

The logo for Export Finance Australia is located in the top left corner. It consists of the words "export", "finance", and "australia" stacked vertically in a white, sans-serif font. The text is enclosed within a black rectangular border that has a thin orange and green line along its inner edge.

**export
finance
australia**

A decorative graphic on the right side of the page features three overlapping chevrons pointing to the right. The chevrons are rendered in a light green color with a white-to-transparent gradient, creating a sense of depth and movement.

PUBLIC INTEREST DISCLOSURE PROCEDURES

Effective Date: October 2023

1. Purpose

This document contains the detailed procedures under s 59(3) of the *Public Interest Disclosure Act 2013* (Cth) (**PID Act**) for receiving, managing and investigating internal public interest disclosures for the purposes of the PID Act and as set out in our [Public Interest Disclosure Policy](#).

We are committed to the highest standards of ethical and accountable conduct. We encourage the reporting of wrongdoing under the PID Act. We will act on disclosures as appropriate and protect disclosers and other persons from any reprisals or threats of reprisals as a result of making a disclosure.

2. Making a Public Interest Disclosure

An internal public interest disclosure (**PID**) is when a current or former **Public Official** discloses information about **Disclosable Conduct** to an authorised internal recipient. A current or former Public Official can make an internal PID about a suspected wrongdoing to their manager or supervisor or to an **Authorised Officer** in this agency, or to the Ombudsman. If the conduct relates to another agency a Public Official can alternatively make the PID to an Authorised Officer in that agency, and in relation to intelligence agencies and certain agency's intelligence functions the PID can be made to the IGIS (see the [website of the Commonwealth Ombudsman](#) for more information).

A list of Authorised Officers in our organisation is available on our [website](#). The PID to an Authorised Officer in our organisation can be made in person, by telephone (+61 2 8273 5333) or in writing by post (Attention: Export Finance Australia Public Interest Disclosure Authorised Officer, Level 10, 22 Pitt Street, Sydney NSW 2000) or via the dedicated form on our [website](#).

To be a PID, the disclosure needs to disclose information that tends to show, or the Discloser believes on reasonable grounds that the information tends to show, one or more instances of Disclosable Conduct. A disclosure made in the course of performing the Discloser's ordinary functions as a Public Official is not a PID.

A PID may be made anonymously although this may prevent a full investigation of the disclosure.

The information in the disclosure should:

- be clear and factual;
- avoid speculation, personal attacks and emotive language;
- provide supporting evidence where available; and
- where possible, identify any witnesses to the conduct.

The **Discloser** should not investigate a matter themselves before making a disclosure.

Once a PID has been made, it cannot be withdrawn. But a Discloser may state that they do not wish the disclosure to be investigated and they may refuse to consent to their name and contact details being provided to the **Principal Officer** and delegate.

A person who has made a disclosure under the PID Act should not discuss the details of their disclosure with anyone who does not have a need to know about it. Discussions with these people will not be protected by the PID Act.

3. Procedures for managers and supervisors

Where a Public Official discloses information to their manager or supervisor and the supervisor has reasonable grounds to believe that the information concerns, or could concern, Disclosable Conduct, the supervisor must report the matter to an Authorised Officer in a timely and confidential manner.

Before referring a disclosure to an Authorised Officer, the manager or supervisor must:

- explain to the Discloser,
 - the disclosure could be treated as an internal disclosure;

- the supervisor's obligations to pass the information to an Authorised Officer, that the Authorised Officer may allocate the disclosure to be investigated, and a principal officer in the agency which the disclosure is allocated to may conduct an investigation;
- the circumstances where a disclosure must be referred to another agency or body for investigation;
- the Discloser is protected from civil and criminal liability in certain circumstances and that they, as well as those involved in providing assistance during the process, are protected from reprisal action being taken against them;
- take a written record of the facts of the disclosure, including the time and date of the disclosure;
- if the Discloser wishes to remain anonymous, complete an assessment of any risks that reprisal action might be taken against the Discloser and ensure the information contained in the disclosure does not reveal their identity; (see **4.3. Conducting a risk assessment**)
- obtain the Discloser's consent to disclose their name and contact details to the Authorised Officer; and
- ask the Discloser to sign the record of the disclosure, where this is practicable.

