ARENA

PUBLIC INTEREST DISCLOSURE PROCEDURE

Australian Government
Australian Renewable Energy Agency

TABLE OF CONTENTS

DOCUMENT NAME	Public Interest Disclosure Procedure
PREPARED BY	LEGAL & GOVERNANCE
APPROVED BY	CHIEF EXECUTIVE OFFICER
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1.0 INTRODUCTORY MATTERS

Section 3 of this document constitutes ARENA's procedures for facilitating and dealing with public interest disclosures for the purposes of section 59(1) of the *Public Interest Disclosure Act 2013* (Cth) (**PID Act**). ARENA is committed to the highest standards of ethical and accountable conduct. ARENA encourages the reporting of wrongdoing under the PID Act, and will act on disclosures where appropriate and protect disclosers from any reprisals or threats of reprisals as a result of making a disclosure.

The operation of these procedures will be reviewed annually to ensure their continued effectiveness.

In these procedures, all references to the CEO or principal officer of ARENA include references to their delegate.

2.0 WHAT ARE PUBLIC INTEREST DISCLOSURES

It is important to note that not all disclosures of information that might be made to ARENA will be a 'public interest disclosure' for the purposes of the PID Act (**a PID**). A disclosure of information will only be a PID to which these procedures relate if it meets the following requirements:

(a) it is made by a public official or a person who has been a public official; [1]

(b) the information tends to show, or the discloser believes on reasonable grounds that the information tends to show, one or more instances of 'disclosable conduct' as defined by the PID Act;[2] and

(c) the disclosure is made to an appropriate person.[3]

An overview of these key requirements, prepared by the Commonwealth Ombudsman, is set out at **Attachment A**.

Only if each of the above requirements has been met will the disclosure be covered by the PID Act and the discloser have the benefit of the protections that it confers. Accordingly, it is important that persons contemplating making a disclosure of information carefully review the contents of the PID Act and seek their own independent legal advice where appropriate in order to determine whether the disclosure can be made in a way that attracts the protections of the PID Act.

