



## PUBLIC INTEREST DISCLOSURE PROCEDURE

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Date last reviewed by Eastern Health Authority Board of Management	
Applicable legislation	<i>The Public Interest Disclosure Act 2019</i> <i>Public Interest Disclosure Regulations 2019</i>

### Chief Executive Officer - Statement of Intent

This Procedure has been prepared with regard to the *Public Interest Disclosure Act 2018* (PID Act).

This Procedure is designed to encourage and facilitate:

- further transparency and accountability in EHA's administrative and management practices; and
- the disclosure, in the public interest, of information about substantial risks to public health or safety, or to the environment, and about corruption, misconduct and maladministration in public administration

I, and the other staff, officers and board members at EHA remain deeply committed to the protection of informants who make disclosures in accordance with the PID Act, and to the genuine and efficient consideration and action in relation to such disclosures.

Any questions about this Procedure can be directed in the first instance to me as Chief Executive Officer of EHA.

**Michael Livori**  
Chief Executive Officer, Eastern Health Authority

## 1. INTRODUCTION

1.1 EHA is committed to:

- upholding the principles of transparency and accountability in its administrative and management practices;
- the protection of informants who make appropriate disclosures of public interest information;
- the genuine and efficient consideration and action in relation to information provided in an appropriate disclosure of public interest information; and
- encouraging the making of appropriate disclosures of public interest information in accordance with the PID Act and this Procedure.

1.2 This document explains the applicable procedures and processes that EHA has in place in relation to how appropriate disclosures of public interest information are to be made and dealt with.

## 2. SCOPE

2.1 This Procedure applies to appropriate disclosures of public interest information that are made in accordance with the PID Act.

2.2 This Procedure is intended to complement the reporting framework under the ICAC Act and any PID policies or procedures of the Constituent Councils. This Procedure operates in conjunction with other relevant existing policies and procedures of EHA, including the:

- Code of Conduct for EHA Employees;
- Code of Conduct for Board Members; and
- Complaints Handling Policy.

## 3. DEFINITIONS

3.1 For the purposes of this Procedure the following definitions apply.

3.1.1 **board member** means a member of the Board of EHA;

3.1.2 **CEO** means the Chief Executive Officer of EHA;

3.1.3 **Constituent Council** means a Constituent Council of EHA, being:

- (a) The Corporation of the City of Norwood Payneham & St Peters;
- (b) City of Burnside;

- (c) The Corporation of the City of Campbelltown;
  - (d) City of Prospect; and
  - (e) The Corporation of the Town of Walkerville;
- 3.1.4 **corruption in public administration** has the same meaning as in the ICAC Act;
- 3.1.5 **disclosure** means an appropriate disclosure of public interest information made by an informant to a relevant authority within the meaning of the PID Act;
- 3.1.6 **EHA** means Eastern Health Authority;
- 3.1.7 **environmental and health information** means information that raises a potential issue of a substantial risk to the environment or to the health or safety of the public generally or a significant section of the public;
- 3.1.8 **ICAC Act** is the Independent Commissioner Against Corruption Act 2012;
- 3.1.9 **ICAC Directions and Guidelines** means the Directions and Guidelines for Public Officers issued by the Commissioner pursuant to the ICAC Act;
- 3.1.10 **informant** means a person who makes an appropriate disclosure of public interest information;
- 3.1.11 **maladministration in public administration** has the same meaning as in the ICAC Act;
- 3.1.12 **misconduct in public administration** is has the same meaning as in the ICAC Act.
- 3.1.13 **OPI** means the Office for Public Integrity;
- 3.1.14 **public administration information** means information that raises a potential issue of corruption, misconduct or maladministration in public administration;
- 3.1.15 **public interest information** means environmental and health information, or public administration information;
- 3.1.16 **PID Guidelines** means guidelines issued pursuant to the PID Act;
- 3.1.17 **PID Act** is the Public Interest Disclosure Act 2018;
- 3.1.18 **public officer** has the meaning as in the ICAC Act;
- 3.1.19 **relevant authority**, see clause 5.

#### 4. TYPES OF DISCLOSURES

- 4.1 A person makes an appropriate disclosure of environmental and health information if the person:
- 4.1.1 believes on reasonable grounds that the information is true; or
  - 4.1.2 is not in a position to form a belief on reasonable grounds about the truth of the information, but believes on reasonable grounds that the information may be true and is of sufficient significance to justify its disclosure so that its truth may be investigated; and
  - 4.1.3 the disclosure is made to a relevant authority.
- 4.2 A person makes an appropriate disclosure of public administration information if the person:
- 4.2.1 is a public officer; and
  - 4.2.2 reasonably suspects that the information raises a potential issue of corruption, misconduct or maladministration in public administration; and
  - 4.2.3 the disclosure is made to a relevant authority.

