

Public Interest Disclosure Act Information Sheet

WHAT IS THE PUBLIC INTEREST DISCLOSURE ACT 2003?

The *Public Interest Disclosure Act 2003* (PID Act) enables people to make disclosures about wrongdoing within the State public sector, local government entities and public universities without fear of reprisal. The Act aims to ensure openness and accountability in government by encouraging people to make disclosures by maintaining confidentiality and providing immunity from detrimental action.

If you believe that something is wrong with the way a government official, public authority or government contractor is acting or going to act, then it is in the public interest that you talk to someone who can do something about this matter. This document outlines the Town of Port Hedland's commitment to dealing with such disclosures quickly, fairly and effectively.

WHAT IS A PUBLIC INTEREST DISCLOSURE?

The Act deals with disclosures by anyone (not just government workers); however, the disclosure must relate to a matter of public interest and demonstrate **wrongdoing** by a **public body**.

What is a public body?

- A public authority (State Government, local government, public university, etc.)
- A public officer (Employee of a public authority, a minister, a member of parliament, a judicial officer, a police officer, a holder of office under the State)
- A public sector contractor (a person or organisation engaged by a public authority)

What is wrongdoing?

- Improper conduct
- Offence under State law
- Substantial misuse of public resources
- Substantial mismanagement of public resources
- Substantial risk to public health, safety or the environment
- Matter of administration that can be investigated by the State Ombudsman

If your information falls outside of the above areas, you are still able to make a complaint to the Town of Port Hedland (or to the relevant public authority), but this will not be a disclosure under the PID Act.

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WHO CAN MAKE A DISCLOSURE?

Anyone who believes on reasonable grounds that the information they have is or may be true can make a disclosure, including an employee of a public authority and a member of the public.

HOW DO I MAKE A DISCLOSURE?

Before making a disclosure, it is important that you are aware of the rights and responsibilities imposed on informants and others under the PID Act. Three issues worth highlighting:

- It is an offence to make a disclosure if you know it to be false or misleading.
- While the proper authority is investigating your information, you will be expected to cooperate.
- You will have to keep your information confidential – or else you will lose protection under the PID Act.

The Act only confers protection where a disclosure is made to an appropriate **proper authority**.

What is a proper authority?

<i>When the disclosure relates to...</i>	<i>The proper authority is...</i>
the sphere of responsibility of the Town of Port Hedland (i.e. matters about the Town's Officers).	the Public Interest Disclosure Officer at the Town of Port Hedland.
offences under State law.	A Police Officer; or the Crime and Corruption Commission
substantial unauthorised or irregular use of, or substantial mismanagement of, public resources	the Public Interest Disclosure Officer at the Town of Port Hedland; or the Auditor General
matters of administration affecting someone in their personal capacity that fall within the jurisdiction of the Ombudsman	the Public Interest Disclosure Officer at the Town of Port Hedland; or the Ombudsman
a Police Officer	the Commissioner of Police; or the Ombudsman
a Judicial Officer	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 Public Interest Disclosure Officer of the public authority concerned; the Ombudsman; or the Commissioner for Public Sector Standards.

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Before you make a disclosure... you should question:

- whether you have reasonable grounds to believe the information you are thinking of disclosing is true;
- whether you are disclosing the information because it is in the public interest to do so (the information should not be tied to a personal agenda);
- have you sought proper advice; and
- have you fully understood your responsibilities under the PID Act if you make a disclosure.

HOW THE TOWN DEALS WITH DISCLOSURES

Information is assessed and investigated

After assessing your information, the Public Interest Disclosure Officer at the Town of Port Hedland will launch a formal investigation, unless it considers:

- the matter to be trivial.
- the disclosure to be vexatious or frivolous.
- there is no reasonable prospect of obtaining sufficient evidence, due to the lapse of time.
- the matter is being, or has already been, adequately or properly investigated by a proper authority under the PID Act.
- the information does not relate to the Town of Port Hedland, an Officer at the Town of Port Hedland, a contractor engaged by the Town of Port Hedland, or a matter which the Town of Port Hedland has the function or power to investigate.

In some cases it may be necessary for the informant or information to be referred to another proper authority with the power to investigate the information.

After making a disclosure you will not normally be required to do anything else other than cooperate with an investigation.

You will be kept informed at all times

In accordance with the PID Act, the Public Interest Disclosure Officer at the Town of Port Hedland will inform you within three months of your disclosure of what has been done, or what the organisation intends to do, about your disclosure.

Where the disclosure is under investigation you will be able to request a progress report.

You are also entitled to a report on the outcome and any action taken when the investigation is completed.

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Your confidentiality is assured

As the disclosure is about a public interest matter, rather than a specific complaint, the PID Act requires confidentiality be maintained on the:

- identify of the person making the disclosure; and
- information disclosed, including the identity of any person named in the disclosure.

There are exceptions to these rules and anyone thinking of making a disclosure should seek advice from the Office of the Public Sector Standards Commissioner to ensure that they will be protected should they lodge a disclosure.

A person making a disclosure is provided with protection under the PID Act for:

- any reprisals.
- civil and criminal liability in the event of making a disclosure.
- dismissal or having services dispensed with.
- breach of confidentiality or secrecy agreements.

A person alleging victimisation as a result of a disclosure can complain to the Equal Opportunities Commission, or may pursue civil action against the public authority involved.

After the investigation

You should be aware that if you are unhappy with the Town of Port Hedland's response to your disclosure, there is no right of appeal under the PID Act to challenge our actions. You may, however, be able to make another disclosure to a different proper authority.

Victimisation and Reprisals

The Town of Port Hedland will take all reasonable steps to provide protection for staff from any detrimental action in reprisal for the making of a disclosure. The Town does not tolerate any of its Elected Members, Officers or contractors engaging in acts of victimisation or reprisal against those who make public interest disclosures. These acts should be reported immediately to the Public Interest Disclosure Officer or the Chief Executive Officer.

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Useful contacts

The Office of the Public Sector Standards Commissioner will be able to provide assistance with your disclosure in the first instance. Call the Advice & Referral Line: 1800 355 835 or visit: www.publicsector.wa.gov.au