At the time a manager or supervisor gives information to an Authorised Officer, the manager or supervisor must also:

- give the Authorised Officer all records in relation to the disclosure;
- if the person wishes to remain anonymous, give the Authorised Officer their written assessment of the risk of reprisal; and
- if the supervisor or manager is able to contact the Discloser, they must inform the Discloser they have given the information to an Authorised Officer and advise the Discloser of the name and contact details of that Authorised Officer.

If the supervisor is unsure whether a disclosure meets the requirements for a PID, the supervisor is to refer the matter to an Authorised Officer to assess it before taking any further action.

Managers and supervisors must treat disclosures with the highest degree of confidentiality. For further information please refer to our Public Interest Disclosure Policy.

More guidance for supervisors is available at www.ombudsman.gov.au and in the Ombudsman's "Agency Guide to the Public Interest Disclosure Act 2013".

4. Procedures for Authorised Officers¹

4.1. Advice to Disclosers and potential Disclosers of the PID Act

Where the Authorised Officer has reasonable grounds to believe that the Discloser may be unaware of the PID Act requirements, the Authorised Officer must:

- inform the Discloser that the information could be treated as an internal disclosure;
- explain the requirements of the PID Act for a disclosure to be an internal disclosure;
- advise the circumstances where a disclosure must be referred to another body or agency; and
- advise of any orders or directions that are 'designated publication restrictions' (within the meaning of the PID Act) that may affect disclosure of the information.

4.2. Assessing the potential internal PID

Where a disclosure has been made to an Authorised Officer, the Authorised Officer must:

- take a written record of the facts of the disclosure, including the time and date of the disclosure;
- ask the Discloser to sign the record of the disclosure, where this is practicable;
- complete an assessment of any risks that reprisal action might be taken against the Discloser and any other person that might be at risk;
- ask whether the Discloser consents to their name and contact details being disclosed to the Principal Officer;

¹ See also the guidance at www.ombudsman.gov.au and in the Ombudsman's "Agency Guide to the Public Interest Disclosure Act 2013".

- decide if the disclosure involves conduct by a **Staff member** in the agency that the Authorised Officer suspects could be serious or systemic corruption. If so, the Authorised Officer must refer it as soon as reasonably practicable to the National Anti-Corruption Commission (or, in the case of an intelligence agency, the IGIS or the NACC). If referred to the NACC and the NACC issues a 'stop action' direction preventing the allocation of the disclosure, a record of that instruction must be kept. The written record must include details of the direction, including when the direction was made and when the stop action no longer applies.
- decide whether to allocate the PID to the Principal Officer and/or another agency, or not to allocate the disclosure within 14 days of becoming aware of the disclosure.
 - Where the disclosure is allocated or reallocated the Authorised Officer must keep a record of:
 - the decision (including the name of each agency to which the disclosure is to be allocated);
 - the reasons for the decision; and
 - the consent of the receiving agency, if the disclosure is allocated to another agency.
 - Where the disclosure is not allocated the Authorised Officer must keep a record of:
 - the decision; and
 - the reasons for the decision.
- inform the Discloser of the allocation decision if reasonably practicable. The Authorised Officer must keep written records detailing:
 - whether the notice was given to the Discloser and if not, why not;
 - if the notice was given to the Discloser, the following:
 - the day and time the notice was given to the Discloser;
 - the means by which the notice was given to the Discloser; and
 - the matters included in the notice.
 - in the case of a notice of a stop-action direction, whether the Principal Officer considers that it is reasonably practicable or appropriate for the Discloser to be given a copy of the notice.
- inform the Commonwealth Ombudsman of their allocation decision.

Where the Authorised Officer declines to allocate a disclosure because they are satisfied on reasonable grounds that the conduct would be more appropriately investigated under another law or power, the Authorised Officer must, as soon as practicable take steps to refer the matter for investigation.

4.3. Conducting a risk assessment

As soon as possible after a PID is received, an Authorised Officer must assess the risk that reprisal may be taken against the Discloser or any other witness or Public Official who may be at risk. If the PID is made to their manager or supervisor and the person wishes their identity to remain anonymous, the manager or supervisor must conduct the risk assessment.

