



# Public Interest Disclosure Procedure

## Purpose

To outline who can make public interest disclosures (PIDs), how they can be made, what is covered under the Public Interest Disclosure Act 2013 (PID Act), protection mechanisms and how ARPC will deal with received disclosures.

## Scope

Applies to all ARPC employees, Board members, contractors and consultants engaged or previously engage by ARPC.

## Document relationship

Policy	People Policy
Procedure	-
Process	-

Approval Date	Version	Owner SES	Approver CEO
26 October 2020	1.0	Janice Nand (GC)	CEO

### 1. Introduction

The *Public Interest Disclosure Act 2013* (PID Act) repeals all policies and procedures that previously existed under the whistle blower provisions within the *Public Service Act 1999*. It promotes the integrity and accountability of the Commonwealth public sector by encouraging and facilitating the disclosure of information by Public Officials about suspected wrongdoing, providing support and protection to those making disclosures, and ensuring disclosures are properly investigated and dealt with.

ARPC is committed to meeting the PID Act requirements and encouraging the reporting of inefficiency and wrongdoing by:

- documenting and communicating ARPC's procedure on Public Interest Disclosures (PID);
- providing training and awareness sessions on the PID Act and associated ARPC procedure;
- supporting employees who make PIDs; and
- investigating and managing PIDs appropriately.

This Procedure is designed to build on practices established to protect ARPC employees who 'blow the whistle' on suspected breaches of the Code of Conduct. In accordance with s 59(1) of the PID Act, this procedure details:

- the allocation and investigation process;
- concluding an investigation;
- protections available to both the discloser and subjects of a PID; and
- recordkeeping.

### 2. Overview: disclosing and investigating a PID

Generally, a disclosure of information will be a PID and will attract protection under the PID Act if:

- the disclosure is made by a current or former Public Official, or a person who is deemed to be a Public Official;
- the disclosure is made to the appropriate recipient; and
- the information on which the disclosure is based satisfies certain requirements, for example, that it tends to show one or more instances of disclosable conduct or concerns a substantial and imminent danger to health or safety.

The appropriate recipient for the disclosure will depend upon whether the disclosure is:

- an internal disclosure;
- an external disclosure; or
- a legal practitioner disclosure.

Depending on the category of disclosure, appropriate recipients include:

- an Authorised Officer (AO), which includes the Principal Officer (that is, the CEO of ARPC) or a person who supervises or manages the discloser (the discloser's Manager);
- the Commonwealth Ombudsman or the IGIS;
- in cases in which the requirements for an emergency disclosure are met, any person except a foreign public official; or
- in cases in which the requirements for a legal practitioner disclosure are met, an Australian Legal Practitioner.

Direction requirements need to be satisfied for each category of disclosure. Generally speaking, for a disclosure of information to be a PID, it is necessary that the information tends to show, or the discloser believes on reasonable grounds that the information tends to show, one or more instances of 'disclosable conduct' as defined by the PID Act. The meaning of Disclosable Conduct is explained at requirements for each category of disclosure are outlined at 5. below.

A public Official contemplating making a disclosure to someone other than an AO, their Manager, the Ombudsman or IGIS should consider seeking legal advice about the application of the PID Act to their circumstances. The Ombudsman's office can provide general guidance.

On receiving a PID allocation and risk assessment, the Principal Officer (or a person to whom the Principal Officer has delegated his or her powers) will determine whether the disclosure will be investigated under the PID Act.

### 3. Public Officials

Public Officials include Commonwealth public servants, Parliamentary Service employees, directors or staff of Commonwealth companies, statutory office holders or most individuals who exercise powers under most Commonwealth laws. Individuals and organisations that provide goods or services under a Commonwealth contract (defined in s 30(3)) and their officers or employees are also Public Officials for the purposes of the PID Act.

### 4. Making a PID

Public Officials may make the PID verbally or in writing. Information contained in a disclosure should be clear and factual. The discloser may ask to remain anonymous, or that no investigation be undertaken.

The Principal Officer or another AO may deem an individual to be a Public Official if they reasonably believe the individual has information about wrongdoing and proposes to make a disclosure (s 70). Examples of a 'deemed' Public Official might include:

- a current or former volunteer with an agency;
- a member of an advisory body to a Commonwealth agency (where the members terms of engagement do not meet the definition of a public official);
- an employee of an organisation that receives grant funding from the Australian Government; or
- state and territory department officials who work alongside Commonwealth officials.

Disclosures may relate to ARPC conduct, or to another Commonwealth agency's conduct. Conduct covered by the PID Act is disclosable conduct. A Public Official with a concern involving disclosable conduct may discuss this concern with or report it to the person who supervises or manages them (the discloser's Manager) or AO. If a discloser has concerns about approaching anyone in ARPC about disclosable conduct, they may contact the Commonwealth Ombudsman (the Ombudsman). Disclosers should not undertake their own investigations prior to making a disclosure, to preserve confidentiality and the independence of investigations.

