <input type="checkbox"/> No | |

If the “Yes” box has been ticked then the disclosure is unlikely to be one that the Public Interest Disclosure Act requires be investigated. The PID officer should ensure a proper record is made of the reasons for the “Yes” response and should provide his or her response to the discloser.

Signature:

I, (name) _____, a Public Interest Disclosure Officer for WA Health, confirm that the public interest disclosure made to me on the _____ day of _____ 20____ by (discloser’s name) _____ in my opinion meets/does not meet (delete one) the requirements for a public interest disclosure to be investigated.

I also confirm that I have recorded this opinion in the Public Interest Disclosure Register of CAHS.

Signed:
(PID officer)

Date:

Appendix 7

Public Interest Disclosure Act 2003

| |
|---------------------|
| Register # _____ |
|---------------------|

Assessment Form for a Public Interest Disclosure

Part Four: Investigation

Details of the Investigating Officer

Investigating Officer's Name:

Normal Designation of

Investigating Officer:

Address:

Contact Telephone Number:

Email address:

Date Investigation Authorised

by the Proper Authority:

Details of Authorisation:

| Review of the investigation process | Tick Box | Notes |
|--|---|-------|
| Has the documentation 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 - <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 natural justice rules followed? | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| Was a report prepared? | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| Was the discloser advised of the action taken or proposed to be taken within 3 months of disclosure? | <input type="checkbox"/> Yes <input type="checkbox"/> No | |

The investigation process is not prescribed under the Public Interest Disclosure Act, but the above serves as a useful checklist for a proper investigation.

Recommendation

It is recommended that the proper authority form the opinion that:

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Signature:

I, (name) _____, the investigating officer appointed by CAHS to investigate the public interest disclosure number (file reference number) _____ confirm that the above is a summary of my investigation undertaken as a result of a disclosure made in accordance with the *Public Interest Disclosure Act 2003*.

Signed:

(Investigating Officer for WA Health)

Date:

Appendix 8

Public Interest Disclosure Act 2003

Register #

Assessment Form for a Public Interest Disclosure

Part Five: Further Action

| | Tick Box | Notes |
|---|---|-------|
| Does the proper authority accept the recommendation contained in Part Four? | <input type="checkbox"/> Yes <input type="checkbox"/> No | |

If the 'yes' box has been ticked, please indicate action to be taken by proper authority.

Action taken by the proper authority

| | Tick Box | Notes |
|---|---|-------|
| Take action necessary, reasonable and within functions and powers of proper authority to prevent matter continuing or occurring | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| Refer matter to another body with power to investigate the matter | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| Take disciplinary action, or commence disciplinary proceedings, against person involved, within power of proper authority | <input type="checkbox"/> Yes <input type="checkbox"/> No | |

Report to discloser on outcome of investigation and action taken, or to be taken consistent with confidentiality obligations. Record action(s) in records for reporting.

Signature:

I, (name) _____ a Public Interest Disclosure Officer for CAHS confirm that the above action was taken or will be taken following the public interest disclosure made by (discloser's name) _____ and that I have recorded the outcome of the investigation and the action taken or to be taken in the Public Interest Disclosure Register of WA Health.

Signed:

(PID Officer)

Date:

Appendix 9

Public Interest Disclosure Act 2003

Public Interest Disclosure Lodgement Form

This is an official lodgement form for a disclosure made under the *Public Interest Disclosure Act 2003*.

A discloser should ensure that they fully understand the rights and responsibilities required under this legislation before the form is completed and signed.

Appropriate advice should be gained before any disclosure is made.

| | | |
|-----------------|---|-------------------|
| Title: | <input type="checkbox"/> Mr <input type="checkbox"/> Ms <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Dr <input type="checkbox"/> Other: | |
| Family Name: | | |
| Given Name/s: | | |
| Gender: | <input type="checkbox"/> M <input type="checkbox"/> F | |
| Address: | | |
| Home Telephone: | | Mobile Telephone: |
| Work Telephone: | | |
| Email: | | |

| Disclosure details | |
|--|---|
| Name of the Public Authority(ies) to which the disclosure relates: | |
| 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, please provide names | |

| | |
|---|--|
| and positions held by person(s) in the public authority | |
| | |
| | |

| Please tick box(es) on the area relevant to your disclosure: | |
|---|--|
| <input type="checkbox"/> Improper conduct | <input type="checkbox"/> Irregular or unauthorised use of public resources |
| <input type="checkbox"/> An offence under State law, including corruption | <input type="checkbox"/> Substantial unauthorised or irregular use of, or substantial mismanagement of public resources |
| <input type="checkbox"/> Administration matter(s) affecting you | <input type="checkbox"/> Conduct involving a substantial and specific risk of injury to public health, prejudice to public safety or harm to the environment |

| When did the alleged events occur? |
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| Summary of disclosure: |
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| Summary of disclosure continued |
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Description of any documentation provided or names of witnesses:

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Have you reported this information to any other person or agency?

- Yes
- No

If yes, please provide details

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Acknowledgment

I acknowledge that I believe on reasonable grounds that the information contained in this disclosure is or may be true.