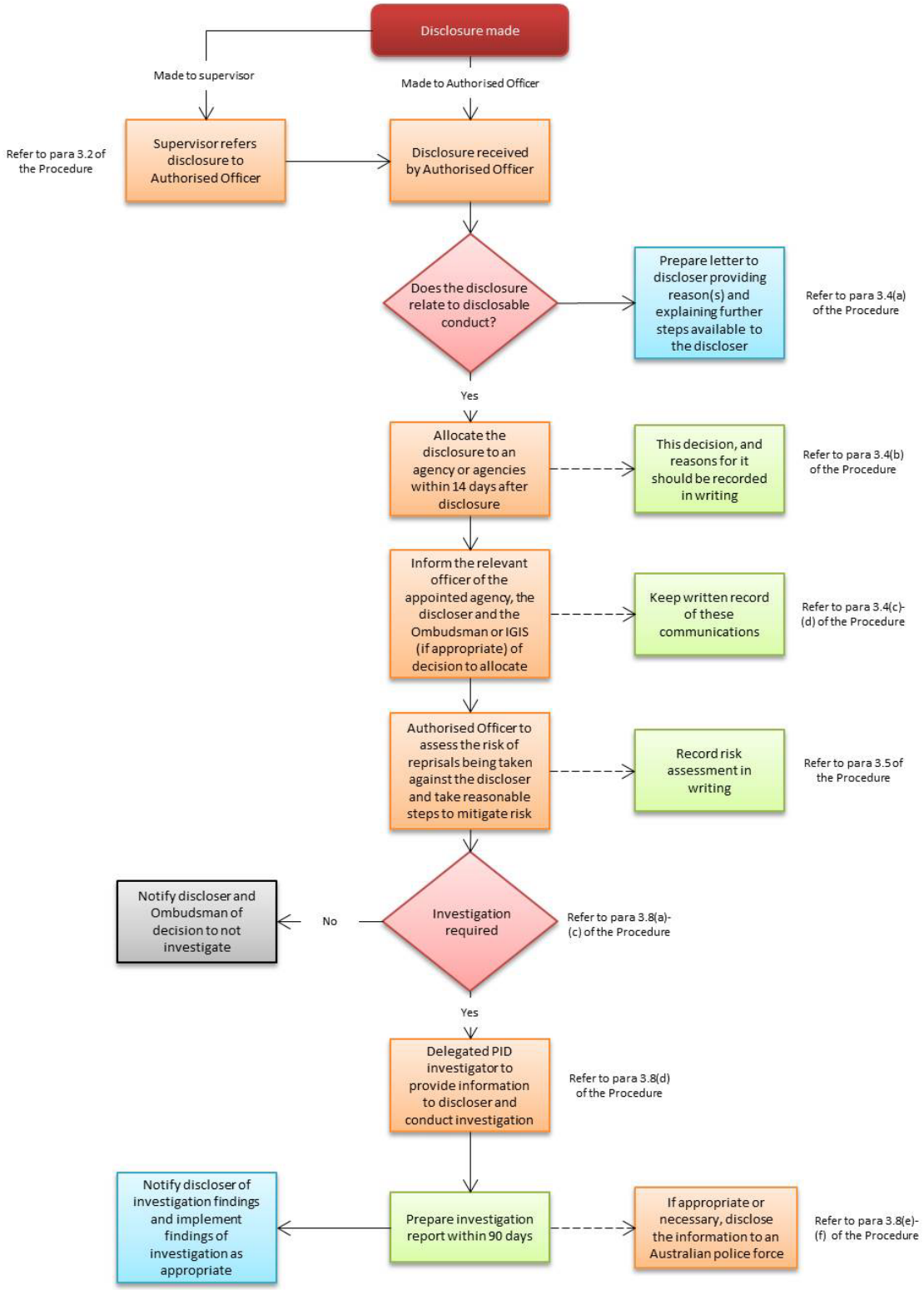
Summaries of the rights and responsibilities of a discloser and a person who is the subject of a disclosure under this procedure are set out at **Attachment B** and **Attachment C** respectively. Further guidance material can also be obtained from the following website: http://www.ombudsman.gov.au/Our-responsibilities/making-a-disclosure

[1] This includes a current or former APS employee or contracted service provider: see section 69 of the PID Act.

[2] What does and does not constitute disclosable conduct is defined in sections 29-33 of the PID Act.

[3] Generally, to constitute a PID, the disclosure must first be made to an 'authorised internal recipient' or a supervisor of the discloser as defined in sections 34 and 8 (respectively) of the PID Act. In some limited circumstances, a disclosure can be made to an external party. The PID Act sets out strict requirements which must be met for such external disclosures to be afforded the protections contained in the PID Act: see section 26 of the PID Act.

Figure 1: Handling internal public interest disclosures overview



3.0 PROCEDURE

3.1 AUTHORISED OFFICERS

ARENA maintains a list of 'authorised officers' for the purposes of the PID Act who have been appointed by the CEO. A PID can be made to an authorised officer of ARENA if the PID relates to ARENA or the discloser belongs, or last belonged to, ARENA.

The authorised officers are:

- Darren Miller, Chief Executive Officer
  Email: darren.miller@arena.gov.au, Phone: (02) 6159 7800
- Ian Kay, Chief Financial Officer
  Email: ian.kay@arena.gov.au, Phone: (02) 6243 7977
- Chris Faris, Chief Operating Officer
  Email: chris.faris@arena.gov.au, Phone: (02) 6259 7926
- Rachele Williams, General Manager, Project Delivery
  Email: rachele.williams@arena.gov.au, Phone: (02) 6159 7994

3.2 DISCLOSURE TO A SUPERVISOR

If a public official discloses information to a supervisor and the supervisor has reasonable grounds to believe that the information concerns, or could concern, disclosable conduct, the supervisor must give the information to an appropriate authorised officer as soon as reasonably practicable. The definition of disclosable conduct can be found at **Attachment A**.

