

**AIMS-HR-13**

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# 1. PURPOSE

## Background

The *Public Interest Disclosure Act 2013 (PID Act)* commenced on 15 January 2014. For the purposes of the PID Act, AIMS is a Commonwealth agency obligated to comply with the legislation. Pursuant to s.74 of the PID Act, the Commonwealth Ombudsman who has responsibility for regulating and overseeing the PID Act has introduced Public Interest Disclosure (PID) forms and standards which individuals and Commonwealth agencies must comply with when dealing with whistleblowing incidents commonly known as public interest disclosures (**PIDs**). Prior to the enactment of the PID Act, each State had Whistleblower / PID legislation in place. AIMS' previous policy (the Whistleblower Policy 2012) was based on the State legislation and the relevant Government recommendations contained in the response report pending the enactment of the Commonwealth framework. Now that Commonwealth legislation has been enacted, AIMS has reviewed and updated the policy to reflect the new requirements. The opportunity has also been taken to introduce procedures based on guidelines and explanatory notes issued by the Ombudsman and the Australian Government Solicitor.

In general terms, the PID Act establishes a framework for Commonwealth agencies which encourages and facilitates disclosure of information by any person who is a public official about suspected serious wrongdoings in the public sector. More specifically, the scheme under the PID Act promotes integrity and accountability on the part of public servants by:

- facilitating and supporting the disclosure of suspected serious wrongdoings in the public sector by all persons who fall within the definition of "public officials"(explained below);
- ensuring Commonwealth agencies properly investigate and respond to reports of serious wrongdoings by public officials; and
- providing protection from adverse consequences and appropriate support to public officials who report allegations of wrongdoing in the Commonwealth public sector.

The PID framework is designed to supplement, not replace, the existing mechanisms for dealing with workplace grievances and misconduct. Thus whilst this policy and procedure supersedes AIMS' previous Whistleblowers Policy for any disclosures made on or after 15 January 2014 the previous policy still applies to disclosures made prior to this date to the extent there were any unresolved at this date. However, a disclosure of alleged wrongdoing can be made under the PID Act and this policy in respect of facts and circumstances which took place before 15 January, 2014 which have not been dealt with under the previous AIMS' Whistleblower Policy. The purpose of the current policy is to outline AIMS' policy approach to the PID Act and in conjunction with AIMS' PID Procedures provide overarching guidance on how AIMS manages disclosures of suspected serious wrongdoings.

### Scope of the PID Framework

This Policy and Procedure applies to all current or former **public officials**. The term 'public official' is defined under the PID Act to include AIMS' current and former staff, agents, contractors, consultants and the employees of contractors or consultants. For clarity public official includes members of the AIMS' Council.

AIMS' PID Policy and Procedure however extends further than the PID Act and is intended to cover all visitors as well. These include people who are associated with AIMS but are not staff members or employees of contractors or consultants. Examples include students, trainees, secondees, visiting scientists, adjunct scientists, volunteers and collaborative partners.

A PID cannot be reported by the general public; it can only be submitted by an individual who comes within the definition of public official in the PID Act

## 2. POLICY STATEMENT

AIMS is committed to maintaining the highest standards of ethical behaviour and professional conduct by all of its staff, agents, contractors, consultants and the employees of contractors, consultants, visitors and volunteers. This commitment is fundamental to achieving AIMS' overriding goals of:

- promoting openness;
- accountability;
- acting with integrity;
- good governance; and
- effective management.

AIMS strongly encourages the reporting of serious wrongdoing and will take appropriate and necessary action to uphold the integrity of the Institute and promote the public interest. To achieve our goals and obligations in this regard, AIMS is committed to creating and maintaining an environment and culture in which the disclosure of serious wrongdoings is fully supported and protected. To these ends AIMS has implemented internal control and risk assessment mechanisms to prevent and/or minimise incidents of serious wrongdoing within the Institute.

