



Government of South Australia
SA Housing Trust



Public Interest Disclosure Procedure

UNCONTROLLED if printed

Public Interest Disclosure Procedure

This procedure has been developed to outline the steps involved when making an appropriate disclosure of public interest information under the *Public Interest Disclosure Act 2018* (PID Act) and should be read in conjunction with the South Australian Housing Trust's (the Trust) *Public Interest Disclosure Policy* (PID Policy) and the Public Interest Disclosure Guidelines issued by the Independent Commission Against Corruption

https://www.icac.sa.gov.au/_data/assets/pdf_file/0007/370636/Public-Interest-Disclosure-Guidelines_04-April-2022.pdf.

This procedure is applicable to all Trust employees, labour hire workers, contractors, work experience students, volunteers and to the situations where a member of the public, a client, a stakeholder or an individual in a non-government organisation makes an appropriate disclosure consistent with the PID Act.

This procedure will also be published and made accessible to members of the public on the Trust's internet site. Any members of the public who wish to make a disclosure of public interest information in accordance with the PID Act are entitled to do so on the basis set out in this procedure.

The Trust is committed to the principles enshrined in the PID Act and fully supports the disclosure of public interest information in accordance with these principles. It is the Chief Executive of the Trust's expectation that all employees and officers similarly support the making of disclosures in accordance with the PID Act and ensure that such disclosures are acted on with genuine and efficient consideration. These procedures are issued to support employees and officers to carry out these expectations.

Definitions

Term	Meaning
Corruption	Has the same meaning as in the ICAC Act
Environmental and health information	Information that raises a potential issue of a substantial risk to the environment or to the health or safety of the public generally or a significant section of the public (whether occurring before or after the commencement of the PID Act)
ICAC	Independent Commission Against Corruption
ICAC Act	The <i>Independent Commission Against Corruption Act 2012</i> (SA)
Informant	A person who makes an appropriate disclosure of public interest information
Misconduct and maladministration in public administration	Has the same meaning as in the <i>Ombudsman Act 1972</i> (SA)
OPI	The Office for Public Integrity established under the <i>Independent Commission Against Corruption Act 2012</i> (SA)
PID Act	The <i>Public Interest Disclosure Act 2018</i> (SA)
Public administration information	Information that raises a potential issue of corruption, misconduct or maladministration in public administration (whether occurring before or after the commencement of the PID Act)
Public interest information	Environmental and health information or public administration information

Public officer	The meaning set out in Schedule 1 of the ICAC Act and includes an employee of the SA Housing Trust or a person performing contract work for the SA Housing Trust
Recipient	The person to whom a public interest disclosure is made, or a person to whom the disclosure has been referred

Procedure Detail

Obligation to Protect Informants

The Trust is committed to ensuring informants can make disclosures in accordance with the PID Act without fear of intimidation, threats, harassment or victimisation, and to ensuring that these disclosures are acted on in an efficient and effective manner.

This Procedure sets out the steps that the Trust and its officers and employees are required to take to ensure that any person who makes a disclosure under the PID Act and is entitled to the protections of the PID Act from detrimental action receives those protections. The Trust’s officers and employees must:

- comply with the steps set out in this Procedure to ensure that the risk to an informant arising out of a disclosure is appropriately considered and managed; and
- not engage in any conduct that would constitute victimisation of an informant in contravention of the PID Act or the PID Policy.

Anyone wishing to make a disclosure should note that the protections under the PID Act from detrimental action are only available to persons who are covered by the PID Act and make the disclosure in accordance with the requirements of the PID Act.

Making a Protected Disclosure

Step 1 – Before Making a Disclosure

An informant making a disclosure should first determine:

- whether the information they intend to disclose is public interest information as defined by the PID Act; and
- who they should disclose the information to.

What protection an informant will receive will depend on whether they are a public officer and whether the public interest information is public administration information or environmental and health information.

Step 2 – Making a Disclosure

Disclosures may be made to the Trust or to another relevant authority.

Disclosures to the Trust

In order to receive the protection set out in the PID Act, an informant must make the disclosure to a ‘relevant authority’.

Where the public interest information relates to a public officer of the Trust, the disclosure will be made to a ‘relevant authority’ if it is made to:

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- A South Australian Housing Trust Responsible Officer; or
- A person who is, in fact, responsible for the management or supervision of the public officer.

Where the information relates to the Trust or an employee of the Trust, the disclosure will be made to a 'relevant authority' if it is made to;

- The Commissioner for Public Sector Employment; or
- A South Australian Housing Trust Responsible Officer.