3.3 PROTECTING CONFIDENTIALITY

The authorised officer and the CEO will take all reasonable steps to protect the identity of a public official who has made a PID from the time the disclosure is made.

Only individuals directly involved in dealing with the PID (such as the authorised officer, CEO or delegate) may be advised of the details of the PID. However, it may also be necessary for information about the discloser's identity, or information that would effectively identify them, to be reported to certain other people if it is necessary for the purposes of the PID Act such as to investigate the disclosure effectively, or to protect the individual making the disclosure from reprisals. These other individuals must not disclose the identity of the discloser or any information which is likely to reveal the identity of the discloser without the consent of the discloser.

It is an offence for a public official to disclose information that is likely to enable the identification of a person as a person who has made a public interest disclosure other than in accordance with the PID Act.

Similarly, if a person discloses information to another person or uses information otherwise than in accordance with the PID Act, the person commits an offence if the information was obtained by the person:

(a) in the course of conducting a disclosure investigation; or

(b) in connection with the performance of a function or the exercise of a power by the person under the PID Act.

Identifying information about a discloser will not be disclosed to a court or tribunal except where necessary to give effect to the PID Act.

3.4 INITIAL CONSIDERATION AND ALLOCATION

Step 1: Consider whether a disclosure meets the requirements for a PID

When an authorised officer receives a disclosure of information, he or she will consider the information disclosed and determine whether there are reasonable grounds on which the disclosure could be considered to be an internal disclosure made in accordance with the PID Act.

If the authorised officer is so satisfied: he or she will allocate the disclosure to one or more agencies (which may include ARENA) for further handling and investigation in accordance with the process outlined at Step 2.

If the authorised officer is not so satisfied:

(a) the disclosure will not be allocated; and

(b) if contacting the discloser is reasonably practicable, the authorised officer must inform the discloser in writing of:

(i) the reasons why the disclosure will not be allocated to an agency; and

(c) any other course of action that might be available to the discloser under other laws of the Commonwealth; and

(d) if the disclosure relates to conduct that may need to be addressed under ARENA's:

(i) Fraud Control Plan;

(ii) APS Values and Code of Conduct;

(iii) ARENA Work Health Safety Management System Manual; or

(iv) any other of ARENA's policies or procedures;

the authorised officer may refer the matter to be dealt with in accordance with the relevant policy or procedure.

Step 2: Allocate the disclosure

The authorised officer will use his or her best endeavours to decide the allocation within 14 days after the disclosure is made.

In deciding the agency or agencies to which a disclosure will be allocated, the authorised officer will have regard to:

(a) the principle that an agency – other than the Ombudsman, the Inspector-General of Intelligence and Security (IGIS) or an investigative agency prescribed by the Public Interest Disclosure Rules[4] – should only deal with disclosures that relate to that agency; and

(b) such other matters (if any) as the authorised officer considers relevant.

In addition, if the authorised officer is contemplating allocating the disclosure to the Ombudsman, the IGIS or an investigative agency that has been prescribed by the Public Interest Disclosure Rules, the authorised officer must have regard to additional matters set out in the PID Act.[5]

The authorised officer must not allocate a disclosure to another agency unless an authorised officer of that agency has consented to the allocation.

[4] At the time of publication of this policy, no Public Interest Disclosure Rules had been published.

[5] See section 43(3)(a)(ii)-(iv) of the PID Act.

Step 3: Inform relevant persons of the allocation

Informing the receiving agency

When the authorised officer allocates the handling of a disclosure to ARENA or another agency, the authorised officer will inform the principal officer of that agency of:

(a) the allocation to the agency;

(b) the information that was disclosed to the authorised officer;

(c) the suspected disclosable conduct; and

(d) if the discloser's name and contact details are known to the authorised officer, and the discloser consents to the principal officer of the agency being informed – the discloser's name and contact details.