A disclosure:

- may be verbal or written;
- may be anonymously delivered;
- does not need to state that it is being made under the PID Act; and
- does not need to be in a specific form.

The discloser should provide actual and fact-based information. They should not make opinions, speculation, false or misleading statements, nor vexatious or malicious assertions<sup>1</sup>. Areas of information to cover include:

- the nature of the alleged wrongdoing;
- who committed it;
- when and where it happened;
- other relevant events;
- anything the discloser has done in response;
- who else might know about the wrongdoing, and allowed it to continue;
- any concerns about reprisal or other negative consequences; and
- also add available evidence supporting the disclosure (e.g. emails, file notes, diaries).

Rights and obligations of the discloser

Right or obligation	Description
Request no investigation	The discloser may request that no investigation be undertaken. However, the Principal Officer (or his or her delegate) will ultimately decide on whether an investigation will take place.
Anonymity	A discloser may withhold permission to use their contact name and details in making the PID (that is, the discloser may choose to be anonymous), or may only allow use of a pseudonym. The discloser may provide contact details at any time during the process.
Confidentiality	The discloser has a right to secrecy. However, they should take care in their own communications not to compromise themselves, and act with discretion regarding the process.
Protection	Disclosers are afforded several protections for making a public interest disclosure (under Part 2 of the PID Act). These include protection from a reprisal or threat of reprisal because of the PID. There are also secrecy provisions which protect employees subject to a PID and provisions protecting witnesses.
To be informed	The discloser has a right to be informed, if they choose not to be anonymous. ARPC is committed to communicating with the discloser in a timely manner. This includes written communications (including the forms as applicable) at a minimum. Disclosers are encouraged to approach the Principal Officer or an AO to discuss concerns around this at any time.
Being asked to provide more information	The AO or an investigative party may require more information from the discloser. They should be ready and use best endeavours to assist them.

Public Officials may also take legal advice about making a PID, and disclosures that are necessary for doing so may be protected as legal practitioner disclosures. However, a discloser must not disclose intelligence information or any classified information to a legal practitioner who does not have adequate security clearance. Legal practitioners may only use the information shared to advise and assist the discloser.

<sup>1</sup> Immunity and protection from liability will not be available if false and misleading statements are made (under section 11 of the PID Act).

Public Officials may access guidance on making a PID from the Ombudsman's website at [Information for Disclosers](#), and more specifically the [Speaking Up About Wrongdoing PDF link](#).

The following are contact details for Public Officials to make an internal PID to ARPC:

**Post:** Manager, Compliance  
Australian Reinsurance Pool Corporation  
PO Box Q1432  
Queen Victoria Building, NSW 1230  
**Email:** [PID@arpc.gov.au](mailto:PID@arpc.gov.au)  
**Phone:** 02 8223 6779

Your identity and contact details, as well as the content of your disclosure, will be protected in accordance with the PID Act. You may choose to make a PID openly and in your own name, anonymously or using a pseudonym.

If you wish to remain anonymous and do not wish to have your identity or contact details provided, or if you would like to adopt a pseudonym for these purposes, this should be clearly stated in your correspondence.

### 5. Disclosable Conduct

Disclosable Conduct is conduct engaged in by:

- an agency;
- a Public Official, in connection with his or her position as a Public Official; or
- a contracted service provider, in connection with the contract,

that:

- contravenes the law;
- is corrupt;
- perverts the course of justice;
- results in wastage of relevant money or relevant property;
- is an abuse of public trust;
- unreasonably endangers health and safety or endangers the environment;
- is misconduct relating to scientific research, analysis or advice; or
- is maladministration, including conduct that is unjust, oppressive or negligent.

This also includes conduct by a Public Official that involves or is engaged in for the purpose of abusing their position as a Public Official, and conduct that could give reasonable grounds for disciplinary action against the Public Official, without limiting the above. Certain kinds of conduct do not amount to Disclosable Conduct, including:

- disagreement with government policy, action or expenditure;
- certain conduct by a judge or court staff or a tribunal member or tribunal staff; or
- proper activities of intelligence agencies.

### 6. Internal disclosure

If a Public Official believes on reasonable grounds that there has been Disclosable Conduct, the Public Official may make an internal disclosure to an AO or the person's Manager.

#### 6.1 Managers receiving and responding to PIDs

If a Manager receives information from a discloser, and reasonably believes that the information received concerns or could concern disclosable conduct, they should:

- advise the discloser that they are required to forward such information on to an AO. Discuss with the discloser whether they want to talk to an AO directly, and if they do not, what name and contact details they wish to disclose (if any).
- inform the person about the limitations that may ordinarily result from requesting an anonymous disclosure (e.g. difficulty in investigating and notifying the discloser of progress).
- maintain the discloser's confidentiality, and any request for anonymity made by the discloser. A Manager's communication should maintain the discloser's protection.
- determine the appropriate AO to whom the information should be forwarded, giving due regard to who is / may be involved.
- report to an AO any information received, that a Manager reasonably believes concerns or could concern disclosable conduct.

