

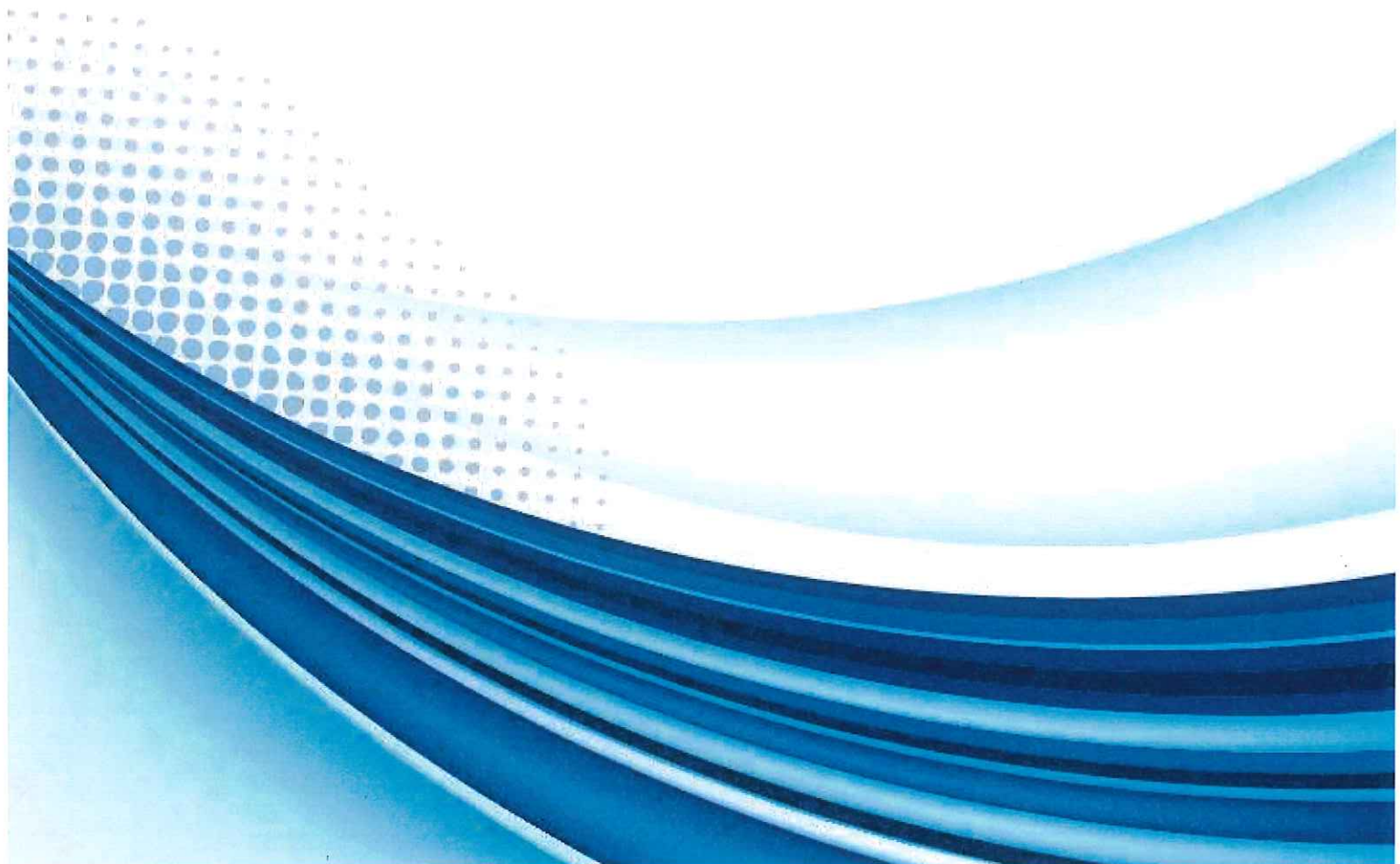


Shire of

Kulin

Public Interest Disclosure Procedures

Rights and obligations under the Public Interest Disclosure Act 2003



Policy Statement

The Shire of Kulin does not tolerate from its offices, employees and contractors:

- corrupt or other improper conduct, and
- mismanagement of public resources, in the exercise of its public functions.

The Shire of Kulin is committed to:

- the aims and objectives of the *Public Interest Disclosure Act 2003* (PID Act);
- the PID Act's aim to facilitate and encourage the disclosure of public interest information; and
- the PID Act's protection for those who make disclosures and for those whom disclosures are made.

The Shire of Kulin will:

- Comply with the Commissioners guidelines referenced in this procedure; and
- Ensure contact and related discussions are to be treated in the strictest confidence, in accordance with the requirements of the PID Act.

Objective

These internal procedures provide for the manner in which the Shire of Kulin will comply with its obligations under the *Public Interest Disclosure Act 2003*. They provide for the manner in which:

- disclosures of public interest information shall be made to the Public Interest Disclosure Officer (PID Officer) only;
- the PID Officer shall investigate the information disclosed, or cause that information to be investigated;
- the PID Officer may take action following the completion of the investigation;
- the PID Officer shall report to the discloser as to the progress and outcome of that investigation and the action taken as a consequence;
- the confidentiality of the discloser, and any person who may be the subject of a public interest disclosure, shall be maintained; and
- records as to public interest disclosures shall be maintained and reporting obligations complied with.

Scope

The PID Act only applies to disclosures made to an appropriate proper authority.

The PID Officer of a public authority is the proper authority for the disclosure of information relating to a matter falling within the sphere of responsibility of that public authority.

Disclosures to a journalist, the media, or other persons who are not specified as proper authorities are not protected by the PID Act.

Legislative and Strategic Context

Public Interest Disclosures Act 2003 (PID Act) commenced operation on 1 July 2003. The object of the Act is to:

- facilitate the disclosure of public interest information;
- provide protection for those who make disclosures; and
- provide protection for those who are the subject of a disclosure.

This is achieved by:

- protecting the person making the disclosure from legal or other action;
- providing for the confidentiality of the identity of the person making the disclosure and a person who is the subject of a disclosure; and
- providing remedies for acts of reprisal and victimisation that occur substantially because the person has made a disclosure.

The rights and obligations created by the Act are described in Appendix 1 to these Procedures.

Procedures

It is recommended that the PID Advice and Referral Line (08) 6552 8888 be accessed prior to making a disclosure as this will assist the PID Officer. Further information and associated documents can be sourced from: www.publicsector.wa.gov.au

Support for employees who make public interest disclosures

The Shire of Kulin will take all reasonable steps to provide protection to employees who make such disclosures from any detrimental action in reprisal for the making of a public interest disclosure.

The Shire of Kulin does not tolerate any of its officers, employees or contractors engaging in acts of victimisation or reprisal against those who make public interest disclosures.

Rights and Obligations

The rights and obligations created by the PID Act are described in Appendix 1 to these procedures.

Designation & Responsibilities of the Public Interest Disclosure Officer

The person from time to time holding or acting in the position of Chief Executive Officer is designated as the Public Interest Disclosure Officer (PID Officer) in the Shire of Kulin.