Informing the discloser

If contacting the discloser is reasonably practicable, as soon as reasonably practicable after the allocation has occurred, the authorised officer will also inform the discloser in writing of the allocation and of the information that has been provided to the principal officer of that agency.

Informing other relevant bodies

If the authorised officer allocated a disclosure to an agency, including ARENA itself, other than the Ombudsman, the IGIS or an intelligence agency, he or she will inform the Ombudsman of this in writing. If the disclosure is allocated to an intelligence agency, the authorised officer will inform the IGIS of this in writing.

Step 4: Make a record of the allocation decision

Record of decision

When an authorised officer allocates the handling of a disclosure to one or more agencies, he or she must keep an appropriate record of:

(a) the decision (including the name of each agency to which the disclosure is to be allocated);

(b) the reasons for the decision; and

(c) the consent provided by the authorised officer of the agency to which the allocation is made.

Record of communication of decision to discloser

In addition, the authorised officer must keep appropriate records of whether the discloser was informed of the allocation decision and, if so, of:

(a) the day and time the discloser was notified; and

(b) the means by which the discloser was notified; and

(c) the content of the notification.

These records should be kept confidential.

3.5 RISK ASSESSMENT

Step 1: Conduct a risk assessment

When the CEO receives a PID that has been allocated to ARENA, they (or their delegate) will assess the risk that reprisals will be taken against the discloser.

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

		LIKELY SERIOUSNESS OF REPRISAL			
		Minor	**Moderate**	**Major**	**Extreme**
Likelihood of reprisal	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 which the person has a genuine business need to know).

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 without reasonable cause and supporting evidence).

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 without reasonable cause).

Criteria for assessing likelihood of potential reprisals

When considering the likelihood of a reprisal being taken against a discloser, the CEO should take into account all relevant factors, based on the available information, including to the extent relevant:

(a) the likelihood of the discloser being identified, which may involve a consideration of:

  (i) the size of the work area in which the discloser is located; and

  (ii) the number of people who are aware of the information leading to the disclosure;

(b) the number of people implicated in disclosure;

(c) the subject matter of the disclosure;

(d) 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);

(e) the culture of the workplace;

(f) whether any specific threats against the discloser have been received;

(g) whether there are circumstances that will make it difficult for the discloser not to discuss the disclosure in the workplace;

(h) whether there are allegations about individuals in the disclosure;

(i) whether there is a history of conflict between the discloser and the subject of the disclosure; and

(j) 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 reprisal against a discloser, the CEO should take into account all relevant factors, based on the available information, including to the extent relevant:

(a) the significance of the issue being disclosed;

(b) the likely outcome if the conduct disclosed is substantiated;

(c) the subject matter of the disclosure;

(d) whether the discloser is isolated;

(e) whether the discloser is employed on a full-time, part-time or casual basis;

(f) whether the alleged wrongdoing that is the subject of the disclosure was directed at the discloser; and

(g) the relative positions of the discloser and the person whose alleged wrongdoing is the subject of the disclosure.

When conducting the risk assessment, where consistent with protecting the discloser's confidentiality, the CEO may ask the discloser why they are reporting the wrongdoing and who they might fear a reprisal from, and may also speak to the discloser's supervisor or manager.

Step 2: Develop a risk mitigation strategy if necessary

Where the risk level is assessed as anything greater than low, the CEO will develop a risk management strategy for mitigating the risk of reprisals being taken against the discloser. This strategy may include some or all of the support measures set out at paragraph 3.6 and, in appropriate circumstances could include raising the matter with employees by reminding staff that taking or threatening to take a reprisal against a discloser is a criminal offence.

Step 3: Monitor and review risks

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

3.6 SUPPORT FOR DISCLOSURES

Regardless of the outcome of the risk assessment, the CEO will take all reasonable steps to protect public officials who have made a PID from detriment or threats of detriment relating to the PID.