### 6.2 AOs receiving and responding to PIDs

If a person other than the reporting Manager discloses, or proposes to disclose, information that an AO reasonably believes concerns, or could concern, disclosable conduct, the AO must (if the person is known and has not requested anonymity):

- inform the person that the disclosure could be treated as a PID, and that it will be managed in accordance with ARPC policy.
- explain the requirements of the PID Act for a potential disclosure to be treated as an internal disclosure, namely, if:<sup>2</sup>
  - A Public Official has disclosed information; and
  - The conduct to which it relates appears to be disclosable conduct (from the PID Act definitions).
- the AO believes the nature of the disclosable conduct may fall under the PID Act
- advise of any designated publication restrictions that may affect disclosure (Appendix A). Also advise the person that they may wish to take legal advice if designated publication restrictions might apply, before making a disclosure. Obtain legal advice before providing the advice if the AO is unsure.
- inform the person that once a disclosure is made, it cannot be revoked, and
- determine if the person wishes to be identified, or if they wish to maintain anonymity or pseudonymity.

The AO must inform the discloser of the process that a potential disclosure will go through. This involves informing them at the following points:

- if/when an allocation is made to investigate;
- when the Principal Officer has received the allocation;
- the decision on whether to investigate;
- the completion of the investigation; and
- delays in the process.

If the person has requested anonymity, the AO must also inform the discloser about the limitations that may result from requesting an anonymous disclosure.<sup>3</sup>

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<sup>2</sup> The AO may also provide a glossary of definitions, copies of ARPC's relevant policy documents, and information from the Commonwealth Ombudsman on the PID Act – e.g.

[http://www.ombudsman.gov.au/docs/Speaking\\_up\\_about\\_wrongdoing.pdf](http://www.ombudsman.gov.au/docs/Speaking_up_about_wrongdoing.pdf)

<sup>3</sup> These include potential difficulty in examining the disclosure to decide whether it requires investigating, protecting from reprisal, and keeping them informed of the process and any outcome.

## 7. Risk Assessment

The Principal Officer must establish a procedure for assessing risks that reprisals may be taken against the persons who make PIDs. Where it appears that a disclosure demonstrates disclosable conduct, the person nominated in that procedure (who may be an AO or Managers) must undertake a risk assessment. This should consider the risk of reprisals against the discloser, and related workplace conflict / difficulties.

Appropriate strategies should be put in place to prevent or reduce such risks where this is under ARPC's control. These strategies should be agreed with the discloser beforehand. They may include, but be not limited to:

- methods of communication with the discloser – e.g. restricting direct incoming calls – if they have provided name and contact details;
- the discloser taking leave;
- the discloser being moved to a different team; and
- changing work responsibilities.

## 8. Allocation of disclosure (completed by the AO)

The AO should make sufficient preliminary enquiries of the discloser and other people if necessary, in order to allocate or not allocate the disclosure to the Principal Officer to determine whether there should be an investigation.<sup>4</sup> The AO must use best endeavours to determine the allocation within 14 days, maintain confidentiality and keep adequate records.

It is possible that the disclosure is not related to conduct within ARPC and may need allocation to the Principal Officer of another agency or department. In this case, the AO must determine the Principal Officer to whom the disclosure should be allocated, obtain agreement with the other agency about allocation (consulting with the Ombudsman if there is significant disagreement or uncertainty), then allocate the disclosure for investigation (s 35 of the PID Act).

The AO should also consider whether the ARPC Principal Officer could potentially be involved. Where in the AO's judgment this may be the case, the AO should seek advice from the Ombudsman prior to making any allocation.

If the decision is that the matter is to be allocated for investigation, the AO should send **Form 1 – Notification of Allocation** (reflecting the requirements of the PID Act s 44(2)) to:

- The discloser – advising them of the allocation to investigate. Do this as soon as reasonably possible.
- The Principal Officer – also advising them; provide supporting documents including the risk assessment. Maintain anonymity if required.
- The Ombudsman – do this within 10 days of the allocation. Maintain anonymity if required.

If the decision is that the matter not to be allocated for investigation – i.e. the AO considers that there is no reasonable basis for the disclosure to be treated as a PID, the AO must notify the discloser advising them of the decision and reasons, as well as any other courses of action that might be available to them under other laws of the Commonwealth.

## 9. Investigation process of a PID

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<sup>4</sup> This section assumes that the discloser is known to the AO. AO communications to the discloser are only required to be made if the discloser is known.