The primary objective of AIMS' policy on PIDs is to facilitate the effective notification, assessment and management of the disclosure of serious wrongdoings in accordance with the PID Act. In order to achieve this AIMS is committed to the following:

- Encouraging and supporting PIDs
- Protecting the dignity and wellbeing of all persons involved in the PID process;
- Providing support and protection for the discloser from adverse action and reprisals;
- Providing appropriate consideration to the persons identified in the PID;
- Taking appropriate action to thoroughly and impartially review a PID;
- Keeping the discloser informed of progress where appropriate; and
- Taking appropriate action and implement appropriate procedures to address the disclosed wrongdoing.

This policy and procedures are important components in promoting AIMS' ethical culture and its continuing desire to act with integrity. The mechanism, processes and protections for and in respect of making disclosures of PIDs is contained in these documents.

## 3. PROCEDURES

### 3.1 What can be disclosed?

As summarised in the flowchart comprised in **Appendix 1**, a **public official** can disclose information that they believe, on reasonable grounds, tends to show “disclosable conduct” engaged in by:

- a Commonwealth agency (such as AIMS);
- a public official in connection with their position; or
- a service provider that AIMS has entered into a contract or relationship with.

### 3.2 What is disclosable conduct?

Disclosable conduct includes conduct which:

- breaks a law;
- is corrupt;
- perverts the course of justice;
- constitutes maladministration, including conduct that is based on improper motives or is unreasonable, unjust, oppressive or negligent;
- is an abuse of public trust;
- unreasonably endangers health or safety;
- endangers the environment;
- involves fabrication, falsification, plagiarism or deception relating to scientific research, or other misconduct in relation to scientific research, analysis or advice; or
- results in a wastage of public money or public property.

Disclosable conduct **does not** include individual grievances or workplace conflicts which are more appropriately dealt with by other existing mechanisms. Conduct that is wholly private and has no bearing on the discloser’s position as a public official is not disclosable conduct. Matters that reflect private or personal interests are generally not matters of public interest.

Further examples of conduct that is not disclosable conduct include:

- minor disciplinary infringements;
- disagreements with government policy; and
- action or expenditure, conduct by AIMS in exercising delegated powers or functions.

### 3.3 What protections are provided to a discloser under the PID Act?

The PID framework provides the following protections for persons who make a PID:

- The person will not be subject to any civil, criminal or administrative liability for making the disclosure.
- No contractual or other remedy may be enforced or sanction imposed on the person on the basis of making the disclosure.
- The person has absolute privilege (for the purpose of defamation proceedings) in respect of the PID.

- A contract to which the person is a party must not be terminated on the basis that the disclosure constitutes a breach of contract.
- It is a criminal offence for a person to take, or threaten to take, reprisal action against a person who has made or who is thought to have made a PID.

The PID Act requires AIMS to keep a discloser's identity confidential subject to limited exceptions, such as the discloser's prior consent.

A person who makes a disclosure that is intentionally false or misleading will not gain the protections under the PID Act. In addition, incidents of this nature could be dealt with under the AIMS disciplinary procedure.

### **3.4 How can a PID be made?**

A PID can be made in writing and addressed to an AIMS Authorised Officer, via email to [PID@aims.gov.au](mailto:PID@aims.gov.au) or orally. It can also be made to the discloser's supervisor who must in turn disclose it to an Authorised Officer. In general disclosers are encouraged to make a written disclosure directly to an Authorised Officer at AIMS in writing using the template form that has been developed based on the PID Act.

A copy of the form is attached in **Appendix 2** and is also available via the AIMS website. It is not mandatory to use this form however doing so should speed up the process and enable the matter to be properly addressed and appropriately dealt with.

A PID needs to include as much information as possible to assist a decision to be made on the appropriate course of action particularly the following (whether or not Appendix 2 is used):

- name and contact details of the discloser;
- nature of the disclosable conduct;
- who you believe committed the disclosable conduct;
- when and where the disclosable conduct occurred;
- relevant events associated with the issue;
- details of any actions taken by the discloser relating to the event;
- other people who may be aware of the conduct;
- witnesses or persons who may be able to verify what you are saying;
- about any possible reprisals associated with the disclosure; and
- any other information relevant to the disclosure.

The information needs to be clear and factual and needs to avoid speculation, personal attacks and emotive language.