This may include taking one or more of the following actions:

(a) appointing a support person to assist the discloser, who is responsible for checking on the wellbeing of the discloser regularly;

(b) informing the discloser of the progress of the investigation;

(c) advising the discloser of the availability of any Employee Assistance Program;

(d) where there are any concerns about the health and wellbeing of the discloser, liaising with officers responsible for work health and safety in ARENA; or

(e) transferring the discloser to a different area within the workplace or approving remote/teleworking (with the consent of the discloser). This is only likely to be appropriate in cases involving very major or extreme risk.

3.7 SUPPORT FOR A PERSON AGAINST WHOM A DISCLOSURE HAS BEEN MADE

The CEO will also take steps to support any staff member who is the subject of a PID.

This may include taking one or more of the following actions:

(a) advising the staff member of his or her rights and obligations under the PID Act and about ARENA's investigation procedures, including the staff member's rights to procedural fairness;

(b) informing the discloser of the progress of the investigation;

(c) advising the staff member of the availability of any Employee Assistance Program;

(d) ensuring that the identity of the staff member is kept confidential as far as reasonably practicable; or

(e) where there are any concerns about the health and wellbeing of the staff member, liaising with officers responsible for work health and safety in ARENA; or

(f) transferring the staff member to a different area within the workplace or approving remote/teleworking (with the consent of the staff member). This is only likely to be appropriate in cases involving very major or extreme risk.

3.8 CONSIDERATION AND INVESTIGATION BY PRINCIPAL OFFICER

Step 1: Provide initial information to disclosers

Within 14 days of ARENA being allocated a PID, the CEO will provide the discloser with the following information about his or her powers to:

(a) decide not to investigate the disclosure;

(b) decide not to investigate the disclosure further; or

(c) decide to investigate the disclosure under a separate investigative power.

Step 2: Consider whether to investigate the disclosure

If a PID is allocated to ARENA, the CEO will consider whether or not to investigate the PID.

The CEO may decide not to investigate a disclosure if the CEO considers that:

(a) the discloser is not and has not been a public official;

(b) the information does not, to any extent, concern serious disclosable conduct;

(c) the disclosure is frivolous or vexatious;

(d) the information is the same or substantially the same as disclosable conduct that has been or is currently being investigated as part of another disclosure investigation;

(e) the information concerns disclosable conduct that is the same or substantially the same as disclosable conduct that is being investigated under a law of the Commonwealth or the executive power of the Commonwealth and:

(i) It would be inappropriate to conduct another investigation at the same time; or

(ii) the CEO is reasonably satisfied that there are no further matters concerning the disclosure that warrant investigation;

(f) the discloser has informed the CEO that the discloser does not wish for the investigation of the disclosure to be pursued and the CEO is reasonably satisfied that there are no matters concerning the disclosure that warrant investigation;

(g) it is impracticable for the disclosure to be investigated because:

(i) the discloser's name and contact details have not been disclosed;

(ii) the discloser fails or is unable to give such information or assistance as the person who is or will be investigating asks the discloser to give; or

(iii) the age of the information makes this the case.

If the above circumstances do not apply, the CEO will conduct an investigation.

Step 3: Notify the discloser and Ombudsman

If the disclosure will not be investigated

If the CEO decides not to investigate a disclosure, they will:

(a) if reasonably practicable to contact the discloser, inform the discloser that the CEO has decided not to investigate the disclosure, identifying:

(i) the reasons for the decision not to investigate (other than those reasons that would be exempt for the purposes of Part IV of the Freedom of Information Act 1982, have or be required to have a national security or other protective security classification or contain intelligence information); and

(ii) any courses of action that might be available to the discloser under other laws of the Commonwealth; and

(b) inform the Ombudsman of the decision not to investigate and the reasons for that decision.

If the disclosure will be investigated

If the CEO decides to investigate the disclosure, they will, as soon as reasonably practicable, inform the discloser:

(a) that they are required to investigate the disclosure; and

(b) of the estimated length of the investigation.

Step 4: Conduct an investigation

If the CEO decides to investigate, the CEO will investigate whether there are one or more instances of disclosable conduct.