The PID Officer is responsible for receiving disclosures of public interest information relating to matters falling within the sphere of responsibility by the Shire of Kulin.

The contact details of the PID Officer are as follows:

38 Johnston Street
PO Box 125
KULIN WA 6365
ceo@kulin.wa.gov.au
Phone 9880 1204

As soon as practicable after assuming or acting the designated officer is to forward a completed PID Officer's Declaration Form to the Public Sector Commission.

A copy of the completed PID Officer's declaration form shall also be retained on the public authority's file.

Receiving Public Interest Disclosures

1. Advice to Disclosers

Before a discloser makes a public interest disclosure to a PID Officer, the PID Officer shall advise the discloser of the following matters:

- (a) If they choose to make a public interest disclosure they will not as a result
 - incur any civil or criminal liability.
 - be liable to any disciplinary action under State law.
 - be liable to be dismissed or have his or her services dispensed with or otherwise terminated.
 - be liable for any breach of a duty of secrecy or confidentiality or any other applicable restriction on disclosure.
- (b) If they choose to make a public interest disclosure they may have the right to take civil proceedings if they are subject to detrimental action as a result of making the disclosure.
- (c) If they choose to make a public interest disclosure then their identity will not be disclosed except in accordance with the Act (disclosure of their identity may be required in the course of the investigation or in taking action in some circumstances).
- (d) If they choose to make a public interest disclosure then they will have the right to be informed of the progress and outcome of the investigation and action taken as a result.
- (e) If they choose to make a public interest disclosure:
 - They are only protected if they believe on reasonable grounds that the information to be disclosed is or may be true;
 - They will commit an offence, and lose the protection of the Act, if they know the information to be false or misleading in a material particular or are reckless about whether the information is false or misleading in a material particular.
 - They will forfeit the protection given by the Act if they disclose the information otherwise than under the Act (i.e. if they provide the information to the media or a person who is not a proper authority).
 - They will forfeit the protection given by the Act if they fail, without reasonable excuse, to assist a person investigating the matter to which the information relates, by supplying any information requested.
 - They may commit an offence if they disclose information that might identify or tend to identify anyone as a person in respect of whom a disclosure of public interest information has been made.
- (f) The disclosure will only be protected if the PID Officer is the proper authority for receiving that kind of information, as indicated in the following table:

Proper Authorities for Receiving Disclosures of Public Interest Information

When the disclosure relates to:	The proper authority is:
A public authority or an officer of the public authority	PID officer of the public authority
Offences under State law	A police officer or the Corruption and Crime Commission
Substantial unauthorised or irregular use of, or substantial mismanagement of, public resources	PID Officer of the public authority concerned, or the Auditor General
Matters of administration affecting someone in their personal capacity falling within the jurisdiction of the Ombudsman	PID Officer of the public authority concerned or the WA Ombudsman
A police officer	Commissioner of Police or the Corruption and Crime Commission
A member of the Legislative Assembly	Speaker of the Legislative Assembly
A member of the Legislative Council	President of the Legislative Council
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 Parliamentary Commissioner Act 1971	PID Officer of the public authority concerned, the Ombudsman or the Commissioner for Public Sector Standards
A person or a matter of a prescribed class	A person declared by the regulations to be a proper authority

Important Notes: In addition, the information disclosed must be public interest information as defined in the Act.

Not all proper authorities to which a disclosure may be made will be required or have the power to investigate the information disclosed. In some cases it may be necessary for the discloser or information to be referred to another proper authority with power to investigate the information.

Assessing a Public Interest Disclosures

The PID Officer must, on receiving the information confirm that the discloser, after receiving the advice referred to in section 1, wishes to make a public interest disclosure under the Act. If they do the PID Officer must make an initial assessment of whether:

- a) the information disclosed relates to a public authority, a public officer or a public sector contractor.
- b) the information disclosed relates to the performance of a public function.
- c) the information disclosed tends to show improper conduct.
- d) the improper conduct is of the kind for which the PID Officer is the proper authority (see the table in section 1).
- e) the discloser believes on reasonable grounds that the information is or may be true.
- f) the information is not protected by legal professional privilege.

If the above questions are all answered "yes", then the disclosure of information is a public interest disclosure to which the Act will apply.

In assessing whether a disclosure is a public interest disclosure, the PID Officer should consider the *Flowchart for Receiving Disclosures* at Appendix 2, as well as complete Part 1 of the *Assessment Form Public Interest Disclosure* (see FORMS).

Important Note:

Where the proper authority does not have the power to investigate a matter the person should be referred to the appropriate proper authority. However, if they still wish to make the disclosure to you, it should be assessed and if it is a public interest disclosure, it should be referred to the appropriate authority for investigation as provided for under the PID Act.

Form of Public Interest Disclosures

If a disclosure is a public interest disclosure, the discloser and the PID Officer should complete the *Public Interest Disclosure Lodgement Form* (see FORMS). The PID Officer should also complete Part 2 of the *Assessment Form for Public Interest Disclosures* (see FORMS).

On completion of this form, the PID Officer should create a separate file for the Public Interest Disclosure, with the following text clearly marked on the front of the File.

CONFIDENTIAL

**The material in this file relates to a public interest disclosure made under the
*Public Interest Disclosure Act 2003***

Disclosure of information that might identify or tend to identify either the discloser or a person in respect of whom the disclosure has been made is an offence, unless the disclosure occurs in accordance with the PID Act.

Penalty: \$24,000 or imprisonment for two years

The making of the public interest disclosure should also be recorded in the Public Interest Disclosure Register by the PID Officer and maintained in a secure location. The register is available on the Commission's website.

Investigating a Public Interest Disclosure

1. Determining whether the matter must be investigated

After receiving a disclosure, the PID Officer must consider whether:

- the disclosure relates to the Shire of Kulin, its officers or contractors.
- the disclosure relates to a matter or person that Shire of Kulin has a function or power to investigate.

If the answer to both of these questions is "no", the PID Officer is not required by the PID Act to investigate the matter.

The PID Officer must also consider whether:

- the matter is trivial;
- the disclosure is vexatious or frivolous;
- there is no reasonable prospect of obtaining sufficient evidence due to the time that has elapsed since the occurrence of the matter; or
- the matter is being or has been adequately or properly investigated by another proper authority to which an appropriate disclosure of public interest information has been made under the PID Act.

If the answer to any of these questions is "yes" the PID Officer is not required by the PID Act to investigate the matter.

Where the PID Officer considers that he or she lacks sufficient power to effectively investigate the matter, but the information received causes him or her to form the opinion that a public authority, public officer or public sector contractor may have engaged in improper conduct, the PID Officer should refer the matter to another appropriate investigative body. For example, an allegation of an offence supported by cogent evidence may need to be referred by a PID Officer to the Police for investigation.

The questions to be considered in the initial assessment by the PID Officer are indicated in the *Flowchart for Investigating Information Disclosed* at Appendix 3, and Part 1 of the *Assessment Form for Public Interest Disclosures* (see FORMS) should be completed.

In assessing whether a public interest disclosure should be investigated, a PID Officer should consider the *Flowchart for Investigating Information Disclosed* (Appendix 3) and complete Part 3 of the *Assessment Form for Public Interest Disclosures* (see FORMS).