#### 5. RELEVANT AUTHORITY

- 5.1 A disclosure of public interest information relevant to EHA, and its employees, officers and board members is made to a relevant authority if it is made to:
- 5.1.1 where the information relates to a public officer who is an employee or officer of EHA:
    - (a) a person who is, in accordance with any PID Guidelines, designated as a person who is taken to be responsible for the management or supervision of the public officer; or
    - (b) a person who is, in fact, responsible for the management or supervision of the public officer, including the Chief Executive Officer of EHA; or
  - 5.1.2 where the information relates to a public officer who is an elected member, employee or officer of a Constituent Council:
    - (a) a person who is, in accordance with any PID Guidelines, designated as a person who is taken to be responsible for the management or supervision of the public officer or to the responsible officer of the relevant Constituent Council; or

- (b) a person who is, in fact, responsible for the management or supervision of the public officer or to the responsible officer of the relevant Constituent Council; or
  - 5.1.3 where the information relates to EHA - the Ombudsman; or
  - 5.1.4 where the information relates to a location within the area of a Constituent Council - a member, officer or employee of the relevant Constituent Council; or
  - 5.1.5 where the information relates to a risk to the environment - the Environment Protection Authority; or
  - 5.1.6 where the information relates to an irregular and unauthorised use of public money or substantial mismanagement of public resources - the Auditor-General; or
  - 5.1.7 where the information relates to the commission, or suspected commission, of any offence - a member of the police force; or
  - 5.1.8 a Minister of the Crown; or
  - 5.1.9 OPI
- 5.2 Disclosures relating to other persons can be made to such relevant authorities as identified in the PID Act. The Chief Executive Officer of EHA is able to assist in ensuring the disclosure is made to the relevant authority.

## 6. RECEIPT OF A DISCLOSURE

- 6.1 Upon receipt of an appropriate disclosure of public interest information it will be dealt with in accordance with the processes described in this Procedure and the PID Act.
- 6.2 A person to whom an appropriate disclosure of public interest information is made must assess the information as soon as practicable after the disclosure is made and, following such assessment:
  - 6.2.1 must take action in relation to the information in accordance with any applicable PID Guidelines or, if no applicable guidelines exist, take such action as is appropriate in the circumstances (unless no action is to be taken as provided under the PID Act); and
  - 6.2.2 must take reasonable steps to notify the informant (if the informant's identity is known) that an assessment of the information has been made and to advise the informant:

- (a) of the action being taken in relation to the information; or
  - (b) if, no action is being taken in relation to the information - of the reasons why no action is being taken in relation to the information; and
- 6.2.3 must provide OPI with information relating to the disclosure in accordance with any applicable PID Guidelines.
- 6.3 No action need be taken in relation to an appropriate disclosure of public interest information if:
  - 6.3.1 the information disclosed does not justify the taking of further action; or
  - 6.3.2 the information disclosed relates to a matter that has already been investigated or acted upon by a relevant authority and there is no reason to re-examine the matter or there is other good reason why no action should be taken in respect of the matter.
- 6.4 A person who takes action in relation to an appropriate disclosure of public interest information (or if such action consists of referring the disclosure to another person) the person to whom it is referred:
  - 6.4.1 must take reasonable steps to notify the informant (if the informant's identity is known) of the outcome of that action; and
  - 6.4.2 must provide OPI with information relating to the outcome of that action in accordance with any applicable PID Guidelines.
- 6.5 If a person believes that his or her disclosure is not being dealt with appropriately or in accordance with this Procedure, he or she is encouraged to contact the CEO in the first instance.
- 6.6 If a board member, employee or officer of EHA receives what they consider may be a disclosure of public interest information, the recipient of that information may refer the disclosure to the CEO or other relevant authority as appropriate to be dealt with in accordance with the PID Act.
- 6.7 The CEO will be the primary point of contact for liaising with any other relevant authority.