General principles

The following general principles will apply to the conduct of investigations:

(a) maintaining the confidentiality of the identity of the discloser will be paramount when conducting the investigation;

(b) the investigation will be conducted in accordance with the principals of procedural fairness;

(c) a person who is the subject of the investigation will have an opportunity to respond or provide information;

(d) in the event that an interview is to be conducted it is conducted in a manner consistent with the PID Standard 2013;

(e) a decision whether evidence is sufficient to prove a fact will be determined on the balance of probabilities.

Aside from compliance with these principles, the CEO is free to conduct the investigation as they see fit. The way in which the investigation is conducted may vary depending on the alleged conduct which is being investigated. In particular, in circumstances where the CEO considers that the nature of the disclosure is such that the outcome of the investigation is likely to be referral of the matter for investigation under another process or procedure, the investigation under these procedures may appropriately be conducted in a circumscribed way.

Additional procedures required in particular circumstances

If a disclosure relates to conduct that would require ARENA to take steps under ARENA's:

(a) Fraud Control Plan;

(b) APS Values and Code of Conduct;

(c) ARENA Work Health Safety Management System Manual; or

(d) any other of ARENA's policies or procedures,

the processes set out in those procedures and policies must be complied with in the conduct of an investigation under these procedures.

If the CEO considers that information disclosed in the course of a PID may be appropriately dealt with under another procedure or policy of ARENA, they may recommend in the investigation report that this occur and refer the matter to the relevant part of ARENA. For example, the CEO may refer the matter to Risk and Audit Committee for further investigation without breaching the confidentiality provisions of the PID Act.

Obtaining information

Instances of disclosable conduct may relate to information that is disclosed or information obtained in the course of the investigation rather than information provided in the initial disclosure.

During the investigation, the CEO may, for the purposes of the investigation, obtain information from such persons and make such inquiries as the CEO sees fit.

When being interviewed as part of an investigation, an interviewee will be informed of the following:

(a) the identity and function of each individual conducting the interview;

(b) the process of conducting an investigation;

(c) the authority of the CEO under the PID Act to conduct the investigation; and

(d) the protections provided to witnesses under section 57 of the PID Act.

The CEO will ensure:

(a) an audio or visual recording of the interview is not made without the interviewee's knowledge;

(b) when the interview ends, the interviewee is given an opportunity to make a final statement or comment or express a position; and

(c) any final statement, comment or position by the interviewee is included in the record of the interview.

(d) In conducting the investigation, the CEO may adopt findings set out in reports of investigations or inquiries under other Commonwealth laws or executive powers, or other investigations under the PID Act.

Referral of information to police and others

If, during the course of the investigation, the CEO suspects on reasonable grounds that some of the information disclosed or obtained in the course of the investigation is evidence of the commission of an offence against a law, the CEO may disclose the information to a member of an Australian police force. If the information relates to an offence that is punishable for a period of at least two years, the CEO must disclose the information to a member of an Australian police force.

The investigation may also include consideration of whether a different or further investigation should be conducted by the agency or another body under another law of the Commonwealth.

Step 4: Prepare investigation report

Once the CEO has completed the investigation, they will prepare a report of the investigation.

The CEO must complete the investigation report within 90 days after the disclosure was allocated to the CEO, unless this period is extended by the Ombudsman. If the period is extended, the CEO will inform the discloser of the progress of the investigation.

Content of report

The report must set out:

(a) the matters considered in the course of the investigation;

(b) the duration of the investigation (noting that an investigation is ordinarily required to be completed within 90 days after the relevant disclosure was allocated to the agency);

(c) the CEO 's findings (if any);

(d) any regulations, rules, administrative requirements or similar matters to which the disclosable conduct relates;

(e) the action (if any) that has been, is being or is recommended to be taken. For example, the report might include a recommendation that an investigation be conducted under procedures established under the Commonwealth Fraud Control Guidelines or the *Public Service Act 1999*; and

to the extent relevant:

(a) the steps taken to gather evidence;

(b) a summary of the evidence; and

(c) any claims made about and any evidence of detrimental action taken against the discloser, and the agency's response to those claims and that evidence.