Confidentiality must be maintained throughout the investigative process described below as is reasonably possible. This applies to the discloser and the person alleged to have engaged in disclosable conduct:

- do not reveal the discloser's identity to anyone if they have requested anonymity.
- do not reveal other identities to anyone, unless it is required in the investigative process.
- take care to minimise the possibility of other ARPC staff / public officers witnessing any processes or the people involved. This may mean that interviews are conducted off-site, and on different days to protect the identity of disclosers and interviewees from others.
- all communications should be made in a way that protects the identity and confidentiality of people involved. Consider the medium of communication (e.g. people in proximity may overhear conversations; papers may be opened by others) and email audience (e.g. CEO email is shared with the executive assistant).
- this extends to keeping or transferring any information, and any requests for anonymity or pseudonymity made by the discloser.

### 10. Investigation of disclosure

The investigation of a disclosure is completed by the Principal Officer or his or her delegate. The ARPC Principal Officer is the CEO. The Principal Officer will advise the discloser of their power to investigate. This is to be done within 14 days of receiving the allocation.<sup>5</sup> The Principal Officer must maintain confidentiality and keep adequate records.

The Principal Officer should decide whether to investigate an internal disclosure based on the information obtained prior to allocation. In determining whether to exercise his or her discretion not to investigate, the Principal Officer should consider:

- whether the discloser is or has been a Public Official;
- whether the information does not concern serious disclosable conduct to any extent;
- whether the disclosure is frivolous or vexatious;
- whether the information is the same or substantially the same as that covered in a current investigation;
- whether the disclosure is a suspected fraud that should be dealt with elsewhere;<sup>6</sup>
- any request by the discloser not to investigate, where the Principal Officer is reasonably satisfied that there are no matters concerning disclosure warranting investigation;
- whether it is impracticable to investigate because the discloser requests anonymity, the discloser does not assist with the investigation, or the information is too old.

The Principal Officer may wish to consider obtaining legal advice if it is unclear as to whether the PID Act provisions apply.

If the matter is decided to be investigated, the Principal Officer should:

- Notify the discloser that they will investigate, including the expected timeframes
- If necessary, ask the Ombudsman for an extension using **Form 3 – Request for Extension to Investigate** (s 52) (the Ombudsman may grant one or more extensions); and
- Communicate any delays and extension grants from the Ombudsman to the discloser.

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<sup>5</sup> This section assumes that the discloser is known to the Principal Officer. Principal Officer communications to the discloser are only required to be made if the discloser is known.

<sup>6</sup> Manage suspected fraud / potential fraud in accordance with ARPC's Fraud Control Policy. Under Resource Management Guide No. 201 – Preventing, detecting and dealing with fraud, suspected fraud should also be referred to the Australian Federal Police for investigation.



The Principal Officer may conduct the PID investigation as they see fit, in accordance with the PID Act requirements and related standards.<sup>7</sup> The PID investigation must be completed within 90 days of the date of allocation to the Principal Officer, unless one or more extensions are given by the Ombudsman. Where an investigation under a separate investigative power occurs, the Ombudsman, the Inspector General of Intelligence and Security (IGIS) or investigative agency must inform the Principal Officer and the discloser (if name and contact details are provided) that the investigation is complete. The other relevant legislation under which the investigative agency is acting will determine the deadlines.

The Principal Officer will delegate to engage a suitably qualified investigator to conduct and report on the investigation. The Principal Officer should check and validate that the external investigator has appropriate security clearance, proven and independently verifiable knowledge of the PID Act’s requirements and application. Appropriate qualifications and credentials, and independently verified referees are also required. The Ombudsman can provide advice on providers where an external investigator cannot be identified or engaged.

The investigator must adhere to the PID Act and PID Standard requirements (subject to other laws of the Commonwealth), which should be clearly stated in the engagement process. These are outlined below.

<b>Requirement</b>	<b>Description</b>
Conducting an interview	Interviews must be conducted in private and should be arranged to avoid the identification of the discloser by other ARPC staff. The interviewee must be informed of the identity and function of each individual conducting or attending the interview (subject to anonymity), the investigation process, the authority of the Principal Officer under the PID Act (s 53) and protections under the PID Act (s 57). If recording devices are used during the interview, advise the interviewee prior to the interview starting.  The interviewee must be allowed to make a final statement, comment or position at the conclusion of the interview. Any such expression must be included in the interview record, with the specific words used to be checked with the interviewee prior to leaving the interview.
Standard of proof	Standard of proof is on the balance of probabilities i.e. more likely than not that the fact is true.
Findings	Findings must be backed by appropriate evidence. Findings must also be relevant to the disclosure.
Reports of an investigation	The investigator should collaborate with the Principal Officer to provide a report of the investigative process undertaken.

The Principal Officer is responsible for the investigation report’s completion and content. Findings and recommendations should be agreed with and owned by the Principal Officer prior to report finalisation. The report should, at a minimum:

- identify whether there have been one or more instances of disclosable conduct;
- identify the regulations, rules, administrative requirements or similar matters to which the disclosable conduct relates (if any);
- explain the steps used to gather evidence;
- set out a summary of the evidence, and findings/recommendations made;

<sup>7</sup> Exceptions are if another Act applies requiring certain procedures to be undertaken under that Act / guidelines (e.g. those relating to Commonwealth fraud) or the investigation relates to an alleged breach of the ARPC Values and/or Code of Conduct (then ARPC’s Breach and Incident Response Procedure applies).

