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Australian Government

Inspector-General of the Australian Defence Force

PUBLIC INTEREST DISCLOSURE

Guidance Document

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Public Interest Disclosure – Guidance Document

Introduction

1. This document outlines the office of the Inspector-General of the Australian Defence Force (IGADF) procedures for managing disclosures made under the *Public Interest Disclosure Act 2013* (Cth) (the PID Act). Section 59 of the PID Act requires the IGADF (as the Principal Officer under the PID Act) to establish procedures for facilitating and dealing with public interest disclosures. These procedures detail the legislative requirements for managing internal disclosures and provide guidance for decision-makers. It is not relevant for external disclosures, emergency disclosures, or legal practitioner disclosures.¹

Background

2. The PID Act provides a mechanism for public officials to report maladministration and wrongdoing within the Commonwealth public sector. Within the Office of the IGADF, the PID Act is administered by the Directorate of Business Management and Governance (BM&G), within the Enabling Functions Branch.

3. For the purposes of the PID Act, the IGADF is the Principal Officer (PO).

4. The Inspector-General has delegated their PO powers and functions under the PID Act, to the Deputy Inspector-General of the Australian Defence Force (DIGADF) and the Assistant Secretary Enabling Functions (AS EF).

5. The DIGADF and the AS EF are Authorised Officers (AO) appointed under section 36(b) of the PID Act.

6. The PID Act requires the PO to establish and have in place procedures for appropriately handling and investigating public interest disclosures.

7. These procedures outline the legislated administrative process of the PID Act, and provide information about required reporting and record keeping. Other guidance can be found at:

- a. PID Standard 2013², and the
 - b. Agency Guide to the PID Act, published by the Office of the Commonwealth Ombudsman (the Ombudsman).
8. The objectives of the PID Act include:
- a. The promotion of integrity and accountability in the Commonwealth public sector;
 - b. Encouraging and facilitating the making of public interest disclosures by public officials;

¹ *Public Interest Disclosure Act 2013* (PID Act) s 26 items 2 to 4 of the table.

² As available and current at www.legislation.gov.au.

- c. Ensuring that agencies support and protect public officials who make public interest disclosures; and
- d. Ensuring disclosures made by public officials are appropriately managed and investigated.³

Confidentiality

9. It is a requirement of the PID Act to ensure the confidentiality of all aspects of a discloser's identity, allegations, and the information obtained during the course of a disclosure investigation.

10. It is an offence under the PID Act to use or disclose information that may identify a person as a discloser, unless the discloser has consented to the use of the information, or has acted in a way that is inconsistent with ensuring anonymity.

11. AOs, POs and any person involved in the administration of the PID Act within the Office of the IGADF must maintain confidentiality surrounding the PID process at all times. All individuals involved in dealing with a disclosure must:

- a. Not seek to determine the identity of a discloser where a disclosure is made anonymously;
- b. Only access (or attempt to access) information they are specifically authorised to access and only when it is relevant to managing a disclosure;
- c. Not release the identity of a discloser, the fact that a disclosure investigation is occurring or information obtained during the course of a disclosure investigation with any person who does not need to know for a purpose permitted by the PID Act;
- d. Advise the Director, Business Management and Governance, immediately of any breach, or suspected breach, of disclosure investigation information.

What is a Public Interest Disclosure (PID)

12. The PID Act complements existing notification, investigation, and complaint handling schemes in the Australian public sector. The PID Act provides additional protections for disclosers and reporting obligations for agencies.

13. A disclosure may be an internal disclosure, a legal practitioner disclosure, an external disclosure or an emergency disclosure. If a person makes a disclosure outside of defined circumstances⁴, they are not protected from the consequences of breaching any privacy or confidentiality requirements that apply to the disclosed information.

14. An internal disclosure is the most common type of disclosure under the PID Act. To make an internal disclosure, the person disclosing suspected wrongdoing must:

³ PID Act s 6.

⁴ PID Act s 26(1)

- a. Be a current or former public official (or deemed to be a public official)⁵;
- b. Make their disclosure to an authorised internal recipient within IGADF⁶; and
- c. Provide information that they believe tends to show, on reasonable grounds, disclosable conduct within an Australian Government agency or by a public official.