Step 5: Provide report to discloser

If it is reasonably practicable to contact the discloser, the CEO will provide the discloser with a copy of the report within a reasonable time after preparing the report. However, the CEO may

delete from the copy of the report given to the discloser any material:

(a) that is likely to enable the identification of the discloser or another person; or

(b) would be exempt for the purposes of Part IV of the *Freedom of Information Act 1982*, would require a national security or other protective security clearance, contains intelligence information or contravenes a designated publication restriction as defined in the PID Act.

These procedures for dealing with public interest disclosures have been issued by me in accordance with the *Public Interest Disclosure Act 2013*.

PID PROCEDURE ISSUED BY:

DARREN MILLER
Chief Executive Officer
Australian Renewable Energy Agency

4.0 ATTACHMENT A – EXTRACTS FROM THE COMMONWEALTH OMBUDSMAN'S AGENCY GUIDE TO THE PUBLIC INTEREST DISCLOSURE ACT 2013

Who can make a public interest disclosure?

A person must be a current or former 'public official', as defined in section 69 of the PID Act, to make a public interest disclosure. This is a broad term which includes a Commonwealth public servant, member of the Defence Force, appointee of the Australian Federal Police, Parliamentary Service employee, director or staff member of a Commonwealth company, statutory office holder or other person who exercises powers under a Commonwealth law. Individuals and organisations that provide goods or services under a Commonwealth contract (defined in s 30(3)) and their officers or employees are also included. This includes subcontractors who are responsible for providing goods or services for the purposes of the Commonwealth contract (s 30(2)).

What can be disclosed?

A public official can disclose information that they believe, on reasonable grounds, tends to show 'disclosable conduct'. Disclosable conduct is conduct by:

(a) an agency

(b) a public official in connection with their position

(c) a contracted Commonwealth service provider in connection with entering into or giving effect to the contract

if that conduct:

(a) contravenes a Commonwealth, State or Territory law

(b) in a foreign country, contravenes a foreign law that applies to the agency, official or service provider

(c) perverts the course of justice

(d) is corrupt

(e) constitutes maladministration, including conduct that is based on improper motives or is unreasonable, unjust, oppressive or negligent

(f) is an abuse of public trust

(g) involves fabrication, falsification, plagiarism or deception relating to scientific research, or other misconduct in relation to scientific research, analysis or advice

(h) results in wastage of public money or public property

(i) unreasonably endangers health and safety

(j) endangers the environment

(k) is prescribed by the PID rules (s 29(1)).

Without limiting any of those grounds, disclosable conduct also includes conduct by a public official that involves or is engaged in for the purposes of abusing their position as a public official, and conduct that could give reasonable grounds for disciplinary action against the public official (s 29(2)).

What is not disclosable conduct?

It is not disclosable conduct just because a person disagrees with:

(a) a government policy or proposed policy

(b) action or proposed action by a minister, the Speaker of the House of Representatives or the President of the Senate

(c) expenditure or proposed expenditure related to such policy or action (s 31).

Disclosable conduct also does not include judicial conduct, that is, the conduct of judicial officers, the judicial functions of court staff, tribunal staff or tribunal members, or any other conduct related to a court or tribunal unless it is of an administrative nature and does not relate to matters before the court or tribunal (s 32).

The conduct of members of Parliament is not covered by the PID Act. However, the departments of the Parliament and their employees are covered.

Disclosable conduct also does not include the proper performance of the functions and proper exercise of the powers of an intelligence agency or its officials (s 33).

A disclosure must be made to an appropriate person in order to gain the protections available under the PID Act (s 26). The PID Act focuses on the reporting and investigating of wrongdoing within government, but allows for reporting outside government in specified circumstances.

