

Changes to the PID Scheme

Key changes to the *Public Interest Disclosure Act 2013* from 1 July 2023

INTEGRITY WRONGDOING

While the PID framework will continue to facilitate disclosures about a wide range of integrity wrongdoing, from 1 July 2023 disclosures about personal work-related conduct are not covered by the PID Act, unless:

- » the conduct constitutes reprisal action, or
- » the conduct is of such a significant nature it would undermine public confidence in, or has other significant implications for, an agency (or agencies).

Personal work-related conduct is where one official engages in conduct that relates to another official's engagement, appointment or the exercise of their functions or powers, and the conduct has personal implications for that second official. This includes, but is not limited to, bullying and harassment, conduct relating to the terms and conditions of engagement and disciplinary action (including Code of Conduct investigations).

If a disclosure relates to both personal work-related conduct and other types of wrongdoing, it will still be covered by the PID Act as long as the other type of wrongdoing meets the definition of disclosable conduct.

OVERSIGHT OF THE PID SCHEME

From 1 July 2023:

- » the Commonwealth Ombudsman or the Inspector-General of Intelligence and Security (IGIS) will receive a copy of all investigation reports and may make recommendations

about investigation reports without a complaint having been made.

- » intelligence agencies and agencies with intelligence functions must notify IGIS of an urgent disclosure within 1 business day after a disclosure is received, and within 14 days for non-urgent disclosures, and must give regular written notice to IGIS of the investigation progress and expected timeframes.
- » the Commonwealth Ombudsman must report to Parliament on the PID scheme every six months, instead of annually.

PROTECTIONS FOR DISCLOSERS AND WITNESSES

From 1 July 2023:

- » Public officials are protected from reprisal that is taken because a person believed or suspected that they have made, may have made, propose to make or could make a public interest disclosure.
- » Reprisal clarified as including harassment or intimidation, harm or injury to a person, and any damage to a person (including their property, reputation or business or financial position), in addition to the existing types of employment-related harm. It includes conduct that causes detriment as well as direct and indirect threats.
- » Witnesses who assist with PID investigations have comparable protections to disclosers – protection against reprisal and immunity from civil, criminal and administrative liability.
- » Stronger requirements for agencies to protect their public officials against reprisal.

ADMINISTRATIVE PROCESSES

From 1 July 2023, agencies will be able to:

- » allocate a PID investigation to another agency within their portfolio that is better able to handle the disclosure
- » decide not to allocate or investigate a disclosure if it would be more appropriately investigated under another Commonwealth law or power – if this occurs, agencies must refer, or facilitate the referral of, the matter for investigation under that law or power. PID Act protections continue to apply.
- » more easily share information about a disclosure with another agency if it is relevant to that agency's functions, as the general secrecy offence has been repealed.

For further information see
www.ombudsman.gov.au.

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