The risk assessment takes the following form:

i) Identify

The risk assessment should consider and identify indicators of higher risk of reprisals or workplace conflict.

ii) Assess

The person assessing the risk should consider:

- the likelihood of reprisals or related workplace conflict occurring; and
- the potential consequences if they do occur – both to the Discloser's or other person's immediate and long term wellbeing and the cost to the agency.

The person assessing the risk may request additional information and may make inquiries of the Discloser or any other person as part of their assessment.

iii) Control

The person assessing the risk will plan and implement strategies to control the risks likely to expose a Discloser or other person to reprisals or related workplace conflict.

They may consult Risk & Compliance for assistance with this risk assessment.

The Discloser or other person will be consulted before any decision is made.

iv) Monitor and Review

The risk assessment should be monitored and reviewed by the risk assessor as necessary throughout the PID process including by checking with the Discloser or other person to see if reprisals have been made or threatened.

5. Procedures for the Principal Officer (or delegate)

5.1. Consideration whether to investigate the disclosure

Within 14 days of being allocated a PID, the Principal Officer must provide to the Discloser information of their discretionary powers to make the decision not to investigate or to investigate, or to refer the disclosure to be investigated under another law.

The Principal Officer will then consider whether to exercise their powers under section 48² of the PID Act not to investigate the disclosure. A Principal Officer cannot be satisfied that the conduct disclosed would be more appropriately investigated under another law or power only because the conduct disclosed raises a corruption issue.

Where the Principal Officer decides not to investigate a disclosure, they will:

- inform the Ombudsman in writing of that decision and the reasons for that decision; and
- if reasonably practicable to contact the Discloser, inform the Discloser of that decision, of the reasons for the decision and the actions taken, or proposed to be taken to refer the disclosure for investigation under another law, if applicable.

Where the Principal Officer cannot investigate the disclosure, or investigate it further, due to a stop action direction from the National Anti-Corruption Commissioner, they must inform the Discloser.

Where the Principal Officer decides to investigate the disclosure, they will, as soon as reasonably practicable, inform the Discloser:

- that they are required to investigate the disclosure; and
- of the estimated length of the investigation.

6. Procedures for the investigation

6.1. Investigate the disclosure

If the Principal Officer (or delegate) continues to investigate, they will investigate whether there are one or more instances of **Disclosable Conduct**.

i) General requirements

The following general requirements will apply to the conduct of the investigations:

- the investigation is required to be conducted confidentially;
- the investigation will be conducted in accordance with the principles of procedural fairness;
- a person who is the subject of the investigation will have an opportunity to respond or provide information;
- the investigation must comply with the requirements of the PID Standard 2013 and the PID Act.

If a disclosure relates to conduct relating to any other internal policies or procedures, the processes set out in these policies or procedures must be complied with in the conduct of any investigation under these procedures.

ii) Obtaining information

Instances of Disclosable Conduct may relate to information that is disclosed, information provided in the initial disclosure or information obtained in the course of the investigation (unless the Principal Officer

² Guidance can be found in the "Agency Guide to the Public Interest Disclosure Act 2013", which can be found at www.ombudsman.gov.au.

conducting the investigation is satisfied on reasonable grounds that such information is tangential or remote to the disclosure).

During the investigation, the Principal Officer may, for the purposes of the investigation, obtain information from such persons and make such inquiries as they see fit. All Public Officials are required to use their best endeavours to assist in the conduct of an investigation.

When being interviewed as part of an investigation, an interviewee will be informed of the following:

- the identity and function of each individual conducting the interview;
- the process of conducting an investigation;
- the authority of the Principal Officer under the PID Act to conduct the investigation;
- the protections provided to witnesses under Part 2 of the PID Act; and
- the person's duty:
 - if they are a Public Official – to use their best endeavours to assist the investigators in the conduct of an investigation under the PID Act (subject to the Public Official's privilege against incriminating themselves);
 - not to take or threaten to take reprisal action against the Discloser or any other person; and
 - subject to the PID Act, not to disclose the identity of the person who made the disclosure.