The Trust has designated "Responsible Officers" for the purposes of the PID Act. Details of the current occupants of these roles and their contact details are available on the Trust's intranet and internet website.

Disclosures may be made using the following methods:

- Via mail, marked CONFIDENTIAL and addressed to:

*Responsible Officer, Public Interest Disclosures
SA Housing Trust
Riverside Building
North Terrace
Adelaide SA 5000*

- Via email: housingpid@sa.gov.au. The Chief Information Officer is required to ensure that access to this inbox is limited to the Responsible Officers and IT system administrators, and that the inbox has appropriate ICT security measures in place.
- If the disclosure relates to a public officer of the Trust and the informant wishes to make the disclosure to a person responsible for the management or supervision of the public officer (rather than making the disclosure to a Responsible Officer or other relevant authority) then the informant should do so in writing. In this case, the disclosure should occur:
 - Preferably via mail, marked CONFIDENTIAL and addressed directly to the relevant person.
 - The disclosure may be made to the relevant person's email. However, the informant should note that, if the disclosure is sent via email, the Trust cannot guarantee that the relevant person's email is not able to be accessed by another person within the Trust.

Informants should note that, if they choose to make a disclosure via the email address set out above, the disclosure will be accessible to all persons currently designated a Responsible Officers by the Trust. If an informant wishes to ensure that the disclosure is received by a specific Responsible Officer, then the disclosure should be made by post and addressed personally to that Responsible Officer.

In all cases it is important that the informant note clearly that they intend to make a disclosure under the PID Act when submitting the disclosure. This will enable the recipient to be on notice of the nature of the disclosure and to take the appropriate action.

Information to include in a disclosure

In order to allow the recipient to properly assess and action the disclosure, it is important to include as much information in the disclosure as possible. If possible, the information should include:

- The name of the informant (if the informant is comfortable disclosing their name, otherwise the disclosure may be made anonymously);

- A detailed description of the events that are the subject of the disclosure, including:
 - Specific dates and times of the conduct
 - Names of any individuals involved, including any witnesses to the conduct;
 - Any evidence of the subject matter of the disclosure should be attached (e.g. invoices, correspondence, CCTV footage);
- Any action the informant or any other person has already taken to try to address the conduct, and the response received to these steps;
- What outcome the informant is seeking that the recipient take in response to the disclosure;
- Whether the informant has any fears of reprisals or other adverse action occurring to them due to making the disclosure.

Anonymous disclosures

It is possible to make a disclosure anonymously. However, the informant should note that this may limit the recipient's ability to properly action the disclosure as it may be more difficult to verify the information provided or seek further information. Making a disclosure anonymously will also mean that the recipient will not be able to provide the informant with an update in relation to how the disclosure was assessed or acted on.

Disclosures to other relevant authorities

In addition, a disclosure may be made to a range of other bodies, depending on the type of information to which the disclosure relates.

All appropriate disclosures of public interest information may be made directly to a Minister of the Crown or to OPI.

If the informant is uncertain about where to make a disclosure, the informant may contact a Responsible Officer on a confidential basis to obtain advice. Alternatively, the informant may obtain advice from OPI about which authority it would be appropriate to make the disclosure to.

Step 3 – Assessing a disclosure

Where an appropriate disclosure is made to a Responsible Officer of the Trust, the recipient must assess the risk of detrimental action (as defined in the PID Act) being taken against the discloser or any other person (including those against whom allegations are made) because of the public interest disclosure.

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In assessing the risk of reprisals, the recipient should use the following risk matrix:

		Likely seriousness of reprisal			
		Minor	Moderate	Major	Extreme
Likelihood of detrimental action	Almost certain	Medium	High	High	High
	Likely	Medium	Medium	High	High
	Unlikely	Low	Low	Medium	Medium
	Highly unlikely	Low	Low	Low	Medium

Examples of seriousness of reprisals:

Minor:	Occasional or one-off action that is likely to have a relatively minor adverse effect on the person (for example, occasional exclusion of the person from a social activity).
Moderate:	Repeated action which is likely to have an adverse effect on the person (for example, routinely failing to "CC" the person on work-related emails).
Major:	Sustained or one-off action which has a significant impact on the person (for example, consistently excluding the person from team discussions or imposing a negative performance assessment on the person).
Extreme:	Action which is likely to have a very severe impact on the person (for example, physical violence or the denial of a promotion opportunity).