Receiving disclosures

15. Disclosures can be received via the Office of the IGADF PID mailbox igadf.pid@defence.gov.au, or an allocation from the Ombudsman or other agency.
16. All disclosures received are to be recorded in the Defence ERP Case Management System (DECMS). The discloser is to be sent written acknowledgment (where reasonably practicable) of the disclosure. The acknowledgment will inform disclosers:
- a. That the disclosure could be treated as an internal disclosure;
 - b. What the PID Act requires for the disclosure to be an internal disclosure;
 - c. About the circumstances (if any) in which a public interest disclosure must be referred under another law of the Commonwealth; and
 - d. Of any orders or directions, that the AO is aware of, that may affect the disclosure of information.

Assessing Disclosures

17. Where practicable AOs must assess and allocate the disclosure within 14 days of the receipt of a disclosure.⁷
18. The AO must assess disclosures having regard to the available information provided by the discloser, and the requirements of the PID Act. AOs must record a consistent level of detail when assessing whether to allocate a disclosure under the PID Act.
19. The AO must identify each individual issue raised in the information the discloser provides and frame it as an allegation. The AO must assess each allegation to determine if it is an internal disclosure.⁸ Further information on assessing each of these criteria are detailed below.
20. The *National Anti-Corruption Commission Act 2022* (Cth) (NACC Act) requires all PID Officers to consider whether information disclosed relates to serious or systemic corruption. If the disclosure meets the requirements set out in the NACC Act, the PID Officer should refer the information to the Commission.

⁵ Refer to paragraph 27 for information regarding public officials

⁶ Refer to paragraph 28 for information regarding authorised internal recipients

⁷ PID Act s 43(5).

⁸ Note that the individual types of disclosable conduct are required to be notified to the Commonwealth Ombudsman for the purposes of annual reports under s 76 of the Act (s 76(2)(ii) of the Act).

21. For the purposes of the PID Act and its application to the office of the IGADF, a public official includes both current and former:
- a. APS employees;
 - b. Permanent and Reserve members of the ADF;
 - c. Contracted external service providers (including subcontractors in some cases) to the Commonwealth; and
 - d. A Cadet, officer or instructor in the Australian Defence Force Cadets.
22. Within the office of the IGADF, AOs can check if a discloser is a current or former employee, ADF member, or external service provider by asking the discloser, by checking the Defence Corporate Directory or by checking the DECMS record when entering the discloser's details.
23. Where the disclosure is made anonymously, the AO may be able to determine a discloser's status from the information provided and the language used.
24. If the discloser is not a public official, but the AO is of the view that the matter warrants consideration under the PID Act, the AO may deem the person to be a public official.⁹
25. If the AO deems the discloser to be a public official, they must record their decision (with specific reference to the factors in the previous paragraph) on the DECMS record.
26. Where a discloser requests a determination be made that they are a public official, the AO must, after considering the request, make a determination as to whether they will be deemed a public official and clearly record their considerations. The AO must notify the discloser what the reasons were for this determination.¹⁰
27. Types of disclosable conduct include:¹¹
- a. Conduct that contravenes a law of the Commonwealth, State or Territory;
 - b. Conduct that perverts the course of justice or involves corruption of any other kind;
 - c. Conduct that constitutes maladministration that is based on improper motives, is unreasonable, unjust or oppressive, or is negligent;
 - d. Conduct that is an abuse of public trust;
 - e. Conduct that results in the wastage of relevant money or property;
 - f. Conduct that unreasonably results in or increases a risk of danger to health or safety;

⁹ PID Act s 70(1).

¹⁰ PID Act s 70(3).

¹¹ PID Act s 29

and

- g. Conduct engaged in for purpose of abusing one's public office.

28. Personal work-related grievances are not disclosable conduct unless the conduct involved would constitute taking a reprisal or is so significant in nature it would undermine public confidence.

29. Section 29A defines personal work-related conduct and it includes (but is not limited to) conduct that relates to:

- a. An interpersonal conflict between two public officials such as bullying and harassment;
- b. A transfer or promotion;
- c. Terms and conditions of employment; and
- d. Disciplinary action.

30. It is not disclosable conduct if it only relates to a policy, or proposed policy of the Commonwealth Government or action that is being taken by a Minister, the Speaker of the House of Representatives, or the President of the Senate.¹²

31. It is not disclosable conduct if it relates only to amounts, purposes or priorities of expenditure, or proposed expenditure relating to Government policy, or proposed policy with which a person disagrees.¹³

32. Conduct connected with courts, Commonwealth tribunals or with intelligence agencies in regard to performance of function, is not disclosable conduct.