The Principal Officer or investigator will ensure:

- an audio or visual recording of the interview is not made without the interviewee's knowledge;
- when the interview ends, the interviewee is given an opportunity to make a final statement or comment or express a position; and
- any final statement, comment or position by the interviewee is included in the record of the interview.

iii) Procedural fairness

Procedural fairness does not require that a person, against whom allegations are made, must be advised as soon as the disclosure is received or as soon as an investigation is commenced. Procedural fairness also does not require that the person, against whom allegations are made, is entitled to know the substance of allegations against them if an adverse finding is not going to be made about their conduct.

Procedural fairness does not equate to a right to know the identity of the Discloser who has alleged that the person has committed wrongdoing. However, the person may be able to guess the Discloser's identity because the substance of the allegations makes it evident.

Where the investigator, in preparing the report of their investigation, proposes to make a finding of fact or express an opinion that is adverse to the Discloser, to a Public Official who is the subject of the disclosure or to another person, the investigators must give the person who is the subject of that proposed finding or opinion a copy of the evidence that is relevant to that proposed finding or opinion and must give the person a reasonable opportunity to comment on it.

The above paragraph will not apply where the investigation does not make substantive findings or express adverse opinions but instead simply recommends or decides that further investigation action should or should not be taken or will or will not be taken.

The investigators must ensure that a finding of fact in a report of an investigation complies with the evidentiary requirements in the Public Interest Disclosure Standards (or any other standard issued under the PID Act).

iv) Time Limits

The investigator has 90 days from the date the disclosure was allocated to complete the investigation.

It is possible to seek one or more extensions of time from the Ombudsman.

A request to the Ombudsman for an extension of time must be made in a reasonable time in advance of when an investigation must be completed. The Ombudsman's website indicates how far in advance it wishes to receive requests for an extension of time (generally 10 business days).

The Ombudsman has indicated that an application for extension should include reasons why the investigation cannot be completed within the time limit, the views of the Discloser (if available) and an outline of action take to progress the investigation.

An investigation that is not completed within time does not become invalid.

If the Ombudsman grants an extension, the Discloser must be informed of the progress of the investigation as soon as reasonably practicable after the extension is granted.

v) Referral of information to police and others

The investigation may also include consideration of whether a different or further investigation should be conducted by the agency or another body under another law of the Commonwealth.

If, during the course of the investigation, the Principal Officer suspects on reasonable grounds that some of the information disclosed or obtained in the course of the investigation is evidence of the commission of an offence against a law, the Principal Officer may disclose the information to a member of an Australian police force. If the information relates to an offence that is punishable for a period of at least two years, the Principal Officer must disclose the information to a member of an Australian police force. This is unless the Principal Officer is satisfied that the investigator has the capacity, and the appropriate skills and resources, to investigate the offence and meet the requirements of the Commonwealth Director of Public Prosecutions (in gathering evidence and preparing briefs of evidence), or if the investigator suspects on reasonable grounds that the conduct has been referred to the National Anti-Corruption Commission.

vi) Referral of information to the National Anti-Corruption Commissioner

If, during the course of the investigation, the Principal Officer becomes aware of a corruption issue that concerns the conduct of a person who works, or has worked, at the Agency and suspects that conduct could be systemic or serious, they must refer the disclosure to the National Anti-Corruption Commissioner. The Principal Officer is not required to refer a relevant matter if they are satisfied an exception under the Act applies.

If the referral is made, the Discloser must be notified as soon as reasonably practicable. The Principal Officer must continue investigating the disclosure unless the National Anti-Corruption Commission issues a stop action direction. The Principal Officer must inform the Discloser as soon as reasonably practicable if a stop action direction has been issued.

6.2. Assistance with the investigation

The Principal Officer delegate may seek the assistance of a suitably qualified internal or external investigator. An Authorised Officer should not be an investigator or Principal Officer delegate.

The Discloser should be advised if an investigator is assisting the delegate.

It is also important to provide appropriate terms of reference to the person appointed to complete the investigation. This will set out the scope of the investigation and provide guidance for them.

6.3. Prepare investigation report

Once the Principal Officer or external investigator has completed their investigation, they will prepare a report of the investigation.