### **3.5 How is a PID investigated?**

#### **3.5.1 Investigation Officer**

All disclosures will be handled confidentially as far as is practicable.

Within 14 days after receipt of a disclosure, AIMS' Authorised Officer must communicate to the discloser whether the disclosure will be processed for further investigation, allocated to an external organisation or the reasons why your disclosure has not been allocated for further action. If the disclosure is not allocated for further investigation, the Authorised Officer will provide details to the discloser and will advise of any other options that might be available.

If the disclosure is allocated for further investigation, the process will normally be conducted by AIMS' Investigation Officer appointed in accordance with the PID Act. Investigations must be concluded within 90 days unless the Ombudsman grants an extension. During the investigation process, the discloser may be required to provide additional information. The discloser will receive a copy of the Investigation Officer's report (subject to confidentiality). In appropriate circumstances the investigation will be handled by a person outside AIMS.

All investigations will be conducted by investigators with the appropriate skills and training to conduct the investigation. Investigators will be independent and unbiased in the matter and will ensure that they do not have any actual or perceived conflict of interest. The appointed investigator will be familiar with the PID Act and any legislated standards and must in particular ensure that the confidentiality obligations and the protections afforded to the discloser under the Act as well as the AIMS Policy and Procedures are fully complied with.

The investigator will conduct the investigation as they think fit and is entitled to obtain any information and interview persons as are relevant to the matter disclosed. They must then consider if, on the balance of probabilities, the information received is sufficient to prove an alleged fact.

AIMS has appointed the officer holding the position of Senior Commercial Lawyer to act as the Investigation Officer.

### **3.5.2 Interviewing witnesses**

Subject to any restrictions imposed by a Commonwealth law, the investigator must ensure that, if a person is interviewed in relation to an internal disclosure, that the person is informed of the following:

- the identity and function of each person conducting the interview;
- the process of conducting the interview;
- the authority of the investigator under the PID Act to conduct an investigation;
- the protections provided to the person under the PID Act; and
- the person's duty:
  - if they are a public official, to use their best endeavours to assist the investigator in the conduct of the investigation (subject to the public official's privilege against incriminating themselves or exposing themselves to penalty);
  - whether or not they are a public official, not to take or threaten to take reprisal action against the discloser; and
  - whether or not they are a public official not to disclose the identity of the person who made the disclosure.

Where the investigator conducts an interview as part of an investigation, at the conclusion of the investigation process, the interviewee must be provided an opportunity to make a final statement or

comment to express their position. The interviewee's final statement or position must be included in any record of interview.

### 3.6 Keeping the discloser informed

The discloser will be notified and updated at various stages in the investigation process provided the discloser has supplied their contact information. The discloser must be advised:

- when the disclosure is either allocated for investigation or not allocated because it has been determined not to be an internal disclosure;
- of information about the principal officer's discretionary powers to not investigate within 14 days of the disclosure being allocated;
- if the agency decides not to investigate, the reasons for the decision and any action that might be available to the discloser under the Commonwealth laws;
- if an investigation is conducted under the PID Act and an extension of time is granted by the Ombudsman, the progress of the investigation; and
- when the investigation report is completed and provided with a copy of the report.

Where the discloser is not satisfied with the investigation process, recourse is available by lodging a complaint with the Commonwealth Ombudsman for review.

### 3.7 Types of Disclosure

#### i. Internal disclosure

AIMS' public officials can report disclosures internally to AIMS in the first instance. The disclosure can be made either to the discloser's supervisor (for current employees), an Authorised Officer, or if there is no Authorised Officer or an actual or perceived conflict of interest in relation to the Authorised Officer, to the CEO. Refer to **Appendix 3** which contains a flowchart showing the internal disclosure process.

#### ii. External disclosure

In limited circumstances, a public official may disclose information to a person outside AIMS. An external disclosure will only be justified when:

- an internal disclosure to AIMS has been made;
- where the discloser reasonably believes that the investigation was inadequate or AIMS' response to the investigation was inadequate;
- on balance the disclosure would not be considered contrary to public interest;
- the disclosure does not relate to intelligence information or an intelligence agency; and
- only information reasonably necessary to identify the wrongdoing is publicly disclosed.