2. Investigating information received in a Public Interest Disclosure

Where the PID Officer determines that the disclosure is a public interest disclosure that should be investigated, the officer must investigate the disclosed matter himself or herself or engage another person to carry out the investigation.

In conducting an investigation, it is recommended that the following procedures are adopted:

- a) drawing up terms of reference, which should clarify the key issues identified by the disclosure
- b) specifying a date by which the investigation should be completed
- c) ensuring the objectives of the investigation include collecting and collating information relating to the disclosure, considering the information collected and drawing conclusions objectively and impartially
- d) maintaining procedural fairness for the person who is the subject of the disclosure
- e) giving information to the person who is the subject of a disclosure about their rights and obligations under the Act, the Code of Conduct and Integrity, any agency code of conduct, and the law
- f) the investigator making contemporaneous notes of discussions and interviews and, where practicable and appropriate, recording discussions and interviews on audio or videotape
- g) ensuring strict security with all investigations, so as to maintain the confidentiality requirements of the Act

A disclosure once properly made cannot be withdrawn. A proper authority may still continue to investigate the issues raised.

3. Maintaining Confidentiality in an Investigation

The PID Act imposes strict confidentiality requirements in relation to the identity of the discloser and persons in respect of whom a public interest disclosure has been made.

The disclosure of information which might identify or tend to identify these persons, except in accordance with the Act, is a serious offence, punishable with a maximum penalty of \$24,000 or two years imprisonment.

The confidentiality provisions of the PID Act do not apply to all information disclosed in a public interest disclosure, but only to information that might identify or tend to identify the discloser and persons in respect of whom a public interest disclosure has been made.

One of the circumstances in which identifying information may be disclosed is with the consent of the person concerned. It is important that this consent be recorded. The *Consent to Disclosure of Identifying Information* form should be used for this purpose (see FORMS).

Identifying information relating to a discloser may be disclosed without the discloser's consent where:

- it is necessary to do so, having regard to the rules of natural justice; or
- it is necessary to do so to enable the matter to be investigated effectively.

However, before information is disclosed for these reasons the person making the disclosure must take all reasonable steps to inform the person whose identity is to be disclosed:

- that the disclosure is being made; and
- the reasons for the disclosure being made.

This information should be given, where practicable, in the form for *Notification of Disclosure of Identifying Information* (see FORMS).

Where identifying information in relation to a discloser is conveyed to another person for these reasons, the other person should be warned that disclosure of the information to a third person may involve a serious offence.

Identifying information relating to a person in respect of whom a public interest disclosure has been made can be disclosed at the investigation stage where the disclosure:

- is necessary to enable the matter to be investigated effectively;
- there are reasonable grounds to believe that the disclosure of identifying information is necessary to prevent or minimise the risk of injury to any person or damage to any property.

In addition, disclosures made in accordance with section 152 or 153 of the *Corruption and Crime Commission Act* are exempt from these confidentiality requirements.

Particularly where a discloser works for the Shire of Kulin, protecting the identity of the discloser is an important part of protecting the discloser from reprisals and victimisation.

Careful consideration must be given as to whether the disclosure of information that might identify or tend to identify a discloser is necessary for the effective investigation of the matter or having regard to the rules of natural justice.

Where a PID Officer appoints a third person to conduct an investigation in relation to the public interest disclosure, he or she must consider whether it is necessary to inform the investigator of the identity of the discloser. In some cases it may not be necessary to provide the investigator with the identity of the discloser. Where it is necessary, to enable an effective investigation, or having regard to the rules of natural justice, to provide identifying information to the investigating officer, then the discloser should be notified in the manner described above.

4. Recording the Outcome of an Investigation

The outcome of an investigation should be clearly and comprehensively recorded. In addition to any investigation report, the person conducting the investigation should complete part 4 of the *Assessment Form for Public Interest Disclosure* (see FORMS).

The result of the investigation should also be recorded in the Public Interest Disclosure Register, this register is available on the Commission's website. All annual reporting requirements to the Public Sector Commissioner required under section 22 of the PID Act will be based on extracts from this Register. This Register (electronic and hard copy) is to be kept strictly confidential and in a secure place.

Taking Action Following an Investigation

1. General

The PID Officer must take action where he or she forms the opinion that a person may be, or has been or may in the future be, involved in improper conduct. Action that may be taken includes:

- preventing the matter to which the disclosure relates from continuing or occurring
- referring the matter to the Police or other appropriate body, or
- taking disciplinary action against a person responsible for the matter.

Before taking any action, the person against whom the action is to be taken is to be given the opportunity to make written or oral submissions.

In taking that action the PID Officer remains limited by the powers and functions that are conferred by the legislation under which the Officer operates. The PID Act does not give the PID Officer additional powers to take action.

As well as being limited to matters within the functions and powers of the PID Officer, the action to be taken is guided by what is necessary and reasonable.

2. Maintaining Confidentiality when Taking Action

When taking action, the confidentiality of identifying information must be maintained, unless its disclosure is authorised by the PID Act.

The only additional exception, beyond those identified in relation to investigations, is where disclosure of the identity of a person who is the subject of a public interest disclosure is necessary in taking action following the investigation.

3. Recording Action Taken

In addition to keeping other records, the PID Officer shall complete Part 5 of the *Assessment Form for Public Interest Disclosures* (see FORMS) and record a summary of the action taken in the Public Interest Disclosure Register. This register is available on the Commission's website. All reporting requirements to the Public Sector Commissioner required under the Act will be based on extracts from this Register.

Reporting to a Discloser on the Progress and Outcome of an Investigation

Where the PID Officer decides not to investigate information disclosed under the Act, or discontinues an investigation, the Officer must give the person who made the disclosure reasons for doing so.

Within three months of the disclosure being made the PID Officer must notify the discloser of the action taken or proposed to be taken in relation to the disclosure.

A discloser may also request a progress report.

If an investigation is not complete, the PID Officer may provide to the discloser a progress report on the current status of the investigation.

If an investigation is complete, the PID Officer must provide a final report (section 10) to the discloser, stating the outcome of the investigation and the reason for taking action following the investigation.

In providing information (section 11) and reports to disclosers, the PID Officer must not give information that, in the officer's opinion, would be likely to adversely affect:

- any person's safety;
- the investigation of an offence or possible offence; or
- necessary confidentiality as to the existence or identity of another person who has made a disclosure of public interest information under the PID Act.

Protecting Disclosers

1. Victimization and Reprisals

The Shire of Kulin will not tolerate any acts of victimisation or reprisal as a result of a person making, or proposing to make, a public interest disclosure.

Any victimisation or reprisals must be reported immediately to the Chief Executive Officer (the PID Officer), who must take immediate action to prevent the continuance of this unlawful conduct.

Where victimisation or reprisals are reported, a record of the report and the action taken must be placed on the file relating to the public interest disclosure.

Steps taken to prevent acts of victimisation or reprisal should be recorded in a manner that they will be accessible for reference, should legal action be taken against the Shire of Kulin.

2. Confidentiality

The confidentiality requirements in relation to information which might identify or tend to identify a discloser or a person in respect of whom a public interest disclosure has been made must be complied with at all times. As noted above, the disclosure of this identifying information, except in accordance with the PID Act, is an offence.