33. Conduct engaged in by a public official that is not in connection with his or her position as a public official, is not disclosable conduct.¹⁴

34. Conduct alleged must be in connection with the subject's position as a public official or, for external service providers, the conduct must be in connection with their contracted work.¹⁵

35. The age of the alleged conduct is irrelevant as the PID Act captures conduct that occurred before the PID Act came into effect.¹⁶ The PID Act can capture conduct, which occurred in an agency that no longer exists and where the public official or external service provider alleged to have engaged in the conduct has ceased to be a public official or external service provider respectively.¹⁷

¹² PID Act s 31(a)(b).

¹³ PID Act s 32(c).

¹⁴ PID Act s 29(1)(b).

¹⁵ PID Act s 30.

¹⁶ PID Act s 29(3).

¹⁷ PID Act s 29(3)(b), (c) and (d).

36. Conduct that occurs in a public official's private capacity, which is of a serious criminal nature, may be grounds for termination of employment. This is particularly relevant where the subject holds a security clearance. If it is determined that the private conduct is sufficient to warrant revocation of a security clearance, the individual may no longer be able to perform their role as a public official and this could result in the termination of their employment.

37. Conduct matters may also breach section 13 of the *Public Service Act 1999* (Cth) as a breach of the Code of Conduct, and AOs must consider such matters when assessing disclosures.

38. In assessing the disclosure against the requirements of the PID Act, the AO should limit their inquiries to only obtaining information sufficient to determine if the allegations should be allocated as a PID or not. Generally this will be restricted to information provided by the discloser and should rarely involve seeking information from any other third party.¹⁸ Obtaining information that may prove or disprove disclosable conduct is an investigative function conducted by the PO.

39. AOs are not to consider the seriousness of the conduct alleged in their assessment unless the only suitable category by which to classify the alleged conduct is section 29(2A) of the PID Act.

40. In assessing the alleged conduct, the AO should consider information provided by the discloser, and identify any relevant legislation or policy that may have been breached.

41. When assessing a disclosure, the AO must consider the information available to form a view on the matter. Relevant considerations in assessing disclosures may include:

- a. How the alleged conduct was witnessed;
- b. Specificity of details provided (names, dates, locations, witnesses etc); and
- c. Supporting documents such as emails, letters, text messages, or similar. etc.

42. It is not the role of a discloser to search through Defence ICT systems and AOs should not advise disclosers to actively seek supporting documents to assist the assessment.

43. The AO should determine if the information shows disclosable conduct. This requires the AO to consider if a reasonable person, having regard to the circumstances and available information, would believe it is likely that wrongdoing has occurred.

Allocation decision

44. Prior to allocation, the AO must contact the discloser (where contact details have been provided), to ask if they consent to their name and contact details being provided to the delegate and Commonwealth Ombudsman.

45. If the discloser does not consent to their name and contact details being provided,

¹⁸ PID Act s 43(1).

the AO is not to attempt to convince them otherwise.

46. Where the AO determines that all three section 26 criteria are met and the disclosure is an internal disclosure, they must allocate the matter for investigation, unless they determine the conduct would be more appropriately investigated under another law or power.

47. The PID Act sets out the process for reallocation where a decision has not yet been made about an allocation or a decision has been made to reallocate a disclosure. This situation can occur following recommendations made by the Ombudsman.¹⁹

48. Prior to allocation the AO must consider whether their obligations have been satisfied, which include:²⁰

- a. Informing the discloser that the disclosure could be treated as an internal disclosure;
- b. Explain the consequences of making the disclosure;
- c. Advise about the circumstances that the matter may be referred to an agency or another law; and
- d. Advise of any orders or directions that the AO is aware of relating to designated publication restrictions.²¹

49. The AO must also consider whether the conduct would be more appropriately investigated under another law or power.

50. If the AO is satisfied, on reasonable grounds, that the conduct disclosed would be more appropriately investigated under another law or power, the AO must take reasonable steps to refer the disclosure to that other law or power.

51. An AO is required to facilitate the referral of the conduct disclosed, if they deem that it would be more appropriately investigated under another law or power. The steps taken to facilitate a referral may include providing the discloser with contact details for making a complaint and providing the discloser with any forms or background information necessary to make the complaint under another law or power.

52. It is a requirement that the Ombudsman is notified of the decision not to allocate the disclosure, the reasons for not allocating and whether the AO has taken action to refer a disclosure.