## 7. PROTECTION FOR INFORMANT

### 7.1 Confidentiality

- 7.1.1 A person to whom an appropriate disclosure of public interest information is made or referred or who otherwise knows that such a disclosure has been made may not disclose the identity of an informant except:

- (a) so far as may be necessary to ensure that the matters to which the information relates are properly investigated; or
- (b) in accordance with any applicable PID Guidelines.

## 7.2 Immunity

7.2.1 If a person makes:

- (a) an appropriate disclosure of environmental and health information;  
or
- (b) a public officer makes an appropriate disclosure of public administration information,

the person is not subject to any liability as a result of that disclosure.

## 7.3 Victimisation

7.3.1 A person who causes detriment to another on the ground or substantially on the ground that the other person or a third person has made or intends to make an appropriate disclosure of public interest information commits an act of victimisation.

## 8. HOW TO MAKE APPROPRIATE DISCLOSURE OF PUBLIC INTEREST INFORMATION

8.1 A disclosure may be made in person, by telephone or in writing (either by post or email).

8.2 Disclosures made in writing should be marked Public Interest Disclosure and either emailed or posted to the attention of the CEO as follows:

- CEO Mr Michael Livori
- Telephone 8132 3600
- Email [mlivori@eha.sa.gov.au](mailto:mlivori@eha.sa.gov.au)
- Address 101 Payneham Road St Peters South Australia 5069

**9. SECURE HANDLING AND STORAGE OF INFORMATION**

- 9.1 The CEO must ensure details of disclosures and informants are securely and confidentially maintained as appropriate and in accordance with any applicable PID Guidelines.

**10. OTHER MATTERS**

- 10.1 A person who knowingly makes a disclosure that is false or misleading in a material particular is guilty of an offence and may be prosecuted.
- 10.2 EHA will take action as appropriate in the circumstances of the relevant Disclosure/s to protect informants from victimisation as defined in the PID Act, and/or from being hindered or obstructed in making a disclosure.

**11. AVAILABILITY OF THE PROCEDURE**

This Procedure will be available free of charge for inspection at EHA's Offices during ordinary business hours and via EHA's website [www.eha.sa.gov.au](http://www.eha.sa.gov.au). Copies will also be provided to the public upon request.

## Appendix A

Relevant Authorities<sup>1</sup>

Where the information relates to...	the relevant authority is...
a public officer*  *as defined and set out in Schedule 1 of the <i>Independent Commissioner Against Corruption Act 2012</i> - relevantly, this includes members, officers and employees of local government bodies	either: <ul style="list-style-type: none"> <li>• the person who is designated by the PID Guidelines as being taken to be responsible for management or supervision of the public officer;<sup>2</sup> or</li> <li>• the person who is in fact responsible for the management or supervision of the public officer; or</li> <li>• the relevant responsible officer (as designated by the Constituent Council in accordance with section 12 of the PID Act)</li> </ul>
a public sector agency or public sector employee	either: <ul style="list-style-type: none"> <li>• the Commissioner for Public Sector Employment; or</li> <li>• the responsible officer for the relevant public sector agency</li> </ul>
an agency to which the <i>Ombudsman Act 1972</i> applies	the Ombudsman
a location within the area of a particular council established under the <i>Local Government Act 1999</i>	a member, officer or employee of that Council
a risk to the environment	the Environment Protection Authority  the relevant Constituent Council where the information relates to a location within that Constituent Council's area
an irregular and unauthorised use of public money or substantial mismanagement of public resources	the Auditor-General
the commission, or suspected commission, of any offence	a member of the police force
a judicial officer	the Judicial Conduct Commissioner
a member of Parliament	the Presiding Officer of the House of Parliament to which the member belongs

<sup>1</sup> In all cases, there will be multiple applicable Relevant Authorities to whom an Informant may choose to make a Disclosure.

<sup>2</sup> Presently, no persons have been designated.

Where the information relates to...	the relevant authority is...
a person or a matter of a prescribed class <sup>3</sup>	an authority declared by the regulations to be a relevant authority in relation to such information
<p>public interest information - being:</p> <ul style="list-style-type: none"> <li>• environmental and health information (information that raises a potential issue of a substantial risk to the environment or to the health or safety of the public generally or a significant section of the public); or</li> <li>• public administration information (information that raises a potential issue of corruption, misconduct or maladministration in public administration)</li> </ul>	<ul style="list-style-type: none"> <li>• the OPI;</li> <li>• a Minister of the Crown; or</li> <li>• any other prescribed person or person of a prescribed class</li> </ul>

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<sup>3</sup> Presently, no prescribed persons or classes have been identified