All files relating to a public interest disclosure, whether paper or electronic, must be secure and accessible only by authorised persons. Files should carry clear warnings that there are penalties for unauthorised divulgence of information concerning a disclosure.

It is strongly recommended that sensitive information is not emailed or faxed to machines with general or shared access.

Public Interest Disclosure Register

To assist with annual reporting to the Commissioner the Shire of Kulin shall maintain a Public Interest Disclosure Register recording a unique register number and key information for each disclosure. All annual reporting requirements to the Public Sector Commission required under section 22 of the PID Act will be based on extracts from this register. This register (electronic and hard copy) is to be kept strictly confidential and in a secure place. This register is available from the Commission's website.

Under the PID Act public authorities will need to report to the Commissioner each year as outlined below.

Principal Executive Officer Report

Under section 23(f) of the PID Act, the Shire of Kulin is required to report annually to the Public Sector Commission on:

- a) the number of public interest disclosures received over the reporting period
- b) the results of any investigations conducted as a result of the disclosures
- c) the action, if any, taken as a result of each investigation.

Commissioner's Compliance Report

Under section 19 and 22 of the PID Act, the Commissioner is required to monitor compliance with the PID Act, to assist public authorities to comply with the PID Act and the code of conduct and integrity and to provide an annual report to parliament.

Report Format and Submission

The Commission runs an annual agency survey program (1 July to 30 June). Each public authority will be surveyed on questions relating to the authorities role and obligations under the PID Act. This survey also requires that the public authority's PID Officer completes and sends in a register in a confidential electronic format.

Where there have been no disclosures in the reporting period the format of the report will provide for a simple nil return.

Making Information Available

These internal procedures should be made available for access by all employees and members of the public, with copies available from the PID Officer and the on the Shire of Kulin website:
www.kulin.wa.gov.au

After the commencement of the Act all staff should be provided with the *Information for Employees and Elected Members* at Appendix 5. This information is also included in the Shire of Kulin's Employee Safety Manual (part of staff induction documents).

Where a person makes an allegation about improper conduct, but the person has not referred to the Act, the person should be advised that they might want to make a public interest disclosure under the Act. If they may wish to do so, they should be referred to the PID Officer for guidance on how to make a disclosure under the Act and on the implications of having done so.

Appendix 1 – Roles and Responsibilities of Persons Directly Involved in a Public Interest Disclosure

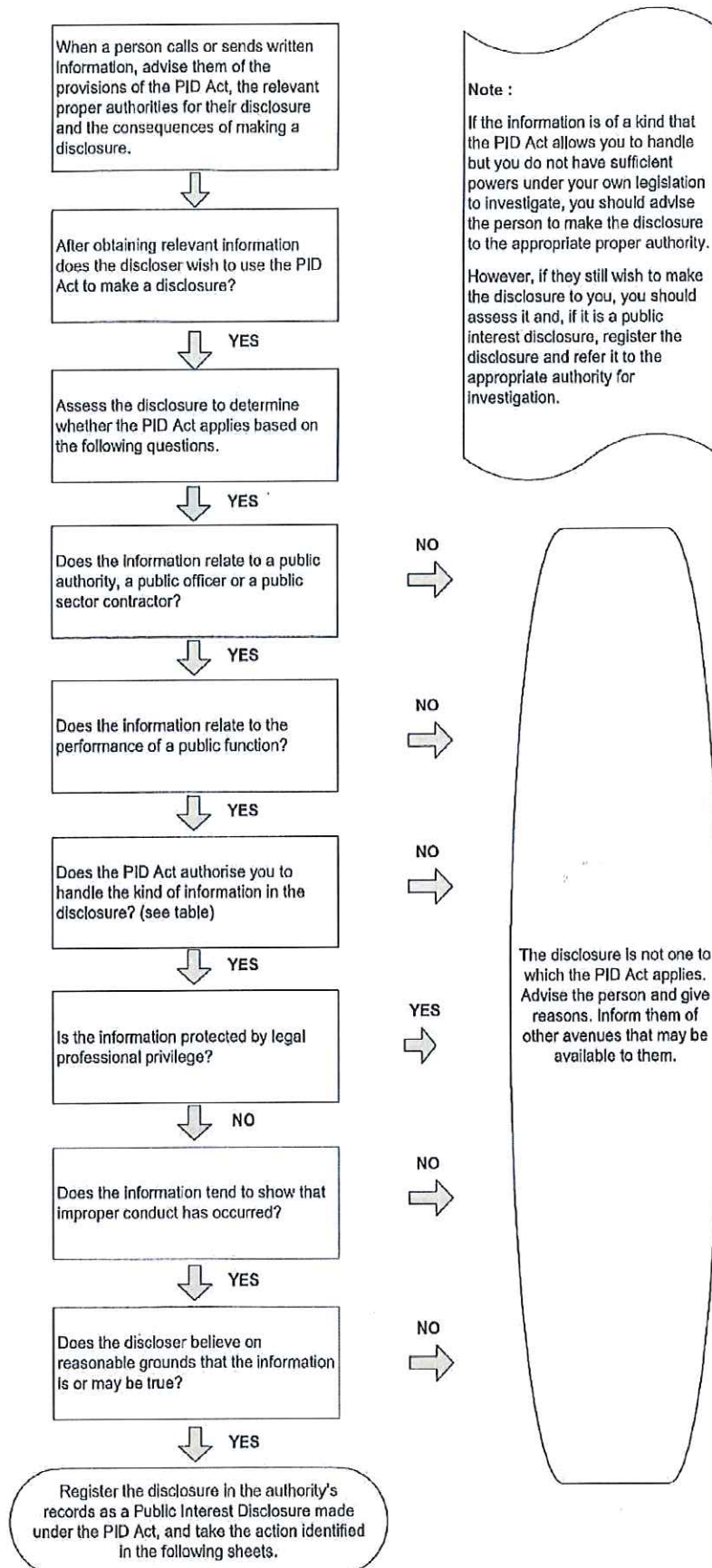
In the case of a typical public interest disclosure there will be a number of people involved with different roles and responsibilities.

The main players and their principal roles and responsibilities are noted in the table below. A more detailed description of the rights and obligations of these individuals is given elsewhere in these guidelines, and reference should be made to the preceding sections, as well as this table, in determining rights and responsibilities.