An external disclosure may also be made directly to the Ombudsman to investigate instead of AIMS' appointee in situations where the discloser believes on reasonable grounds that it is appropriate for the Ombudsman to investigate instead of AIMS' appointee. A public official can also direct a disclosure to the Ombudsman if they believe AIMS did not deal with the internal disclosure appropriately. In such circumstances the Ombudsman will consider whether special reasons exist to conduct an investigation or allocate the matter to the agency where the

disclosable conduct is alleged to have occurred, or to a prescriptive investigative agency with appropriate jurisdiction. If the Ombudsman does elect to investigate a disclosure, the investigative powers under the Ombudsman Act 1976 will be generally relied upon rather than the PID Act.

### **iii. Emergency disclosure**

Emergency disclosures arise in certain circumstances where a discloser can disclose information to a party external to AIMS. The relevant circumstances arise where the discloser believes on reasonable grounds that the information concerns a substantial or imminent danger to the health or safety of a person or people or the environment.

### **iv. Legal Practitioner disclosures**

Legal Practitioner disclosures arise where a public official makes a disclosure to a legal practitioner for the purpose of obtaining legal advice in relation to making a public interest disclosure.

## **3.8 Anonymous disclosures**

Disclosers do not have to identify themselves and may elect to remain anonymous. Remaining anonymous means disclosers do not identify themselves at any stage in the process to anyone, including the Authorised Officer who receives the disclosure. If the disclosure comes via an email address which cannot identify the person's identity, and the discloser does not identify themselves in the email, it will be treated as an anonymous disclosure.

One of the requirements for making a PID is that the person is or was a public official. However, this does not mean that the person has to prove their status. They may provide information that supports that status (for example that they used to work at AIMS). If they do not, the Authorised Officer may seek additional information to confirm whether or not the discloser is or was a public official.

However, AIMS' Authorised Officers will approach the interpretation of this requirement generously where the discloser is potentially a former or current public official by treating the anonymous discloser as such until there is evidence to suggest otherwise. The focus is on the purpose of the PID Act which is to encourage the disclosure of wrongdoings and ensure that they are properly dealt with.

Importantly, it is noted that an anonymous disclosure may make the disclosure more difficult to investigate or substantiate.

## **3.9 What happens if a discloser makes a disclosure outside the PID framework and AIMS' Procedures?**

In order to gain the protections offered by the PID Act (as described in paragraph 3.3), a public official must use one of the avenues specified in paragraphs 3.7 and 3.8 above and preferably follow the procedure recommended in paragraph 3.4 above. If the public official does not follow these requirements, they will either not have the benefit of these protections provided or encounter difficulty and delay in having the matter processed expeditiously. In addition, they may be in breach of their duty to maintain confidentiality in relation to official information they have gained in the course of their employment and potentially could be subject to other civil, criminal or disciplinary action.



### **3.10 Motive for making a PID**

An individual's motive or intention is irrelevant to the investigation process and does not determine whether an investigation into a disclosure is warranted. However, it is important for disclosers to remain factual and Institute-focused on the issues related to the alleged wrongdoing rather than becoming emotive- or personal- or personality- focused about an individual(s) or a particular situation.

### **3.11 Discloser's wrongdoing**

The specific protections conferred on disclosers by the PID Act (see paragraph 3.3 above) will not necessarily protect the discloser from the consequences of their own wrongdoing where he/she has been guilty of such conduct. This would include circumstances where the discloser himself or herself has also been involved in the misconduct that they are reporting. However, there may be some instances where a discloser has come forward with a report of serious wrongdoing in which they have had only a minor or peripheral involvement. In such situations, each matter will be assessed on its individual merits and discretion exercised in relation to any disciplinary action in recognition of the discloser's action in coming forward to make the disclosure and having due regard for the more extensive involvement of other(s).