Criteria for assessing likelihood of potential reprisals

When considering the likelihood of detrimental action, the recipient should take into account all relevant factors, including to the extent relevant:

- the likelihood of the informant being identified, which may involve a consideration of:
 - if the informant is an employee, the size of the work area in which the informant is located; and
 - the number of people who are aware of the information leading to the disclosure;
- the number of people implicated in the disclosure;
- the subject matter of the disclosure;
- the number of people who are aware of the disclosure or are likely to become aware of the disclosure (for example, through participation in the investigation as witnesses);
- the culture of the workplace;
- whether any specific threats against the informant have been received;
- if the informant is an employee, whether there are circumstances that will make it difficult for the informant not to discuss the disclosure in the workplace;
- whether there are allegations about individuals in the disclosure;
- whether there is a history of conflict between the informant and the subject of the disclosure; and
- whether the disclosure can be investigated while maintaining confidentiality.

Criteria for assessing likely seriousness of potential reprisals

In considering the likely seriousness of any potential detrimental action, the recipient should take into account all relevant factors, including, to the extent relevant:

- the significance of the issue being disclosed;
- the likely outcome if the conduct disclosed is substantiated;
- the subject matter of the disclosure;
- whether the informant is isolated;
- if the informant is an employee, whether the informant is employed on a full-time, part-time or casual basis;
- whether the alleged wrongdoing that is the subject of the disclosure was directed at the informant; and
- the relative positions of the informant and the person whose alleged wrongdoing is the subject of the disclosure.

When conducting the risk assessment, where consistent with protecting the informant's confidentiality, the recipient may ask the informant why they are reporting the wrongdoing and who they might fear a reprisal from and, if the informant is an employee, may also speak to the informant's supervisor or manager (with the consent of the informant).

Develop a risk mitigation strategy if necessary

- Where the risk level is assessed as anything greater than low, the recipient will develop a risk management strategy for mitigating the risk of detrimental action occurring. This strategy may include support measures and, in appropriate circumstances, could include raising the matter with employees by reminding staff that committing an act of victimisation is a criminal offence.

Monitor and review risks

- The recipient should monitor and review the risk assessment as necessary throughout the investigation process.

Qualifications for Responsible Officer

- Responsible Officers appointed under the PID Act are required to complete Responsible Officer Training approved by ICAC.
- The Trust will ensure any person appointed to the role of Responsible Officer has completed the appropriate training and attends regular refresher training as required.

Assessment of and action in relation to the Public Interest Disclosure

- A person to whom an appropriate disclosure of public interest information is made (the recipient) must assess the information as soon as practicable and within at least 30 days after the disclosure.

Determination that no action required

Pursuant to s 7(2) of the PID Act, the recipient may determine to take no action in relation to the disclosure where:

- The information disclosed does not justify the taking of further action; or

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- The information disclosed relates to a matter that has already been investigated or acted upon by a relevant authority and there is no reason to re-examine the matter or there is other good reason why no action should be taken in respect of the matter.

Determination that action is required

In all other circumstances, the recipient must take the following steps:

- If the content of the disclosure suggests that there is an imminent risk of serious physical injury or death to any person or the public generally, the recipient should immediately communicate such information as may be necessary to mitigate that risk to the most appropriate agency (e.g. South Australia Police, SafeWork SA, SA Ambulance, Environment Protection Trust).
- If the recipient of the disclosure forms a reasonable suspicion that the matter(s) the subject of the disclosure involve(s) corruption in public administration or serious or systemic misconduct or maladministration in public administration, the recipient of the disclosure must comply with his or her reporting obligations under the ICAC Act.
- If the recipient of the disclosure assesses the content of the disclosure as requiring further action, the recipient of the disclosure must, unless the matter is reported to the OPI as a potential issue of corruption in public administration, ensure that:
 - such action as may be appropriate in the circumstances is taken by the recipient of the disclosure to ensure the matter the subject of the disclosure is properly addressed; or
 - such information as is necessary to enable action to be taken is communicated to the most appropriate person or relevant authority to take such action.

False or malicious disclosures

If the Trust forms the view that a disclosure has been made in bad faith, contains false information or was made with malicious intent, the Trust may take further action as appropriate. Where the disclosure was made by a public officer of the Trust, this may include taking disciplinary action against the public officer in accordance with the Trust's policies and procedures.

Step 4 – Notification of outcomes

Notification to informant

The recipient must notify the informant in writing within 30 days of receiving the disclosure that:

- the recipient has assessed the information;
- the action that is being taken in relation to the information or, if no action is being taken, the reasons why no action is being taken.

Where the recipient takes action in relation to the information, the recipient must notify the informant in writing of the outcome of that action within 90 days after the receipt of the disclosure, or a longer period if the recipient has provided the informant with written notice of that longer period.