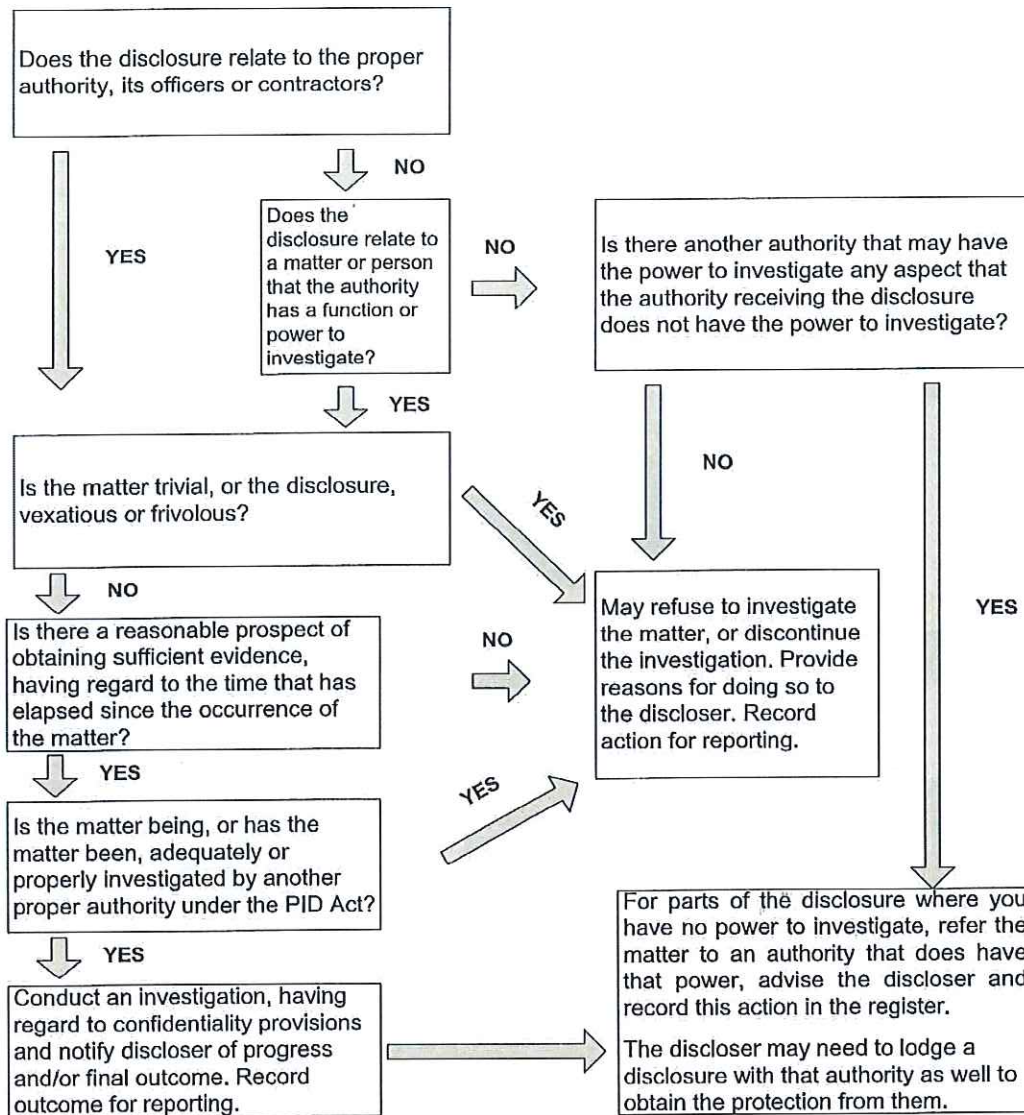
Roles and responsibilities of person's directly involved in a public interest disclosure:

WHO	ROLE AND RESPONSIBILITIES
The discloser	Makes an appropriate public interest disclosure Maintains confidentiality of the information disclosed and, in particular, the identity of the persons to whom the information relates
The proper authority	Receives a public interest disclosure Considers whether an investigation is required Carries out, or causes to be carried out, any investigation Maintains confidentiality of the identity of the discloser and persons subject to the disclosure, in accordance with the requirements of the PID Act Takes action following an investigation, where appropriate Provides appropriate reports of investigation and action taken to discloser Creates and maintains proper records in relation to disclosure Keeps statistics of disclosures made Acts in accordance with the rules of natural justice or procedural fairness
The person about whom the disclosure is made	May be subject to investigation and other action if improper conduct is established Maintains confidentiality of the identity of the discloser
An investigating officer	May conduct the investigations of public interest information on behalf of a proper authority, within the terms on the reference given Maintains confidentiality of the identity of the public interest discloser and persons subject to the disclosure, in accordance with the requirements of the PID Act Makes and keeps secure, comprehensive records of any investigation undertaken

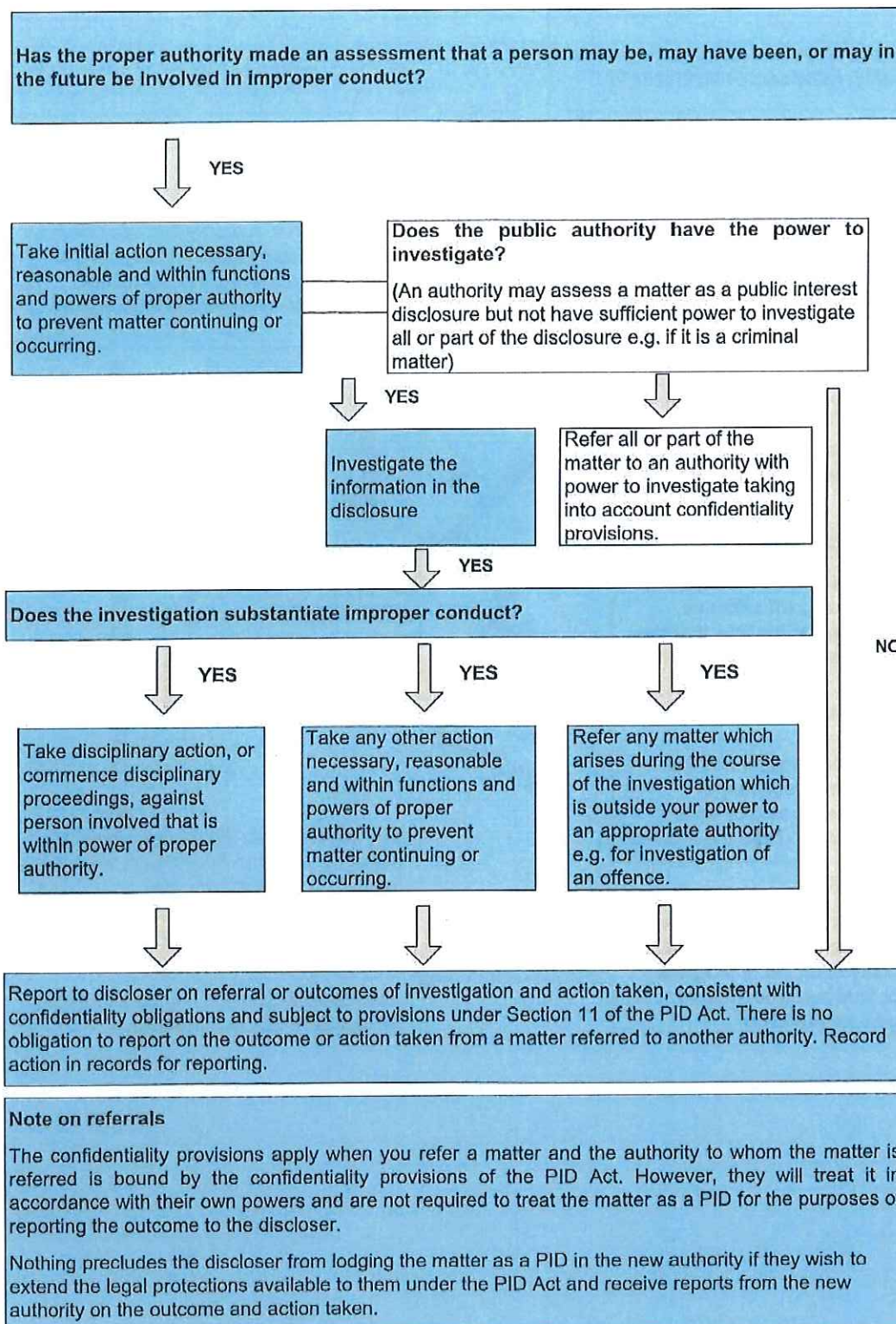
Appendix 2 – Flowchart for Receiving and Assessing Disclosures



Appendix 3 – Flowchart for Investigating Information Disclosed



Appendix 4 – Flowchart for Taking Action



Appendix 5 – Information for Employees and Elected Members

What is a public interest disclosure?