53. The legislation requires the AO to take action in relation to the referral, and notify the Ombudsman of the action taken. The information provided to the Ombudsman regarding a referral should include the other law or power, the agency or other person to which the conduct is referred and steps taken to facilitate the referral.

¹⁹ PID Act s 45.

²⁰ PID Act s 60(1).

²¹ PID Act s 43(6).

54. The AO must, as soon as reasonably practicable, notify the discloser of the allocation decision by email where contact details have been provided.²²

55. Once the AO has obtained the consent of the discloser for their name and contact details to be provided to the PO, the AO will advise the PO by DECMS so the investigation process can commence.

56. If the AO has assessed that the conduct disclosed would be more appropriately investigated under another law or power they must facilitate its referral.

57. The AO should consider allocating the matter to the Commonwealth Ombudsman and make any enquiries necessary to facilitate this, if the referral is not successful.²³

AO decision not to allocate

58. If the AO determines that any of the three section 26 criteria are not met, this provides sufficient reason for the AO to be satisfied that there is no reasonable basis for considering the disclosure to be an internal disclosure. Given this, the AO is not required to allocate the disclosure for investigation under the PID Act.²⁴

59. If the AO is satisfied, on reasonable grounds, that the conduct disclosed would be more appropriately investigated under another law or power, the AO must take reasonable steps to refer the disclosure to that other law or power.

60. The AO must document all considerations and advise the discloser of the decision, provide them with reasons for the decision and, where possible advise:

- a. Who their matter will be referred to, and how; or
- b. Other laws of the Commonwealth under which they may pursue the matter.²⁵

Risk assessments

61. The PO has a legislative obligation to ensure that there are procedures in place to assess the risk that reprisal may be taken against a discloser²⁶ and to protect public officials from detriment relating to a public interest disclosure they make.²⁷ Risks to consider include:

- a. Dismissal of an employee;
- b. Injury of an employee in their employment;
- c. Alteration of an employee's position to their disadvantage;

²² PID Act s 44(4).

²³ PID Act s 43(6).

²⁴ PID Act s 44A(1).

²⁵ PID Act s 44A(1).

²⁶ PID Act s 59(4)(a).

²⁷ PID Act 59(9).

- d. Discrimination between an employee and other employees of the same employer;
- e. Harassment or intimidation of a person;
- f. Harm or injury to a person, including psychological harm;
- g. Damage to a person's property;
- h. Damage to a person's reputation;
- i. Damage to a person's business or financial position; and
- j. Any other damage to a person.

62. Upon receipt of the disclosure, the AO will conduct an initial risk assessment by completing a ['PID Risk Assessment'](#) form and provide the discloser with a ['Consent Acknowledgement'](#) and ['Risk Self-Assessment'](#) form. If the discloser returns a completed risk self-assessment, the AO will consider that information along with the following factors, in assessing potential risk:

- a. The seriousness of the conduct alleged;
- b. Whether the discloser and subject work together;
- c. Whether the subject is in the discloser's line management;
- d. The number of people who are aware of the alleged conduct;
- e. Whether the conduct has previously been reported and investigated under another process; and
- f. Reasonably foreseeable dangers to the discloser.

63. Where a disclosure is made anonymously, the AO should also consider whether there may be any possible risks within the work area where the conduct has occurred or any other areas relating to the disclosure.

64. Where possible, the AO should contact the discloser to discuss the risk assessment, particularly where there are concerns about how risks will be mitigated or where the office of the IGADF does not accept the discloser's assessment of risk.

65. Details of the risk assessment should be clearly recorded in DECMS.

66. The risk assessment should be continually reviewed as relevant information comes to hand.

Allegations of reprisal action

67. Where during the course of a disclosure investigation, or after a disclosure

investigation has been finalised, a discloser, witness or other person who assisted with a disclosure investigation, raises concerns that they may have been subject to adverse action against them²⁸, the AO should record the concerns and create a new entry in DECMS to record the matter. The separate DECMS record is required to ensure accurate reporting to the Commonwealth Ombudsman. The new case should be linked to the original disclosure investigation case. A separate Objective file is required to store reprisal specific information.

68. All claims of reprisal action are considered by an AO as a new disclosure.

Disclosure Investigations

69. The PO must appoint someone to conduct the disclosure investigation. The AO who has assessed the disclosure should not be appointed to conduct the disclosure investigation.