- set out any claims made about and evidence of detrimental action against the discloser, and ARPC's response to them; and
- state whether the report was completed within the PID Act time limit including any granted extensions.

If the matter is decided to be not investigated or the investigation is to cease, the Principal Officer should send **Form 2 – Notification of Decision not to Investigate or not to Investigate Further** to:

- the discloser – advising of the decision and the reasons for it and advising of other courses of action that might be available to the discloser under other laws of the Commonwealth (s 50); and
- The Ombudsman – advising of the decision and the reasons for it (s 50A).

### 11. Conclusion of an investigation

On completing an investigation, the Principal Officer or his or her delegate must prepare a report of the investigation, which must set out (s 51):

- the matters considered during the investigation;
- the duration of the investigation;
- the Principal Officer's findings (if any);
- any action or recommended action; and
- any claims or evidence of detrimental action taken against the discloser, and the agency's response to those claims and that evidence.

A copy of the report must be provided to the discloser within a reasonable time after preparing the report.

The Principal Officer and his or her delegates will check that any investigation resulting from a PID is appropriately concluded in accordance with the PID Act requirements. They will also check that any required action resulting from an investigation, is addressed and implemented. This may include:

- commencing Code of Conduct processes;
- mediation/conciliation of workplace conflict;
- referral to police or other investigative bodies;
- an internal audit or other reviews of operations;
- creating or changing policies, procedures and guidelines; and
- conducting further training or awareness sessions.

ARPC is committed to communicate with the discloser in a timely manner. Disclosers are encouraged to approach the Principal Officer or AOs at any time – to discuss any concerns they have around the process, their treatment or the outcome. If a discloser is unhappy with any of this, they may contact the Ombudsman – contactable via (02) 6276 3777 or email [PID@ombudsman.gov.au](mailto:PID@ombudsman.gov.au).

### 12. External Disclosure

If a Public Official believes on reasonable grounds that there has been Disclosable Conduct, and the person has previously made an internal disclosure of the information and:

- the person believes on reasonable grounds that the disclosure investigation or the response to the investigation was inadequate; or
- the disclosure investigation was required to be undertaken but has not been completed in the required time; and,

the Public Official may make an external disclosure to any person other than a **foreign public official** provided that certain other requirements are met, including that:

- the disclosure is not contrary to the public interest;
- no more information is publicly disclosed than is reasonably necessary to identify the Disclosable Conduct; and
- the information is not **intelligence information** (defined in s 41 of the PID Act).

### 13. Emergency Disclosure

If a Public Official believes on reasonable grounds that the information they have concerns a substantial and imminent danger to the health or safety of one or more people or to the environment, they may make an emergency disclosure to any person except a foreign public official, provided they meet certain requirements, including that:

- the extent of the information they disclose must be only what is necessary to alert the recipient of the substantial and imminent danger; and
- if they have not previously made an internal disclosure about the matter, or if they have done so and the investigation is not yet completed, there must be exceptional circumstances justifying their decision to make an external disclosure (this might include, for example, if investigation was taking too long to complete having regard to the risk to a person's health and safety).

An emergency disclosure must not include intelligence information.

If the discloser knows or ought reasonably to know that the information has a national security or other protective security classification, the legal practitioner must have the appropriate level of clearance.

A legal practitioner disclosure must not include intelligence information.

### 14. Protections

APRC is committed to minimising reprisal or negative consequences on the discloser or a person alleged to be involved in disclosable conduct, where reasonably possible. Where any person believes that they have been subject to reprisal or negative consequence as a result of a PID being processed by ARPC, or a prosed or suspected PID, the following options are available:

- if the party alleged to have committed a reprisal *is employed by ARPC* – the affected person may report their concerns/evidence to the investigating Principal Officer for review, contact the Ombudsman, and/or take independent legal advice. The Principal Officer will determine whether further action is required to be taken (e.g. managing a breach of the *ARPC Values and ARPC Code of Conduct*); and
- if the party alleged to have committed a reprisal *is not employed by ARPC* – the affected person should consider reporting their concerns/evidence to the investigating Principal Officer to obtain support, contacting the Ombudsman for advice, and/or taking independent legal advice as to other legal avenues for protection.

The Principal Officer and AOs will take all reasonable steps to support the discloser and minimise the opportunity for reprisal or negative consequence against the discloser as a result of a PID.<sup>8</sup> This may entail:

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<sup>8</sup> The Principal Officer and AOs will also take all reasonable steps to support and protect ARPC employees who are the subject of a PID. This also includes advising the employee of their rights and obligations under the PID Act, the investigation procedures and their rights to procedural fairness.