The *Public Interest Disclosure Act 2003* (The PID Act) came into effect on 1 July 2003. The PID Act facilitates the disclosure of public interest information by providing protection for those who make disclosures and those who are the subject of disclosures.

The Shire of Kulin is committed to the aims and objectives of the PID Act. It recognises the value and importance of contributions of employees to enhance administrative and management practices and strongly supports disclosures being made by employees regarding corrupt or other improper conduct.

What do I need to know before making a disclosure?

The PID Act deals with disclosures by anyone (not just government employees) but the information must be specific to the following areas;

Improper Conduct	Irregular or unauthorised use of public resources
An offence under State law, including corruption	Substantial unauthorised or irregular use of, or substantial mismanagement of public resources
Administration matter(s) affecting you	Conduct involving a substantial and specific risk of injury to public health, prejudice to public safety or harm to the environment

If your information falls outside the above area's then you may still be able to make a complaint, but this will not be a public disclosure under the PID Act. Before making a disclosure it is important that you are aware of the rights and responsibilities imposed on disclosers and others under the PID Act. In particular you need to be aware that:

- a) at the time you make your disclosure, you must believe on reasonable grounds that the information you have is, or may be, true
- b) it is an offence to make a disclosure if you know, or are reckless about, it being false and misleading
- c) with some exceptions, the public authority will investigate your information and in doing so you will be expected to cooperate
- d) you will have to keep your information confidential – or else you may lose protection under the PID Act and may commit an offence under the PID Act.

The PID Act only confers protection where a disclosure is made to an appropriate proper authority. The identity of the appropriate proper authority will vary according to the kind of information disclosed.

The Public Interest Disclosure (PID Officer) of the Shire of Kulin is the Chief Executive Officer.

Phone: 9880 1204 or email ceo@kulin.wa.gov.au

The PID Officer is responsible for receiving disclosures of public interest information relating to matters falling within the sphere of responsibility by the Shire of Kulin.

Proper Authorities for Receiving Disclosures of Public Interest Information

When the disclosure relates to:	The proper authority is:
The sphere of responsibility of a public authority	PID officer of the public authority
Offences under State law	A police officer or the Corruption and Crime Commission
Substantial unauthorised or irregular use of, or substantial mismanagement of, public resources	PID Officer of the public authority concerned, or the Auditor General
Matters of administration affecting someone in their personal capacity falling within the jurisdiction of the Ombudsman	PID Officer of the public authority concerned or the WA Ombudsman
A police officer	Commissioner of Police or the Corruption and Crime Commission
A member of the Legislative Assembly	Speaker of the Legislative Assembly
A member of the Legislative Council	President of the Legislative Council

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 Parliamentary Commissioner Act 1971	PID Officer of the public authority concerned, the Ombudsman or the Commissioner for Public Sector Standards
A person or a matter of a prescribed class	A person declared by the regulations to be a proper authority

Important Notes: In addition, the information disclosed must be public interest information as defined in the Act.

Not all proper authorities to which a disclosure may be made will be required or have the power to investigate the information disclosed. In some cases it may be necessary for the discloser or information to be referred to another proper authority with power to investigate the information.

What you should ask yourself

Make a disclosure is a serious matter and needs to be fully considered. Before make a disclosure you should ask yourself:

- a) whether you have reasonable grounds to believe the information you are thinking of disclosing is or may be true
- b) if the information is something that you think is important to be disclosed because it is in the public interest
- c) whether you have sought proper advice
- d) if you fully understand your rights and responsibilities under the PID Act if you make a disclosure.

I have made a disclosure – what next?

After assessing your information the public authority will have to investigate 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 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 proper authority, an officer or contractor of the authority or a matter that the proper authority has the function or power to investigate.

Will I be kept informed?

Yes – the public authority must inform you within three months of making the disclosure of what they intend to do about your disclosure. Where the information is under investigation you will be able to request a progress report. You are entitled to a report on the outcome and any action taken when the investigation is complete.

What about confidentiality and my protection?

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

- the identity of the person making a disclosure
- the identity of any person named in the disclosure

There are exceptions to these rules in certain circumstances (section 16 of the PID Act) and anyone thinking of making a disclosure should seek advice from the relevant PID Officer or the **Public Sector Commission** on these prior to making 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 Opportunity Commission or may be able to take civil action. The Equal Opportunity Commission is at Level 2 Westralia Square 141 St Georges Terrace Perth. Phone: (08) 9216 3900.

After Investigation

After making a disclosure you will not normally be required to do anything else other than cooperation with an investigation. If you are unhappy with the public authority's response to your disclosure there is no right of appeal under the PID Act to challenge the public authority's actions. You may, however, be able to make another disclosure to a different proper authority.

Victimisation and reprisals

The Shire of Kulin will take all reasonable steps to provide protection to employees who make such disclosures from any detrimental action in reprisal for the making of a disclosure.

The Shire of Kulin does not tolerate any of its officers, employees or contractors engaging in acts of victimisation or reprisal against those who make public interest disclosures. These acts should be reported immediately to the PID Officer of the Chief Executive Officer.

Named proper authorities

There are some public authorities that are named as proper authorities in the PID Act that may be able to offer you assistance. There are listed below:

- The **Public Sector Commission** provides assistance to public authorities and public officers to comply with the code of conduct and integrity and the PID Act. The Commission also provides general information about the disclosure process to employees and members of the public. PID Advice and Referral Line on 6552 8888 or 1800 676 607 or www.publicsector.wa.gov.au
- The **Corruption and Crime Commission** will be able to provide advice on misconduct and corruption. Phone 9215 4888 or www.ccc.wa.gov.au
- The **Ombudsman** will be able to provide advice on matters of State and local government administration. Phone 9220 7555 or www.ombudsman.wa.gov.au
- The **Office of the Auditor General** will be able to provide advice on proper use and management of public resources and more generally public authorities' accountability and performance requirements. Phone 6557 7500 or www.audit.wa.gov.au
- The **WA Police Service** will be able to provide advice on offences under a State Law. Phone 9223 1000 or www.police.wa.gov.au

Forms – Public Interest – Disclosure Act 2003

- Public Interest Disclosure Lodgement Form
- Consent to Disclosure of Identifying Information Form
- Notification of Disclosure of Identifying Information Form
- Assessment and Case Management Form for a Public Interest Disclosure (Parts 1 – 4)

Public Interest Disclosure Lodgement Form

Public Interest Disclosure Act 2003

Shire of Kulin strongly encourages anyone thinking about making a public interest disclosure to seek out a nominated proper authority to discuss their issues first. Our proper authority (Public Interest Disclosure (PID) Officer(s)) are:

Position	Chief Executive Officer
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Name of PID Officer	Garrick Yandle
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Contact details	ceo@kulin.wa.gov.au
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Ensure you understand your rights and responsibilities under the *Public Interest Disclosure Act 2003* (PID Act) before you sign this lodgement form. You may wish to seek external legal advice about those rights and responsibilities. Lodge your public interest disclosure form with the Shire of Kulin's proper authority (PID Officer), not the Public Sector Commission.