Content of the report

The report must set out:

- the matters considered in the course of the investigation;
- the duration of the investigation;
- the Principal Officer's findings (if any);
- any regulations, rules, administrative requirements or similar matters to which the Disclosable Conduct relates; and
- the action (if any) that has been, is being, or is recommended to be taken.

Where relevant, a report must:

- explain the steps taken to gather evidence;
- set out a summary of the evidence; and
- set out any claims made about and any evidence of detrimental action taken against the Discloser, Public Official or witness, and the Principal Officer's response to those claims and evidence.

6.4. Provide report to Discloser and Ombudsman

The Principal Officer must provide a copy of the written notice of the completion of the investigation and the report to the Ombudsman within a reasonable time after finalising the report. If it is reasonably practicable to contact the Discloser, the Principal Officer will provide the Discloser with a copy of the notice of completion and the report.

The Principal Officer may delete from the copy of the report given to the Discloser any material:

- that is likely to enable the identification of the Discloser or another person; or
- would be exempt for the purposes of Part IV of the *Freedom of Information Act 1982*, would require a national security or other protective security clearance, contains intelligence information or contravenes a designated publication restriction as defined in the PID Act.

Support available for Public Officials

EFA provides a range of benefits for employees including access to an Employee Assistance Program (**EAP**) which is a confidential and free counselling service for all employees and their immediate family. The EAP is designed to help employees manage issues that impact their life and wellbeing and will provide support as required.

Definitions

In this Procedure:

Authorised Officer means the Principal Officer and an Authorised Officer appointed in writing by the Principal Officer under the PID Act. Our Managing Director & Chief Executive Officer (**CEO**) has appointed as Authorised Officers of our organisation the members of the Executive (including persons from time to time holding, occupying or performing the duties of the offices of the Executive) under an Instrument of Appointment.

Disclosable Conduct is conduct by an agency, a Public Official or a contracted Commonwealth service provider (in connection with the contract) that:

- contravenes the law;
- is corrupt;
- perverts the course of justice;
- results in wastage of public funds;
- is an abuse of public trust;
- unreasonably endangers health and safety or endangers the environment;
- is maladministration, including conduct that is unjust, oppressive or negligent; or
- conduct by a Public Official that, if proved, would give rise to disciplinary conduct against the official resulting in the termination of the official's engagement or appointment.,

but excludes:

- disagreeing with government policy, action or expenditure
- 'personal work-related conduct' unless it would constitute a reprisal or an offence under s 19 of the PID Act, is of such a significant nature that it would undermine public confidence in an agency or have other significant implications for an agency
- other conduct excluded by the PID Act.

Discloser means an individual who makes a PID.

Executive means collectively the Managing Director & CEO, and/or the persons from time to time holding, occupying or performing the duties of the offices of the Executive of Export Finance Australia.

PID Act means the *Public Interest Disclosure Act 2013* (Cth).

Principal Officer means the Managing Director & CEO, or their delegate as appointed from time to time.

Public Interest Disclosure (PID), for the purposes of this policy, means an 'internal disclosure' within the meaning of the PID Act (an internal PID). The Public Interest Disclosure Policy has information about other types of PIDs.

Public Official means the persons listed in s 69 of the PID Act and includes a person who is:

- employed by the Commonwealth, or a Commonwealth entity, company or statutory body;
- a service provider (or an employee of a service provider) under a Commonwealth contract;
- a person deemed by an Authorised Officer to be a Public Official;
- a Parliamentary Service employee;
- a member of the Australian Defence Force;
- an appointee of the Australian Federal Police; or
- a statutory officeholder including a head of an agency.

Staff member, is defined in ss 10-12 of the *National Anti-Corruption Commission Act 2022* and generally includes those who are Public Officials under the PID Act, as well as:

- secondees to Commonwealth agencies;
- people who work for parliamentarians under the *Members of Parliament (Staff) Act 1984*, including consultants, agency heads; and
- other people who exercise powers or perform functions under various Commonwealth laws.

Further guidance can be found at the Commonwealth Ombudsman website at this link: [Public interest disclosure \(whistleblowing\) | Commonwealth Ombudsman](#)