70. Disclosure investigations should be finalised within 90 days after the allocation decision.²⁹ Finalisation of an investigation is either by way of:

- a. A decision that a different investigation should be conducted under another law or power³⁰;
- b. Using a discretion not to investigate, or not investigate further³¹; or
- c. Preparation of a report finalising the investigation under the PID Act.³²

Deciding not to investigate under the PID Act

71. The PID Act outlines reasons for not investigating an internal disclosure.³³ This decision can be made at any time during the disclosure investigation and may relate to all or some of the allegations allocated for investigation.

72. Reasons to not investigate or cease an investigation include: ³⁴

- a. The discloser is not, and has not been, a public official;
- b. The information does not concern serious disclosable conduct;
- c. The disclosure is frivolous or vexatious; or
- d. The information is the same as information previously disclosed under this Act, and:
 - i) a decision was previously made not to investigate the earlier disclosure; or
 - ii) the earlier disclosure has been, or is being, investigated as a disclosure

²⁸ PID Act s 13(1).

²⁹ PID Act s 52(1).

³⁰ PID Act s 47(3).

³¹ PID Act s 48.

³² PID Act s 52(2).

³³ PID Act s 48.

³⁴ PID Act s 48

investigation, or

- iii) The conduct disclosed is being or has been investigated under another law or power, or
- iv) The PO is satisfied that the conduct disclosed would be more appropriately investigated under another law or power, or
- v) The discloser does not wish the investigation to be pursued and the PO is satisfied there are no matters that warrant investigation, or
- vi) It is impracticable for the disclosure to be investigated.

73. If the PO or AO via delegation is satisfied that the conduct disclosed would be more appropriately investigated under another law or power then they must take reasonable steps to facilitate the referral for investigation.^{35, 36}

74. The investigation may initially involve preliminary enquiries to assist with determining whether to investigate.

75. The PO or AO via delegation must, as soon as reasonably practicable, advise the discloser that further enquiries need to be made and provide advice of the estimated length of time the investigation will take.³⁷

76. The investigation of the disclosure can be managed in a way that the investigator deems appropriate.³⁸ Within the office of the IGADF, this may include, but is not limited to, any or all of the following:

- a. Undertaking searches of PMKeyS, DECMS, Objective or SENTINEL;
- b. Conducting a desktop review of policy and legislation;
- c. A review of the information provided by the discloser;
- d. Determining if the subject matter of the disclosure has been previously investigated under another process;
- e. Any other avenue of enquiry the investigator thinks fit; and
- f. Speaking with witnesses and persons of interest.

77. If the investigator determines that a person will be interviewed as part of a disclosure investigation, they must ensure compliance with standard 10 of Public Interest Disclosure Standard 2013. The person conducting the interview must inform the interviewee of the:

³⁵ PID Act s 48(ga)

³⁶ PID Act s 50AA

³⁷ PID Act s 50(1A).

³⁸ PID Act s 53(1).

- a. Identity and function of each person conducting the interview;
 - b. Process by which the interview will be conducted;
 - c. Authority of the PO or delegate under the PID Act to conduct disclosure investigations.
78. The investigator must also ensure that:
- a. No audio or visual recording of the interview is made without express knowledge of the interviewee;
 - b. At the end of the interview, the interviewee is afforded the opportunity to make a final statement, comment or express a position; and
 - c. Any final statement, comment or position by the interviewee is included in the record of the interview.
79. Public officials must use their best endeavours to assist investigators.³⁹
80. If new information is uncovered in the course of a disclosure investigation, where an AO is satisfied on reasonable grounds that it is tangential or remote to the original disclosure, the information does not need to be investigated as part of the original disclosure investigation.⁴⁰

Referral of investigation under another law

81. During the course of a disclosure investigation, or upon receipt of an allocated internal disclosure, the AO may be of the view that the information is more appropriately investigated under another law (this is inclusive of processes established under a law of the Commonwealth) as provided for by section 47(3) of the PID Act. If this is the case, the AO may prepare a report for the purposes of section 51 with a recommendation that the matter be investigated by a relevant area under the specified law.⁴¹
82. Within the office of the IGADF, other laws or processes established include, but are not limited to:
- a. *Defence Force Discipline Act 1982* (Cth);
 - b. *Defence Act 1903* (Cth);
 - c. Procedures created under section (15)(3) of the *Public Service Act 1999* (Cth);
 - d. *Public Governance, Performance and Accountability Act 2013* (Cth); and
 - e. *Commonwealth Criminal Code Act 1995* (Cth).