As previously noted, but worth repeating in this context, a public official who makes a disclosure that is intentionally false or misleading will not gain the protections afforded under the PID Act. Additionally, false or misleading reporting may give rise to criminal and/or civil proceedings and in the case of such reporting by a person who is a current AIMS staff member may also lead to disciplinary action in accordance with AIMS' policies and procedures applicable to misconduct .

## **4. ROLES AND RESPONSIBILITIES**

### **4.1 Principal Officer**

The PID Act establishes that AIMS' Principal Officer (i.e. the Chief Executive Officer) is responsible for the following:

- establishing procedures to manage public interest disclosures;
- ensuring all AIMS staff are aware of the procedures and the protections available;
- appointment of authorised officers to receive disclosures;
- ensuring disclosures are properly investigated;
- protecting staff from reprisals or threats of detriment if they make a disclosure;
- taking appropriate action in response to an investigation report;
- keeping records in relation to the handling of disclosures; and
- providing information to the Ombudsman including annual PID Act reporting.

The Principal Officer may exercise their discretion and delegate all or some of the above functions. At AIMS the Principal Officer has delegated all of the above responsibilities to the person he nominated as Authorised Officer, namely the Human Resources Manager.

### **4.2 Authorised Officer**

Authorised officers are senior officers within AIMS appointed by the Chief Executive Officer in writing and authorised to receive reports of disclosable conduct. Delegated authorised officers are responsible for a range of decision-making and other responsibilities under the PID Act, including:

- receiving disclosures from current or former public officials about disclosable conduct;
- assessing if a person is a public official for the purpose of the PID Act;

- informing a person who may be unaware of the PID Act requirements that information could be treated as an internal disclosure;
- assessing reported information to determine if there are no reasonable grounds to believe the information could be considered to be a public interest disclosure;
- making any preliminary enquiries necessary to make an allocation decision;
- allocating all or part of the disclosure within 14 days of becoming aware of the disclosure;
- informing the Chief Executive Officer of the allocation of decisions and associated information;
- consenting to the allocation of a disclosure by an authorised officer of another agency;
- advising the discloser of a decision not to allocate, the reasons why and any other course of action that may be available under Commonwealth law; and
- maintaining records relating to the management of disclosures.

### **4.3 AIMS Management**

AIMS Management is responsible for:

- maintaining, monitoring and reviewing the policy and procedures relevant to the PID Act and the application of any PID Rules and/or standards at AIMS to ensure the framework remains current and up to date;
- providing support in disciplinary and dismissal procedures if necessary; and
- facilitating the efficient and effective management of all suspected disclosures.

### **4.4 Managers and Supervisors**

Managers and supervisors have a key role in ensuring that the workplace culture supports the making of PIDs by providing ethical leadership;

- implementation of appropriate control systems to prevent and/or minimise incidents of wrongdoing;
- being alert to any actual or potential wrongdoing amongst all employees;
- being knowledgeable about the PID Act, standards, rules and guidelines and AIMS' PID Policy and Procedures;
- having a clear understanding of the confidentiality obligations associated with the PID framework;
- being approachable to staff who may want to raise a concern;
- ensuring staff participate in available training and are aware of their obligations and protections under the PID Act;
- supporting staff members who they know have made a disclosure, and ensure they are protected from reprisal and adverse consequences ; and
- proactively managing identified issues in the workplace to minimise potential issues that may fall within the scope of the PID framework .

#### 4.5 Current employees

The PID Act requires all public officials to use their best endeavours to assist the Chief Executive Officer in the conduct of a PID investigation. In addition to this specific responsibility, all staff share the responsibility to ensure that the PID Act works effectively, properly and equitably. This is achieved by each staff member:

- reporting matters where there is evidence that shows or tends to show disclosable conduct;
- identifying areas where there may be opportunities for wrongdoing to occur because of inadequate systems or processes, and proactively raise those issues with their supervisor in the first instance;
- supporting staff who they know have made a disclosure; and
- maintaining the confidentiality of the identity of a discloser and anyone against whom an allegation has been made, if they become aware of such matters.