- keeping the discloser informed on the investigation process;
- appointing a support person to check on the discloser's wellbeing;
- advising the discloser of the EAP program available to ARPC employees;
- maintaining confidentiality of the discloser's identity and PID details (as far as practicable); and
- liaising with Human Resources where there are concerns about the discloser's health and wellbeing.

Subject to certain limitations, an individual making a PID will not be subject to any civil, criminal or administrative liability, including any disciplinary action, for making the public interest disclosure. However, the discloser is not protected from liability where they knowingly make a statement that is false or misleading or where they knowingly contravene a **designated publication restriction** without reasonable excuse; further, a discloser remains liable for his or her own conduct, even if the disclosure of that conduct by the discloser is a public interest disclosure.

A person will not be subject to any liability because the person gives information, produces a document or answers questions, if the person does so following a request from a person conducting a PID investigation, and the information, document or answer is relevant to the investigation. However, the individual is not protected from liability where they knowingly make a statement that is false or misleading, and the individual remains liable for his or her own conduct.

### 15. Records

The Principal Officer or his or her delegates must keep records of materials relating to the investigation process. This relates to any actual or potential disclosure that they believe concerns, or could concern, disclosable conduct. Document records using file notes and/or memorandums. Keep the notification forms, emails, and risk assessments of reprisals/negative consequences.

Keep records in a secure environment that other staff cannot access – e.g. computer folders with restricted access, paper files in locked cabinets. Use protective marking as needed.

Records may be subject to requests under the *Freedom of Information Act 1982* (FOI Act), as detailed further in section 16.

### 16. Freedom of Information Requests

Documents associated with PIDs are not automatically exempt from the FOI Act. Requests to access documents under the FOI Act must be referred to the Principal Officer who makes decision relating to FOI requests and will be considered on a case-by-case basis.

A range of exemptions may apply to individual documents or parts of documents, particularly in relation to material received in confidence, personal information, operations of agencies and law enforcement.

### 17. Education and Awareness

Staff education and awareness sessions will be provided on the PID Act, including the ARPC PID Procedure should staff wish to make a PID. An information sheet about PIDs will also be provided to contractors that ARPC engage with.

ARPC's AOs and Managers are provided specific awareness sessions on their responsibilities under the PID Act.

## 18. Responsibilities

<b>Role</b>	<b>Responsibility</b>
<b>Chief Executive Officer (CEO) (ARPC 'Principal Officer')</b>	<p>The role of the CEO, as the 'Principal Officer' under the PID Act, is to:</p> <ul style="list-style-type: none"> <li>• Take all reasonable steps to protect ARPC Public Officials from detriment, or threats of detriment relating to PIDs by other ARPC Public Officials;</li> <li>• Appoint appropriate Authorised Officer(s) under s 36 of the PID Act, with the number of ARPC AO(s) sufficient such that they are readily available and accessible by all ARPC Public Officials;</li> <li>• Make all ARPC Public Officials aware of the identity of each ARPC AO;</li> <li>• Properly investigate disclosure including deciding whether a PID will be investigated under the PID Act;</li> <li>• Facilitate and manage any investigation;</li> <li>• Notify the discloser and the Ombudsman, on the decision and reasoning for any non-investigation of a PID; and</li> <li>• Maintain confidentiality of discloser identities in accordance with the discloser's requirements, PID processes and documentation.</li> </ul>
<b>Chief Operating Officer (COO)</b>	<ul style="list-style-type: none"> <li>• Creation, review and maintenance of this Procedure;</li> <li>• Ensuring that all ARPC staff are aware and remain aware of the protections offered under the PID Act; and</li> <li>• Delivering staff awareness sessions to staff, and to AOs on their rights and responsibilities under the PID Act.</li> </ul>
<b>Authorised Officers</b>	<p>ARPC's AOs are:</p> <ul style="list-style-type: none"> <li>• The CEO (Principal Officer);</li> <li>• The CFO and COO are appointed as AOs by the Principal Officer under the PID Act.</li> </ul> <p>The AOs are responsible for decision-making, notification and other activities including:</p> <ul style="list-style-type: none"> <li>• Receiving disclosures from Public Officials on disclosable conduct, and providing advice to them on disclosable conduct;</li> <li>• Assessing the risk of reprisals against the person making the disclosure;</li> <li>• Examining the PID and deciding whether it should be allocated for investigation under the PID Act; and</li> <li>• Documenting the PID information (including the regular reporting of the status of any PIDs).</li> </ul>
<b>Managers</b>	<p>ARPC Managers may receive disclosures from Public Officials who they supervise or manage and are responsible for providing to an AO as soon as practicable, any information given to them that they believe concerns, or could concern, disclosable conduct (s 60A of the PID Act).</p>