³⁹ PID Act s 61(1).

⁴⁰ PID Act s 47(2)(b).

⁴¹ PID Act s 51(2) Note 1.

Disclosure investigation recommendations

83. Where a PO makes recommendations in the investigation report, they are required to ensure that appropriate action is taken on those recommendations.⁴²

84. Where recommendations have been made, the DECMS record will remain open until the PO is satisfied that appropriate action has been taken on those recommendations.

Mandatory notifications to policing agencies

85. The PID Act recognises that during the course of a disclosure investigation, evidence may indicate a criminal offence has been committed. In such cases, the agency may disclose the information to a member of an Australian police force.⁴³ Where the offence is punishable by imprisonment for a period of two years or more, the PO must notify the relevant police force, unless the PO believes on reasonable grounds the agency has the appropriate skills and resources needed to investigate and take action against the conduct.⁴⁴

Extension requests

86. If the investigator is of the view that the disclosure investigation will not be finalised within the 90-day timeframe, they may request an extension of time from the Commonwealth Ombudsman.⁴⁵

87. Prior to requesting an extension from the Commonwealth Ombudsman, the investigator should let the discloser know, they will be seeking an extension, explain why it is required and seek their views.

88. Additionally, requests for extension should be made at least 10 working days prior to the 90-day expiry date.⁴⁶

89. Where the Commonwealth Ombudsman grants an extension, the investigator must inform the discloser of the extension and the progress of the investigation as soon as possible.

Finalising the disclosure investigation

90. A disclosure investigation is finalised when the PO has prepared and signed an investigation report. The Investigation Report must comply with the requirements of Standard 13 of the Public Interest Disclosure Standard 2013.

91. Upon completion of the disclosure investigation, the PO must provide a copy to the discloser and the Ombudsman as soon as reasonably practicable.⁴⁷

⁴² PID Act s 59(4).

⁴³ PID Act s 56(2).

⁴⁴ PID Act s 56(4)(a).

⁴⁵ PID Act s52(3)(b).

⁴⁶ This timeframe is a policy of the Commonwealth Ombudsman and is not referred to in the Act.

⁴⁷ PID Act s 51(4).

92. The PO may redact certain information from the report.⁴⁸ In general the following may be redacted:

- a. Names of the discloser, subject and witnesses;
- b. Position titles;
- c. Any personal information regarding any of the above; and
- d. Any classified or confidential information.

Review and Recommendations from the Ombudsman

93. The Ombudsman may review an agency's handling of a disclosure as they deem necessary.⁴⁹

94. The Ombudsman may make recommendations to the agency. The recommendations can include, that the disclosure should be allocated, reallocated, further investigated, or reinvestigated.⁵⁰

95. The PO must consider any recommendations and implement them, as they deem appropriate.

96. The PO must give written notice to the Ombudsman of the action taken, or if no action will be taken, an explanation why.⁵¹

National Anti-Corruption Commission Act 2022

97. The *National Anti-Corruption Commission Act 2022* (Cth) (NACC Act) requires PID Officers to consider whether information disclosed relates to serious or systemic corruption. If the disclosure meets the requirements set out in the NACC Act, the PID Officer must refer the information to the National Anti-Corruption Commission.

98. When information is referred to the National Anti-Corruption Commission, the AO should progress the disclosure as normal, until notified otherwise by the National Anti-Corruption Commission.

99. In situations where the National Anti-Corruption Commission decides to investigate a matter further, they may deliver a stop action to the agency. This requires the agency to cease their disclosure investigation. This also pauses the PID completion timeframe and the agency will not be required to request an extension from the Ombudsman for this reason.

100. If a stop action prevents an AO from allocating a disclosure, the AO must give written notice to the Ombudsman regarding the stop action related to the disclosure.⁵²

⁴⁸ PID Act s 51(5) of the Act provides further details on what may be redacted from a s 51 report.

⁴⁹ PID Act s 55.

⁵⁰ PID Act s 55(6).

⁵¹ PID Act s 55(8).

⁵² PID Act s 44B(2).

101. If a stop action pauses the investigation, the PO must provide written notice to the Ombudsman both when it is issued and when it is revoked.⁵³

102. Once the stop action is lifted, the disclosure investigation must continue and the timeframe for the required completion of the PID commences from where it was paused.