Personal details

Family name	
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Given name	
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Title	<input type="checkbox"/> Mr	<input type="checkbox"/> Ms	<input type="checkbox"/> Mrs	<input type="checkbox"/> Dr	<input type="checkbox"/> Other
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Address	
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Work phone	
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Mobile	
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Email	
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I wish to make an anonymous public interest disclosure. I understand that:

- I will not receive any information about what happens to this disclosure
- it may be more difficult for the proper authority to look into the matter(s) as they cannot come back to me for further information
- it may be more difficult for the proper authority/public authority to protect me
- this anonymous disclosure may not prevent me from being identified during any investigation or when action is being taken.

Categories of public interest information

Tick relevant box(es)

Improper conduct	<input type="checkbox"/>
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An offence under written State law	<input type="checkbox"/>
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Substantial unauthorised or irregular use of, or substantial mismanagement of, public resources	<input type="checkbox"/>
---	--------------------------

Conduct involving a substantial and specific risk of injury to public health, or prejudice to public safety or harm to the environment	<input type="checkbox"/>
--	--------------------------

Administration matter(s) affecting you personally	<input type="checkbox"/>
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Disclosure details	
Name of the public authority(ies) the disclosure relates to	
Do you work for a public authority?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, which public authority and what is your position title?
Does the disclosure relate to one or more individuals?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, provide name(s) and position(s) held by person(s) in the public authority
When did the alleged events occur?	
Summary of the matters to disclose	

Additional information	
Description of any documents provided or names of witnesses	
Have you reported this information to any other person or agency?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, did you report this information as a Public Interest Disclosure matter?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details

You should read the following information and sign this form prior to lodgement.

Acknowledgement

I believe on reasonable grounds that the information contained in this disclosure is or may be true.
I have been informed and I am aware that:

- I will commit an offence under section 24 of the PID Act, if I know that the information contained in this disclosure is false or misleading in a material particular, or I am reckless as to whether it is false or misleading in a material particular.
Penalty: \$12 000 or imprisonment for one (1) year.
- I will forfeit the protection provided by section 13 of the PID Act, if I fail, without reasonable excuse, to assist a person investigating the matter by supplying requested information (s17).
- I will forfeit the protection provided by section 13 of the PID Act, if I subsequently disclose this information to any person other than a proper authority under the PID Act (s17).
- I will commit an offence, if I subsequently make a disclosure of information that might identify or tend to identify anyone as a person in respect of whom this disclosure has been made under the PID Act, except in accordance with section 16(3) of the PID Act.
Penalty: \$24 000 or imprisonment for two (2) years.

I cannot withdraw my disclosure after I have made it. Authorisation	
Discloser's signature	
Date	

OFFICE USE ONLY

Register No: #

Date: / /

Consent to disclosure of identifying information form

Public Interest Disclosure Act 2003

Personal details		
Family name		
Given name		
Disclosure No.		(to be completed by proper authority/Public Interest Disclosure (PID) Officer)

Consent	
<p>Consent to disclosure of identifying information by discloser</p> <p>I consent to the disclosure of information that might identify or tend to identify me as a person who has made an appropriate disclosure of public interest information under section 16(1)(a) of the <i>Public Interest Disclosure Act 2003</i>.</p>	<input type="checkbox"/>
<p>Consent to disclosure of identifying information by subject</p> <p>I consent to the disclosure of information that might identify or tend to identify me as a person in respect of whom a disclosure of public interest information has been made (subject) under section 16(3)(a) of the <i>Public Interest Disclosure Act 2003</i>.</p>	<input type="checkbox"/>

Limitations on consent	
This consent only applies to disclosures made to the following persons	
This consent only applies to the following information	

Authorisation	
Signature of discloser/subject: (delete as appropriate)	
Date	
Signature of proper authority/PID Officer	
Date	

OFFICE USE ONLY

Register No: #

Date: / /

Notification of disclosure of identifying information form

Public Interest Disclosure Act 2003

To					
Title	<input type="checkbox"/> Mr	<input type="checkbox"/> Ms	<input type="checkbox"/> Mrs	<input type="checkbox"/> Dr	<input type="checkbox"/> Other:
Given name					
Family name					
Provided by	<input type="checkbox"/> email <input type="checkbox"/> mail <input type="checkbox"/> in person				

I intend to make a disclosure of information that might identify or tend to identify you as a person who has made an appropriate disclosure of public interest information under section 16 of the *Public Interest Disclosure Act 2003*.

The disclosure of this information

Is necessary, having regard to the rules of natural justice (section 16(1)(b))

Is necessary to enable the matter to be investigated effectively (section 16(1)(c))

The reason(s) why the disclosure of this information is necessary is (specify reason(s))

Important: A person making an identifying disclosure for these reasons must take all reasonable steps to provide this information to the discloser within a reasonable time before making the disclosure in accordance with section 16(2).

Authorisation

Signature of person proposing to make disclosure

Name

Position

Contact details

Date

Assessment and Case Management Form for a Public Interest Disclosure

Public Interest Disclosure Act 2003 (PID Act)

Part 1: Receiving the disclosure: Assessment of whether the information is a valid disclosure for the purposes of the PID Act

Assessment of disclosure	Decision	Notes
Does the disclosure relate to a public authority, a public officer or a public sector contractor? (s. 8)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does the information relate to the performance of a public function? (s. 8)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does the information show or tend to show matters of public interest information? ¹ (s. 3)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does the information show or tend to show public interest information for which the person receiving the information is the proper authority (Public Interest Disclosure (PID Officer))? (s. 5(3)(h) and s. 23(1)(a))	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does the discloser believe on reasonable grounds that the information is, or may be, true? (s. 5(2))	<input type="checkbox"/> Yes <input type="checkbox"/> No	
After being informed of the consequences does the discloser wish to disclose the information under the PID Act, that is, make a public interest disclosure? (s. 5(1))	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Note for proper authority/PID Officer: If any of the 'No' boxes have been ticked, then the disclosure is unlikely to be one to which the PID Act applies. Make proper and secure records about your determination of whether the disclosure is a valid public interest disclosure under the PID Act. Inform the discloser of your determination and reasons (s. 10).