## 5 CONFIDENTIALITY

PID matters are highly sensitive and maintaining confidentiality is critical to the PID process. The PID Act includes provisions to protect the identity of the discloser as far as practicable and AIMS is committed to ensuring the discloser's anonymity is protected. However, confidentiality extends to protect other parties affected by the disclosure as well. For the purposes of the PID process, the following information must, as far as practicable, remain confidential at all times:

- the fact that a disclosure has been made;
- any information that may identify the discloser, or the part that is the subject of the disclosure;
- the actual information that has been disclosed; and
- information relating to the disclosure, the discloser or the disclosee.

Furthermore, under the PID Act it is a criminal offence for a public official involved in the PID process to reveal the identity of the discloser for any purpose other than to undertake their obligations under the PID Act. However, the discloser's identity or information that would effectively identify the discloser may need to be disclosed if the disclosure is necessary:

- to investigate the disclosure effectively; or
- to protect the discloser against reprisals.

If it is necessary or highly likely that the discloser's identity will be revealed, AIMS will discuss the matter with the discloser before proceeding unless it is not reasonably practicable to do so. All information, documents, records and reports relating to a PID will be stored confidentially and in accordance with AIMS' PID Procedures.

## 6. RISK ASSESSMENT

A risk assessment to consider the specific behaviour and circumstances that may result in reprisals or adverse consequences must be undertaken for all PIDs being investigated. The risk assessment process must identify the potential reprisals and outline strategies to prevent or contain the impact. The risk assessment must include not only the risks of direct reprisal against the discloser but also the risk of related workplace conflict or difficulties. An accurate and objective risk assessment will enable AIMS to put suitable strategies in place to control the risks and defend itself against any allegations of having failed to protect the discloser.

### 6.1 When should the risk assessment be completed?

As soon as possible after a disclosure is received, AIMS' Authorised Officer must assess the risks that reprisal may be taken against the discloser. If the disclosure is made to a supervisor or a manager, and the person wishes to remain anonymous, the supervisor or manager must conduct a risk assessment as soon as practicable after the disclosure is made.

The person assessing the risk will plan and implement the strategies to control the risk of reprisals or related workplace conflict. Where possible, the discloser will be consulted before any decision is made.

### 6.2 Who should be consulted?

The best source of information is from the people directly involved with the matter, especially the discloser and their direct supervisor (if applicable). Engagement with the discloser can be useful to provide insight into the following factors:

- likely perceptions amongst staff regarding the objective of the disclosure;
- managing the discloser's expectations about how other staff perceive the disclosure;
- reducing the potential for conflict between all stakeholders; and identifying the motives of the staff allegedly involved.

### 6.3 How should the risk assessment be conducted?

The risk assessment should be conducted in accordance with AIMS' risk assessment processes. For the PID process, the evaluation of risk will take the following factors into consideration:

- Identify any reprisals or related workplace conflict issues.
- Assess the likelihood and consequence of reprisals or workplace conflict.
- Control strategies that need to be put in place to prevent or contain reprisals or workplace conflict.
- Monitor and review mechanisms to evaluate if the implemented strategies are effective.

### 6.4 Ongoing monitoring

The risk assessment must be monitored and reviewed by the assessor as necessary including checking with the discloser to see if reprisals have been made or threatened. The Commonwealth Ombudsman's *Agency Guide to the Public Disclosure Interest Act 2013* is useful to assist with the risk assessment process.

## 7. RECORDS MANAGEMENT

### 7.1 General records management

AIMS' Authorised Officer is responsible for securing all records relevant to the PID framework at AIMS, and must maintain details of when and how a disclosure was made. Each disclosure will be allocated a distinct reference number. Details of the risk assessment regarding reprisal, allocation, investigation, notification to the discloser and others must be kept on file.

### 7.2 Reporting to the Ombudsman

The Chief Executive Officer is required to disclose the following information to the Commonwealth Ombudsman in accordance with Public Interest Disclosure Standard 2013:

- number of public interest disclosures received by authorised officers AIMS for the relevant financial year;
- details of the kinds of disclosable conduct that has been reported;
- number of disclosable investigations that the principal officer conducted during the relevant financial year;
- the actions that the principal officer has taken during the relevant financial year in response to recommendations in reports relating to those disclosure investigations; and
- any other information requested by the Ombudsman.