Record keeping

103. As DECMS is not an approved records management system, in order to comply with Defence Records Management Policy, every DCEMS record will have a corresponding Objective record. All documents relating to the management of a disclosure are to be stored in the Objective record.

Reporting under the PID Act

104. The Office of the IGADF is required to report the following to the Commonwealth Ombudsman using forms available on their website:

- a. Notification of allocation or reallocation;
- b. Notification of decision not to investigate or not investigate further;
- c. Extension of time to investigate a PID;
- d. Notification of decision not to allocate;
- e. Notification of a finalised PID investigation; and
- f. Notification of a stop action direction.

Biannual Reporting

105. The Commonwealth Ombudsman is required to report to the Minister biannually on the operation of the PID Act. The mandatory items, which must be included in the report, are set out in section 76 of the PID Act.

106. It is extremely important that all officers involved in the management of disclosures are aware of this IGADF Guidance document so that the IGADF can report accurate information to the Commonwealth Ombudsman when required.

Complaints

107. Complaints regarding the office of the IGADF's handling of a PID can be made to the Commonwealth Ombudsman at PID@ombudsman.gov.au.

108. Complaints may be made to the Commonwealth Ombudsman about the following:

- a. The manner in which a disclosure is allocated or a decision not to allocate the

⁵³ PID Act s 50A.

disclosure;⁵⁴

- b. The manner in which a disclosure is investigated or a refusal to investigate using a section 48 discretion;⁵⁵ and
- c. The manner in which additional obligations are complied or not complied with.⁵⁶

109. Where the Ombudsman decides that it will investigate a complaint about the office of the IGADF's management of a disclosure, it will send a formal Section 8 notice advising of the investigation.

Support and other Obligations

110. AOs and POs have a significant role in managing discloser expectations regarding the PID Act. AOs have the following additional obligations:⁵⁷

- a. Inform the discloser that the information could be treated as an internal disclosure;
- b. Explain what an internal disclosure is per the requirements of the PID Act;
- c. Advise the discloser about the circumstances (if any) in which a public interest disclosure must be referred under another law or power; and
- d. Advise the discloser of any orders or directions that the AO is aware of, which are designated publication restrictions, that may affect the disclosure of the information.
- e. Where a need is identified, appropriate support avenues must be provided to the discloser.

111. An AO must take reasonable steps to protect public officials against reprisals that have been, or may be taken in relation to public interest disclosures.

112. All of the above contribute to the discloser obtaining a clearer understanding of the PID process.

Principal Officer Obligations

113. POs have additional obligations under the PID Act, as set out in section 59.

114. The PO must ensure they:

- a. Facilitate public interest disclosures;
- b. Have procedures for dealing with public interest disclosures;

⁵⁴ PID Act s 42 Note 2.

⁵⁵ PID Act s 46 Note 1.

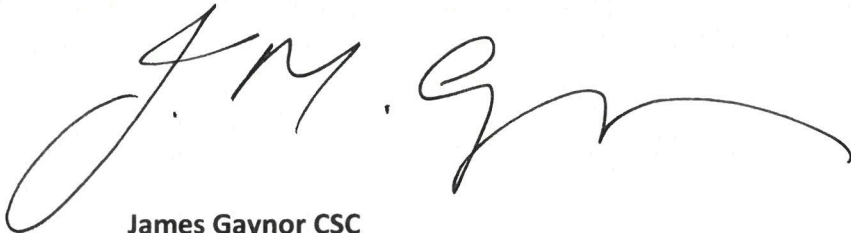
⁵⁶ PID Act s 58.

⁵⁷ PID Act s 60.

- c. Respond to investigations;
- d. Take reasonable steps to ensure ongoing training and education; and
- e. Protect public officials against reprisals.

115. In addition, the Public Interest Disclosure Standard 2013 states that the PO must ensure that a discloser is given information about the PO's powers to:

- a. Decide not to investigate the disclosure; or
- b. Decide not to investigate the disclosure further; or
- c. Decide to investigate the disclosure under a separate investigative power; or
- d. Decide to investigate the disclosure under another law or power.

A handwritten signature in black ink, appearing to read 'J. M. Gaynor', with a long horizontal flourish extending to the right.

James Gaynor CSC
Inspector-General of the Australian Defence Force

12 May 2025