

October 2013

Responsibilities of principal officers of Commonwealth agencies

Principal officers of Commonwealth agencies (that is, departmental secretaries, agency heads and chief executive officers) have important responsibilities under the *Public Interest Disclosure Act 2013* (PID Act) to promote reporting of suspected wrongdoing in public administration, protect people who make disclosures and take action.

KEY OBLIGATIONS

As a principal officer you need to:

- ✓ Establish procedures for your agency to facilitate and deal with public interest disclosures
- ✓ Ensure staff are aware of the procedures and the protections available
- ✓ Appoint authorised officers to receive disclosures
- ✓ Ensure disclosures are properly investigated
- ✓ Protect staff from detriment or threats of detriment if they make a disclosure
- ✓ Take appropriate action in response to an investigation report
- ✓ Provide information to the Ombudsman or Inspector-General of Intelligence and Security.

Each of these is discussed in more detail below.

ESTABLISH AGENCY PROCEDURES

Your leadership is critical in promoting an environment that encourages people to report suspected wrongdoing. A clear statement by you of the agency's commitment to the highest standards of ethical and accountable conduct and support for staff who make a public interest disclosure will greatly influence the success of the scheme. You have an essential role in ensuring that your senior managers fully support reporting wrongdoing and are committed to ensuring appropriate action is taken.

The PID Act requires you to put in place procedures for facilitating and dealing with public interest disclosures relating to your agency. A disclosure may be made by a former or current agency staff member or by a service provider under a Commonwealth contract. Your agency may also be allocated a disclosure that was received in another agency.

Your agency procedures must include an assessment of risks that reprisals may be taken, and provide for confidential investigative processes. The procedures must conform with standards made by the Ombudsman (these are legislative instruments that will be published on ComLaw and will be accessible through the Ombudsman's website). Many Australian Government agencies will be able to adapt their procedures for protecting whistleblowers under the *Public Service Act 1999*, while other agencies will need to develop new procedures.

ENSURE STAFF AWARENESS

All staff need to be aware what a public interest disclosure is, what action to take if they suspect wrongdoing, how disclosures are dealt with and what protections are available. Employees who are prepared to speak up about misconduct or other wrongdoing are recognised as one of the most important and accurate sources of information to address problems in administration. Because a person may make a disclosure to their supervisor or an authorised officer, managers and supervisors need to be trained in handling disclosures and ensuring that staff are supported. Your agency procedures should be easily available on your agency's intranet and website for public officials outside your agency. Regular staff training and awareness strategies should be in place.

APPOINT AUTHORISED OFFICERS

You must appoint authorised officers to receive public interest disclosures. Ensure that there is a sufficient number to be readily accessible to people who seek advice about the process or want to make a disclosure, and that their contact details are easy to find. Experienced and skilled people should be in these important roles, as their responsibilities include determining if matters are public interest disclosures, allocating them for investigation and receiving allocations from other agencies. Specialist areas, such as ethical standards, internal audit and human resources units, are useful but you may also need to take account of geographical locations.

INVESTIGATE

You need to ensure that disclosures are received, assessed and investigated in accordance with the PID Act, standards issued by the Ombudsman and your agency's internal procedures, as well as the Commonwealth Fraud Control Guidelines or Code of Conduct investigation procedures if those are relevant. You may appoint a staff member to investigate on your behalf. Investigations must be completed within 90 days unless the Ombudsman (or the Inspector-General in relation to intelligence agencies) grants an extension.

The identity of a person making a disclosure and anyone who is subject to it must be kept confidential as far as that is practicable. It is an offence to provide identifying information about a person who makes a disclosure without their consent unless authorised by the PID Act. Adequate resources must be provided to any person appointed to investigate a disclosure. At the end of the investigation, a report must be prepared and a copy provided to the person who made the disclosure, subject to any necessary deletions.

PROTECT STAFF

Your agency must have appropriate systems and strategies in place to provide support to a person who makes a disclosure and minimise any risk of detrimental action against them. In some cases nominating a support officer may be helpful. Allegations of reprisal must be taken seriously, and prompt action must be taken against anyone who threatens or takes reprisal action.

TAKE APPROPRIATE ACTION

If an investigation finds misconduct, maladministration or other wrongdoing, you need to ensure that appropriate remedial action is taken in response to the recommendations and any other matters raised in the investigation report. This may include new or revised practices or procedures to address systemic issues, internal audits, staff training, counselling or disciplinary action, or referral to the police if criminal conduct is involved.

PROVIDE INFORMATION

The Ombudsman (or the Inspector-General of Intelligence and Security (IGIS) in relation to intelligence agencies) must be advised that your agency has received a public interest disclosure and of a decision not to investigate, with reasons for that decision. If the Ombudsman or IGIS receive a disclosure relating to your agency, you must ensure that full cooperation and assistance are provided. You must also provide information to assist the Ombudsman in preparing the annual report on the operation of the PID Act.

For further information about meeting your obligations and responsibilities under the PID Act, see www.pid.ombudsman.gov.au.

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