I have been informed and am aware that:

- I will commit an offence if I know that the information contained in this disclosure is false or misleading in a material particular, or 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 protection provided by the *Public Interest Disclosure Act 2003* if I fail, without reasonable excuse, to assist a person investigating the matter by supplying requested information

- I will forfeit the protection provided by the *Public Interest Disclosure Act 2003* if I subsequently disclose this information to any person other than a proper authority under the Act

- 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 *Public Interest Disclosure Act 2003*, except in accordance with section 16(3) of that Act

Penalty: \$24,000 or imprisonment for two (2) years

Signed: _____

Date: _____

For Office Use Only:

Register Number: _____

Appendix 10

Public Interest Disclosure Act 2003

Register #

Consent to Disclose Identifying Information

| Personal Details | | | | | |
|------------------|--|--|-------------------|-----------------|--|
| Title: | <input type="checkbox"/> Mr <input type="checkbox"/> Ms <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Dr <input type="checkbox"/> Other: | | | | |
| Family Name: | | | | | |
| Given Name/s: | | | | | |
| Gender: | <input type="checkbox"/> M <input type="checkbox"/> F | | | | |
| Address: | _____ _____ | | | | |
| Home Telephone: | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;"></td> <td style="width: 40%; background-color: #e0e0e0;">Mobile Telephone:</td> </tr> <tr> <td style="padding: 5px;">Work Telephone:</td> <td style="padding: 5px;"></td> </tr> </table> | | Mobile Telephone: | Work Telephone: | |
| | Mobile Telephone: | | | | |
| Work Telephone: | | | | | |
| Email: | | | | | |

Please tick relevant box(es):

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 the *Public Interest Disclosure Act 2003*.

Consent to disclosure of identifying information by a person in respect of whom a public interest disclosure has been made:

- 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 under the *Public Interest Disclosure Act 2003*.

Limitations on consent (optional)

This consent only applies to disclosures made to the following persons:

| |
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This consent only applies to the following information:

| |
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Signed: _____

Date: _____

Appendix 11

Public Interest Disclosure Act 2003

Register #

Notification of Disclosure of Identifying Information

| | | | |
|-----------------|---|--|-------------------|
| To: | | | |
| Title: | <input type="checkbox"/> Mr <input type="checkbox"/> Ms <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Dr <input type="checkbox"/> Other: | | |
| Family Name: | | | |
| Given Name/s: | | | |
| Gender: | <input type="checkbox"/> M <input type="checkbox"/> F | | |
| Address: | _____ _____ | | |
| Home Telephone: | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;"></td> <td style="width: 40%; text-align: center;">Mobile Telephone:</td> </tr> </table> | | Mobile Telephone: |
| | Mobile Telephone: | | |
| Work Telephone: | | | |
| Email: | | | |

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 the *Public Interest Disclosure Act 2003*.

The disclosure of this information: *[Please tick relevant box(es)]*

- Is necessary, having regard to the rules of natural justice
- Is necessary to enable the matter to be investigated effectively

The reason(s) why the disclosure of this information is necessary for these purposes / this purpose is that (specify reason):

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I have taken all reasonable steps to provide this information to you a reasonable time prior to making the 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 the *Public Interest Disclosure Act 2003*.

| | |
|-----------------|--|
| Signed: | |
| Date: | |
| Family Name: | |
| Given Name/s: | |
| Position Title: | |
| Contact Number: | |
| Email: | |

Once completed, please forward to:
 –CAHS Integrity Unit
 Email: CAHSIntegrity@[health.wa.gov.au](mailto:CAHSIntegrity@health.wa.gov.au)

Public Interest Disclosure Act 2003

Public Interest Disclosure Officer’s Declaration

| | |
|--|--|
| Name of PID Officer: | |
| Position of PID Officer in Public Authority: | |
| Name of Public Authority: | |
| Address: | |
| Telephone: | |
| Facsimile: | |
| Email: | |

| |
|---|
| <p>** For newly designated PID Officer positions only **</p> <p>What is the reason for this position becoming a PID Officer position?</p> <p><i>(NOTE: Public Sector Commission suggests that in deciding which position to designate, regard should be given to the occupant of the position’s knowledge of the PID Act and other relevant legislation and policies, as well as their seniority and standing with the authority.)</i></p> |
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|--------------------------------------|--|
| Date of Commencement as PID Officer: | |
| Date training received: | |
| PID Officer published?: | <input type="checkbox"/> Yes <input type="checkbox"/> No |

I declare that I understand my obligations as a PID Officer for the above authority.

In particular, I am aware that it is an offence to make a disclosure of information that might identify or tend to identify anyone:

- as a person who has made a public interest disclosure under the Act, or
- as a person in respect of whom such a disclosure has been made except in accordance with the Act.

Signed by PID Officer: _____

Date: _____

Signed by CE/ Principal Executive Officer: _____

Date: _____

| Office Use Only | |
|-----------------|---|
| On Register: | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Published: | <input type="checkbox"/> Yes <input type="checkbox"/> No |



DRAFT



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