Making an internal disclosure

Public officials can report suspected wrongdoing either to their current supervisor (defined in s 8 to mean someone who supervises or manages them) in an agency, or to an authorised officer of their agency or the agency to which they previously belonged. Authorised officers are the principal officer (i.e. the agency head) and officers that the principal officer appoints under the PID Act (s 36).

Making a disclosure internally gives the agency the chance to investigate the matter and remove any danger or correct any wrong practices as quickly as possible.

A public official must use one of the proper avenues to gain the protections available under the PID Act. This means that a public official will not receive these protections if they give the information to someone outside government like a journalist or union representative, unless the conditions for an external or emergency disclosure are met. They may be in breach of their duty to maintain appropriate confidentiality in relation to official information they have gained in the course of their work, or be subject to other civil, criminal or disciplinary action.

5.0 ATTACHMENT B – RIGHTS AND RESPONSIBILITIES OF DISCLOSERS

Rights

A discloser has a right to the protections set out in the PID Act, including protection from reprisals, from civil and criminal liability, and from the disclosure of his or her identity where the disclosure is made anonymously. However, a disclosure does not protect the discloser from the consequences of their own wrongdoing, including where they have been involved in the misconduct that they are reporting.

During the PID Act process, a discloser will be advised of the following:

(a) any decision that a disclosure is not a disclosure within the meaning of the PID Act;

(b) the allocation of their disclosure;

(c) the decision of ARENA to investigate their disclosure;

(d) the estimated duration of the investigation into their disclosure;

(e) if ARENA decides not to investigate their disclosure, the reasons for that decision and any action that may be available to the discloser under other Commonwealth laws;

(f) if an investigation is conducted under the PID Act and an extension of time is granted by the Ombudsman or IGIS, the progress of the investigation; and

(g) the outcome of the investigation (including provision of a copy of the investigation report except to the extent that it would be exempt for the purposes of Part IV of the Freedom of Information Act 1982, would require a national security or other protective security clearance, contains intelligence information or contravenes a designated publication restriction as defined in the PID Act).

(h) given support in accordance with paragraph 3.6 of the procedures.

(i) able to seek assistance from the Ombudsman in relation to the operation of the PID Act.

Responsibilities

A discloser must:

(a) comply with the PID Act requirements and the procedures set out in this document when making a PID;

(b) use his or her best endeavours to assist the principal officer of any agency in the conduct of an investigation;

(c) use his or her best endeavours to assist the Ombudsman in the performance of the Ombudsman's functions under the PID Act; and

(d) use his or her best endeavours to assist the IGIS in the performance of the IGIS's functions under the PID Act; and

(e) report to the CEO any detriment the discloser believes he or she has been subjected to as a result of making the disclosure.

6.0 ATTACHMENT C – RIGHTS AND RESPONSIBILITIES OF PERSONS WHO ARE THE SUBJECT OF A PID

Rights

Staff of ARENA who are the subject of a disclosure will be:

(a) given support in accordance with paragraph 3.7 of the procedures; and

(b) able to seek assistance from the Ombudsman in relation to the operation of the PID Act.

Responsibilities

Staff of ARENA who are the subject of a disclosure must:

(a) use best endeavours to assist the principal officer of any agency in the conduct of an investigation;

(b) use best endeavours to assist the Ombudsman in the performance of the Ombudsman's functions under the PID Act;

(c) use best endeavours to assist the IGIS in the performance of the IGIS's functions under the PID Act;

(d) comply with action taken by ARENA to address risks or concerns in relation to the PID.

A staff member who is the subject of a disclosure should also be aware that the outcome of an investigation under the Procedures set out in this document may result in another, different investigation (for example, a Code of Conduct investigation) taking place.

Further information is available at
arena.gov.au

Australian Renewable Energy Agency

To discuss potential for funding:
Phone +61 1800 804 847
Email proposals@arena.gov.au

Postal Address
GPO Box 643
Canberra ACT 2601

Location
2 Phillip Law Street
New Acton ACT 2601

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