<p><b>Public Officials</b></p>	<p>Public Officials, including all staff must adhere to this procedure. In the context of investigations:</p> <ul style="list-style-type: none"> <li>• Use their best endeavours to assist a Principal Officer or his or her delegate in the conduct of a PID investigation.</li> <li>• Use their best endeavours to assist the Ombudsman in the performance of the Ombudsman’s functions under the PID Act</li> </ul> <p>ARPC Public Officials must not knowingly make a statement that is false or misleading.</p>
<p><b>Commonwealth Ombudsman</b></p>	<p>The responsibilities of the Commonwealth Ombudsman include:</p> <ul style="list-style-type: none"> <li>• Assisting the CEO, the AOs, the Principal Officer of an investigating agency and Public Officials in relation to the operation of the legislative obligations under the PID Act; and</li> <li>• Conducting educational and awareness programs relating to the PID Act to the extent to which it relates to ARPC and its Public Officials.</li> </ul>

## 19. Monitoring, review and limitations of the Procedure

### 19.1 Monitoring

ARPC must provide information requested by the Ombudsman for the purposes of preparing the Ombudsman’s annual report under the PID Act (s 76). Information is requested via survey by the Ombudsman after each financial year.

### 19.2 Review

The PID Procedure should be reviewed and updated whenever there are material changes in legislation, other ministerial or departmental guidelines, operations, key stakeholders, systems or at least every three years.

### 19.3 Limitations

This Procedure covers disclosures made from 15 January 2014. Disclosures made before 15 January 2014 are not covered by this Procedure or the PID Act. Where the Commonwealth Fraud Control Guidelines apply under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), the PID Standard applies only to the extent that it is not inconsistent with those Guidelines (PID Standard s 8). If there is a discrepancy between other relevant legislation/ the ARPC’s Enterprise Agreement and the notification forms, the former takes precedence.

### 19.4 Legal Practitioner Disclosure

A Public Official may make a legal practitioner disclosure to an Australian legal practitioner for the purpose of obtaining legal advice or professional assistance from the legal practitioner in relation to a PID that the Public Official has made or proposes to make.

## 20. Key related documents

Key internal documents related to this Procedure are:

- ARPC Values and ARPC Code of Conduct;
- People Policy;
- Fraud Control Policy;

- Delegations Policy;
- Procurement Procedure;
- Code of Conduct Breach Procedure; and
- Contract Management Guidelines.

Key external documents related to this Procedure are:

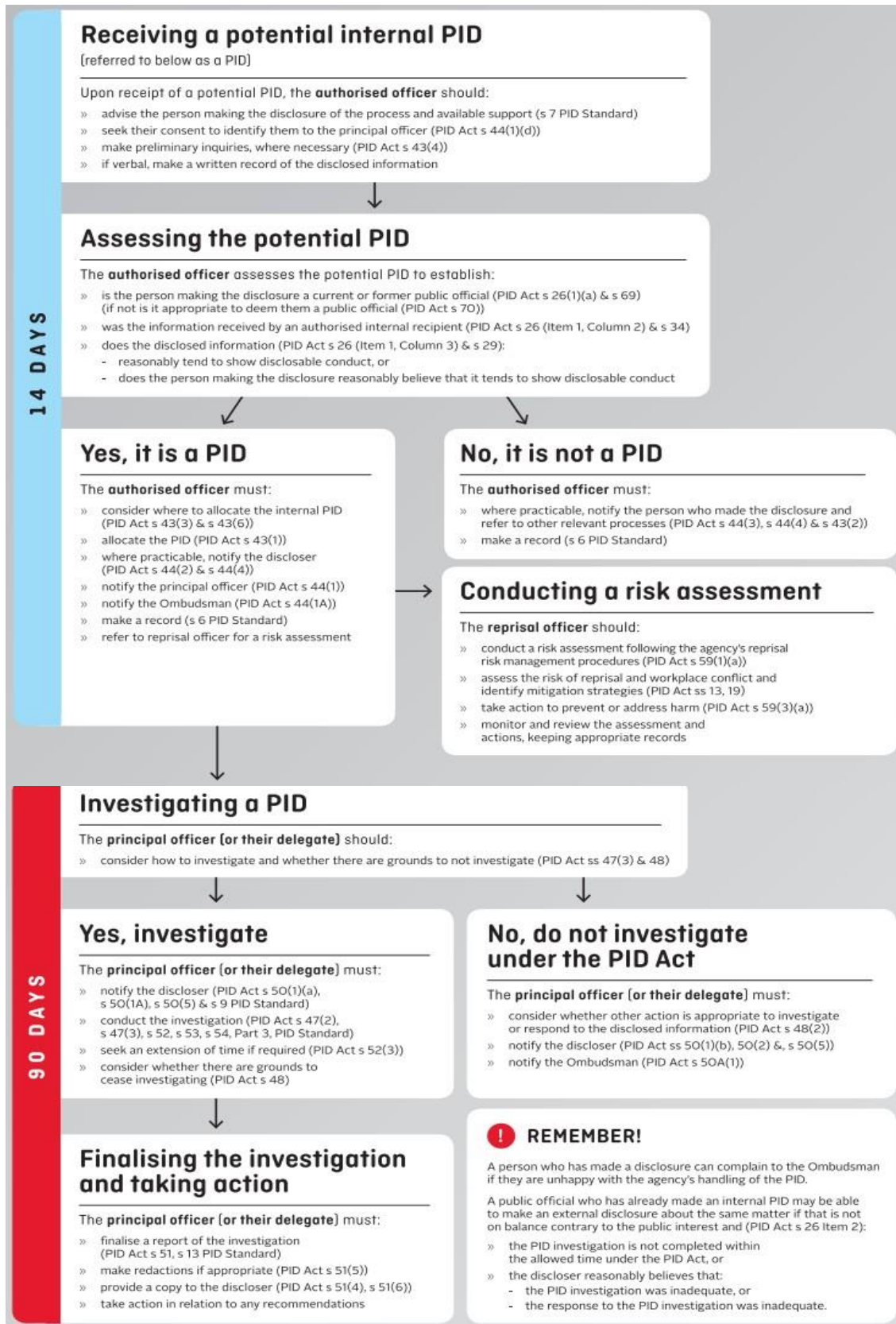
- PID Act and PID Standard;
- Commonwealth Ombudsman’s Agency Guide to the *Public Interest Disclosure Act 2013*;
- Commonwealth Ombudsman Website – Information for Disclosers;
- Commonwealth Ombudsman Website – Speaking up about wrongdoing: A guide to make a disclosure under the Public Interest Disclosure Act 2013;
- Attorney-General’s Department, Resource Management Guide No. 201 – Preventing, detecting and dealing with fraud;
- Australian Government Investigation Standards; and
- The three Public Interest Disclosure Forms (found in SharePoint->Key Documents->ARPC Templates & Forms->Public Interest Disclosures):
  - Form 1 – Notification of Allocation
  - Form 2 – Notification of Decision not to Investigate or not to Investigate Further
  - Form 3 – Request for Extension to Investigate.