Notification to OPI of the appropriate disclosure

The recipient of the disclosure **must** notify the OPI of the appropriate disclosure as soon as reasonably practicable after the receipt of the appropriate disclosure by making an electronic notification via the dedicated notification form on the ICAC website (icac.sa.gov.au) and must include in that notification:

- the date the disclosure was received;
- the name and contact details of the recipient of the disclosure;

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- a summary of the content of the disclosure;
- the assessment made of the disclosure;
- the action taken by the recipient of the disclosure, including whether the disclosure was referred to another relevant authority, public authority, public officer or other person;
- if the disclosure was referred to another relevant authority, public authority, public officer or other person:
 - the date of the referral;
 - the identity of the relevant authority, public authority, public officer or other person to whom the disclosure was referred;
 - the manner of referral; and
 - the action to be taken by that relevant authority, public authority, public officer or other person (if known);
- if no action was taken by the recipient of the disclosure, the reason why no action was taken; and
- whether the identity of the informant is known only to the recipient of the disclosure or if the identity of the informant has been communicated to a relevant authority, public authority, public officer or other person (and if so, the reasons why such communication was made).

The recipient of the disclosure must retain the unique reference number issued by the OPI after the making of a notification and must ensure this unique reference number is provided to any other person or authority to whom the disclosure is referred.

Notification to OPI of action taken

Any person who takes action in relation to a disclosure (whether it be the recipient or another person who has been referred the disclosure) **must** notify OPI of any action taken in relation to the disclosure as soon as reasonably practicable.

The notification must be made to OPI via the online notification form (www.publicintegrity.sa.gov.au) and contain the following information:

- the unique reference number issued by the OPI upon notification of the original disclosure;
- the name and contact details of the notifier;
- the name and contact details of the person or authority responsible for taking the action;
- what (if any) findings were made in respect of the disclosure;
- the nature of the action taken (if any);
- the outcome of any action taken (if applicable);
- whether the identity of the informant was disclosed to a person other than the original recipient of the disclosure; and
- whether the informant was notified of the action taken and, if so, when and how that notification was made.

Keeping the information safe

Any person who has received, been referred, or has access to information relating to a disclosure (public interest information) must ensure that public interest information in their possession is stored securely and confidentially in accordance with this Procedure.

Specifically:

- Public interest information must be kept in an electronic format as the first preference and only be printed where necessary.
- If it is necessary to print public interest information, printed copies must be stored in a locked cabinet or drawer and destroyed once used (provided that electronic copies are retained).
- Public interest information that is stored electronically must be stored in the Objective file management system. The person responsible for creating an Objective file that contains public interest information must ensure that access to the Objective file is restricted to that person, any other employees or officers who are entitled to access the information, and ICT system administrators.

Persons bound by this procedure must ensure that discussions in relation to the public interest information occur in a secure location where the discussions are not able to be overheard by others.

Responsible Officers, other recipients of a disclosure, and any other person who has received information relating to a disclosure must not divulge the identity of the person making the disclosure, except:

- with the consent of the informant;
- so far as may be necessary to ensure that the matters to which the information relates are properly investigated;
- where the recipient believes on reasonable grounds that it is necessary to divulge the identity of the informant to prevent or minimise and imminent risk of serious physical injury or death to any person; or
- where the identity of the informant is divulged to a person or authority that the recipient believes on reasonable grounds is the most appropriate authority or person to be able to take action to prevent or minimise the imminent risk of serious physical injury or death to any person.

Reporting

The People and Safety Directorate will report to the Executive Leadership Team and Board via the Governance paper process on a six-monthly basis. Reports will only include such information as is able to be provided having regard to the confidentiality requirements set out in the PID Act.

Roles and Responsibilities

Position	Responsibility
Chief Executive	Is the principal officer under the PID Act and holds those duties set out at section 12 of that Act.
Chief Information Officer	Responsible for ensuring that access to the housingpid@sa.gov.au inbox is limited to Responsible Officers and ICT system administrators.
Managers	Must act in accordance with this Procedure where they receive a public interest disclosure in accordance with the PID Act (being a disclosure of public interest information in relation to a public officer of the Trust who is under the manager's management or supervision)
Responsible Officer	Position of trust and the person to whom anyone wishing to make an appropriate disclosure of public interest information to the Trust can make the disclosure. Responsible officers must ensure that they deal with disclosures in accordance with the requirements of the PID Policy, this Procedure and legislative requirements.

For further information or assistance please contact:

Email: HousingOCEPolicyGovernance@sa.gov.au