¹ Matter to which public interest information can relate:

- improper conduct
- an offence against State law
- a substantial unauthorised or irregular use of public resources
- a substantial mismanagement of public resources
- conduct involving a substantial and specific risk of injury to public health, prejudice to public safety or harm to the environment
- conduct relating to a matter of administration affecting someone in their personal capacity that falls within the jurisdiction of the Ombudsman.

Confirmation

I _____ the proper authority (Public Interest Disclosure Officer) for the Shire of Kulin, confirm that the disclosure made to me on _____ (date) by _____ (insert name if appropriate), shows or tends to show that the matters described are public interest information. I have registered these matters as a disclosure under the PID Act in the public interest disclosure register of the Shire of Kulin with the registered number _____ (insert number).

Signed (proper authority)		Date	
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Case Management note for the proper authority/PID Officer**Decision**

I have created a case file which complies with the recordkeeping plan of the Shire of Kulin, as required by the <i>State Records Act 2000</i> .	<input type="checkbox"/> Yes <input type="checkbox"/> No
I have notified the discloser of the proposed action to be taken or the action taken in relation to the disclosure in accordance with s. 10(1) of the PID Act (if applicable, at this point of the enquiry).	<input type="checkbox"/> Yes <input type="checkbox"/> No
This has been in accordance with the requirements of s. 11 and s. 16 of the PID Act.	<input type="checkbox"/> Yes <input type="checkbox"/> No
I have recorded the action(s) in the public interest disclosure register.	<input type="checkbox"/> Yes <input type="checkbox"/> No

Part 2: Assessment of whether the disclosure should be investigated

Assessment of disclosure	Decision	Notes
Does the disclosure relate to the public authority, its officers or contractors? (s. 5(3) and s. 8(1))	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does the disclosure relate to a matter or person that you or your public authority has a function or power to investigate? (s. 5(3)(h) and s. 8(1))	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Is there a reasonable prospect of obtaining sufficient evidence, having regard to the time that has elapsed since the occurrence of the matter? (s. 8(2))	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Note for proper authority/PID Officer: If any of the 'No' boxes have been ticked, then the disclosure is unlikely to be one that the PID Act requires you to investigate (or cause to investigate). Ensure you make proper and secure records of the reason(s) for which you will not be investigating and provide these reasons to the discloser.

Assessment of disclosure	Decision	Notes
Is the matter trivial? (s. 8(2))	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Is the disclosure vexatious? (s. 8(2))	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Is the disclosure frivolous? (s. 8(2))	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Is the matter being, or has the matter been, adequately or properly investigated by another proper authority under the PID Act? (s. 8(2))	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Note for proper authority/PID Officer: If any of the 'Yes' boxes have been ticked, then the disclosure is unlikely to be one that the PID Act requires you to investigate (or cause to investigate). Ensure you make proper and secure records of the reason(s) for which you will not be investigating and provide these reasons to the discloser.

Confirmation
I _____, the proper authority (Public Interest Disclosure Officer) for the Shire of Kulin, confirm that the public interest disclosure registered number _____ made to me on _____ (insert date) by _____ (insert discloser's name if appropriate) in my opinion meets/does not meet the requirements of the PID Act for a public interest disclosure to be investigated. I also confirm that I have recorded my opinion in the public interest disclosure register of the Shire of Kulin.

Signed (proper authority)		Date	
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Case Management note for the proper authority/PID Officer	Decision
I have notified the discloser of the proposed action to be taken, or the action taken in relation to the disclosure in accordance with s. 10(1) (if not previously provided) or I have provided a progress report to the discloser on the current progress on dealing with the matter in accordance with ss. 10(2) or (3). This is consistent with the requirements of s. 11 and s. 16.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No
I have recorded the action(s) in the public interest disclosure register.	<input type="checkbox"/> Yes <input type="checkbox"/> No

Part 3: Engaging an external investigator to investigate the public interest disclosure

Investigating officer's name	
Normal designation of investigating officer	
Address	
Telephone number	
Email address	
Details of authorisation and scope of investigation	
Date investigation was authorised by the proper authority	
Procedures and guidelines provided to external investigator	

The investigation process is not prescribed under the PID Act but the following table is a useful checklist for an investigation.

Assessment of disclosure	Decision	Notes
Have the documents used in the assessment of the disclosure been reviewed?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Was an investigation plan developed?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Were terms of reference developed?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Were people interviewed?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Was confidentiality maintained (s. 16): <ul style="list-style-type: none"> • of the discloser's identity • of the information disclosed • of the identity of the subject(s) of the disclosure? 	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Were the rules of natural justice followed? (s. 9 and s. 16)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Was a report prepared?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Have all documents/evidence/reports been provided to the proper authority?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Recommendation

I recommend that the proper authority (PID Officer)/public authority form the opinion that

I _____, the investigating officer appointed by the Shire of Kulin to investigate the public interest disclosure registered number _____, confirm that the above is a summary of my investigation undertaken as a result of a disclosure made in accordance with the PID Act.

Signed (investigating officer for public authority)		Date	
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Case Management note for the proper authority/PID Officer**Decision**

I have provided a progress report to the discloser on the current progress on dealing with the matter in accordance with ss. 10(2) or (3).

Yes No

This is consistent with the requirements of s. 11 and s. 16.

Yes No

I have recorded the action(s) in the public interest disclosure register.

Yes No

Part 4: Taking action

Assessment of disclosure	Decision	Notes
Where the matters have been investigated by an external investigator, do you (the proper authority) accept the recommendation contained in Part 3?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Note for proper authority/PID Officer: If you have ticked the 'yes' box, please indicate below the action you will take.

Assessment of disclosure	Decision	Notes
Take action that is necessary, reasonable and within your functions and powers to prevent the matter continuing or occurring.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Refer the matter to another person, body or organisation with the power to investigate.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Take disciplinary action, or commence disciplinary proceedings, against the person involved, within your powers and functions.	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Note for proper authority/PID Officer: Report to the discloser on the outcome of the investigation and any action taken or proposed to be taken (s. 10), consistent with the requirements of the PID Act (particularly sections 11 and 16). Record the action(s) in the public interest disclosure register.

Details of the actions taken
I recommend that the proper authority (PID Officer)/public authority form the opinion that

Confirmation
I _____, the proper authority (Public Interest Disclosure Officer) for the Shire of Kulin, confirm that the above action was taken or will be taken following the public interest disclosure registered number _____. I confirm that I have recorded the outcome of the investigation and the action taken or to be taken in the public interest disclosure register of Shire of Kulin.

Signed (proper authority)		Date	
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Case Management note for the proper authority/PID Officer	Decision
I have provided a final report to the discloser on the current progress on dealing with the matter in accordance with s. 10(4).	<input type="checkbox"/> Yes <input type="checkbox"/> No
This is consistent with the requirements of s. 11 and s. 16.	<input type="checkbox"/> Yes <input type="checkbox"/> No
The final report details the outcome of the investigation, any action taken, or proposed to be taken, and the reasons for taking those actions (s. 10(4)).	<input type="checkbox"/> Yes <input type="checkbox"/> No
I have recorded the action(s) in the public interest disclosure register.	<input type="checkbox"/> Yes <input type="checkbox"/> No