**21. Version control and history**

Date	Version	Authors	Summary of changes / circulated to / approved by
26 October 2020	1.0	Alanna O’Meara	PID Policy was decommissioned by the Board 6 Dec 2019 (part of Governance & Compliance Redesign Project). This procedure incorporates the Policy and Process previously reviewed by AGS in Sept 2018, there have been no amendments to the PID Act.

Appendix A – Receiving and responding to a PID

The following chart provides a summary of how to respond to a PID.





## Appendix B – Designated public restrictions

The following restrictions apply to the PID Act requirements.

<b>Designated publication restriction</b>	<b>Covers</b>
(a) s121 of the <i>Family Law Act 1975</i> ;	Court proceedings, or particulars of persons, in the Family Law Courts.
(b) s91X of the <i>Migration Act 1958</i> ;	Proceedings around protection visas.
(c) s110X of the <i>Child Support (Registration and Collection) Act 1988</i> ;	Proceedings or particulars of persons involved in the review of child support.
(d) a non-publication order (within the meaning of Part XAA of the <i>Judiciary Act 1903</i> ) of any court;	Order that prohibits or restricts the publication of information.
(e) a suppression order (within the meaning of Part XAA of the <i>Judiciary Act 1903</i> ) of any court;	Order that prohibits or restricts the disclosure of information.
(f) an order under s31 or 38L of the <i>National Security Information (Criminal and Civil Proceedings) Act 2004</i> ;	Court orders in federal criminal or civil proceedings disallowing disclosure of information, where there is a risk of prejudice to national security.
(g) an order under s28 of the <i>Witness Protection Act 1994</i> ;	The non-disclosure of the identity of a person under the National Witness Protection Program.
(h) an order under subs35(2) of the <i>Administrative Appeals Tribunal Act 1975</i> ;	Administrative Appeals Tribunal directs parts of a hearing to be undertaken in private, prohibits or restricts the publication of details of witnesses or of evidence, or prohibits, or restrict the disclosure of some information to some parties.
s(i) a direction under s35AA of the <i>Administrative Appeals Tribunal Act 1975</i> ;	Restriction on publication of evidence and findings in a proceeding before the Security Appeals Division.
(j) a direction under subs25A(9) of the <i>Australian Crime Commission Act 2002</i> ;	Direction to not publish evidence which might prejudice the safety or reputation of a person or prejudice the fair trial of a person who has been charged with an offence.
(k) s29B of the <i>Australian Crime Commission Act 2002</i> ;	Existence or information on a summons that has had a direction not to publish information under 25A(9) above.
(l) a direction under s90 of the <i>Law Enforcement Integrity Commissioner Act 2006</i> ;	Direction not to disclose information from a hearing on investigation into corrupt conduct of law enforcement agencies.
(m) s92 of the <i>Law Enforcement Integrity Commissioner Act 2006</i> .	Disclosure of information on a summons relating to a hearing on investigation into corrupt conduct of law enforcement agencies.