### 7.3 Freedom of Information Requests

The *Freedom of Information Act 1982* (FOI) provides a right of access to government documents. Access to some documents or parts of documents can be refused where the documents are considered exempt from the FOI regime. Under the PID scheme, all documents associated with a PID must remain confidential at all times to ensure that the protections provided by the PID Act are maintained. On this basis, FOI requests do not apply to PID documents. It is important for all personnel engaged in the management of FOI requests to fully understand the confidentiality and secrecy provisions relating to PID documentation. The details of the PID must remain confidential at all times.

## 8. MONITORING, EVALUATING AND REPORTING

AIMS' Authorised Officer must provide a six monthly report to the Chief Executive Officer detailing the number of PIDs received by the Authorised Officer and the nature of each disclosure. The report must also detail any disclosures received externally from another agency or from the Ombudsman.

The half-yearly report must also detail the current status of the investigation of any current PIDs. The reports must also detail progress on the implementation of any recommendations arising from investigation reports.

This information will be collated and used in the annual report to the Ombudsman.

## 9. TRAINING

AIMS will provide relevant training as required to current personnel. AIMS' personnel are recommended to contact the HR Department to discuss training requirements and availability.

## 10. LEGISLATIVE AND POLICY BASIS

Although not a statement of the law, the AIMS PID Policy and Procedures reflect the relevant legal requirements under the PID Act.

In preparing this policy, reference has been made to a number of legislative and other resources, including:

- *Public Interest Disclosure Act 2013 (Cth)*
- *Public Interest Disclosure Act Standard 2013 (Cth)*
- *Seminars, presentations and documents given and published by the Commonwealth Ombudsman*
- *Public Interest Disclosure Act 2010 (Qld)*
- *Public Interest Disclosure Act 2003 (WA)*
- *Public Interest Disclosure Act 2011 (NT)*
- AS 8004-2003 Australian Standard Whistleblower Protection Program for Entities
- AIMS Code of Conduct and Deed of Undertaking

## 11. ADDITIONAL RESOURCES

General information on the Public Interest Disclosure scheme is available on the Commonwealth Ombudsman's website: <http://www.ombudsman.gov.au/pages/pid>

## 12. DEFINITIONS

**Authorised Officer** means a public official authorised by AIMS' Principal Officer under the PID Act. For AIMS, the Chief Executive Officer (CEO) is the Principal Officer and he has appointed the officer holding the following position to be AIMS' Authorised Officer: AIMS' Human Resources Manager.

**Investigation Officer** means a person with the appropriate skills and training to conduct the investigation. The appointed investigator will be familiar with the PID Act and any legislated standards and must in particular ensure that the confidentiality obligations and the protections afforded to the discloser under the Act as well as the AIMS Policy and Procedures are fully complied with. AIMS has appointed the officer holding the position of Senior Commercial Lawyer to act as the Investigation Officer.

**Disclosable Conduct** in general terms means conduct by a public official that:

- contravenes a law;
- is corrupt;
- perverts the course of justice;
- results in wastage of public funds or property;
- is a breach of public trust;
- unreasonably endangers health and safety or endangers the environment;
- is misconduct relating to scientific research, analysis or advice; or
- is maladministration, including conduct that is unjust, oppressive or negligent.

**Discloser** means an individual who discloses information relating to an alleged serious wrongdoing.

**Disclosure** means information disclosed by a Discloser.

**PID Act** means the Public Disclosure Act 2013.

**Public Official** includes any person who is or was employed or appointed by and includes all current and former employees, including visitors and members of the AIMS' Council.

**Public Interest Disclosure** means a disclosure made after 15 January 2014, by a discloser who is or was a public official, to an authorised officer or supervisor of the discloser with information that tends to show, or which the discloser believes on reasonable grounds that the information tends to show, one or more instances of disclosable conduct.

**Serious Misconduct** means the type of conduct as described in the definition of Disclosable Conduct.



## APPENDIX 1: What is a Public Interest Disclosure?

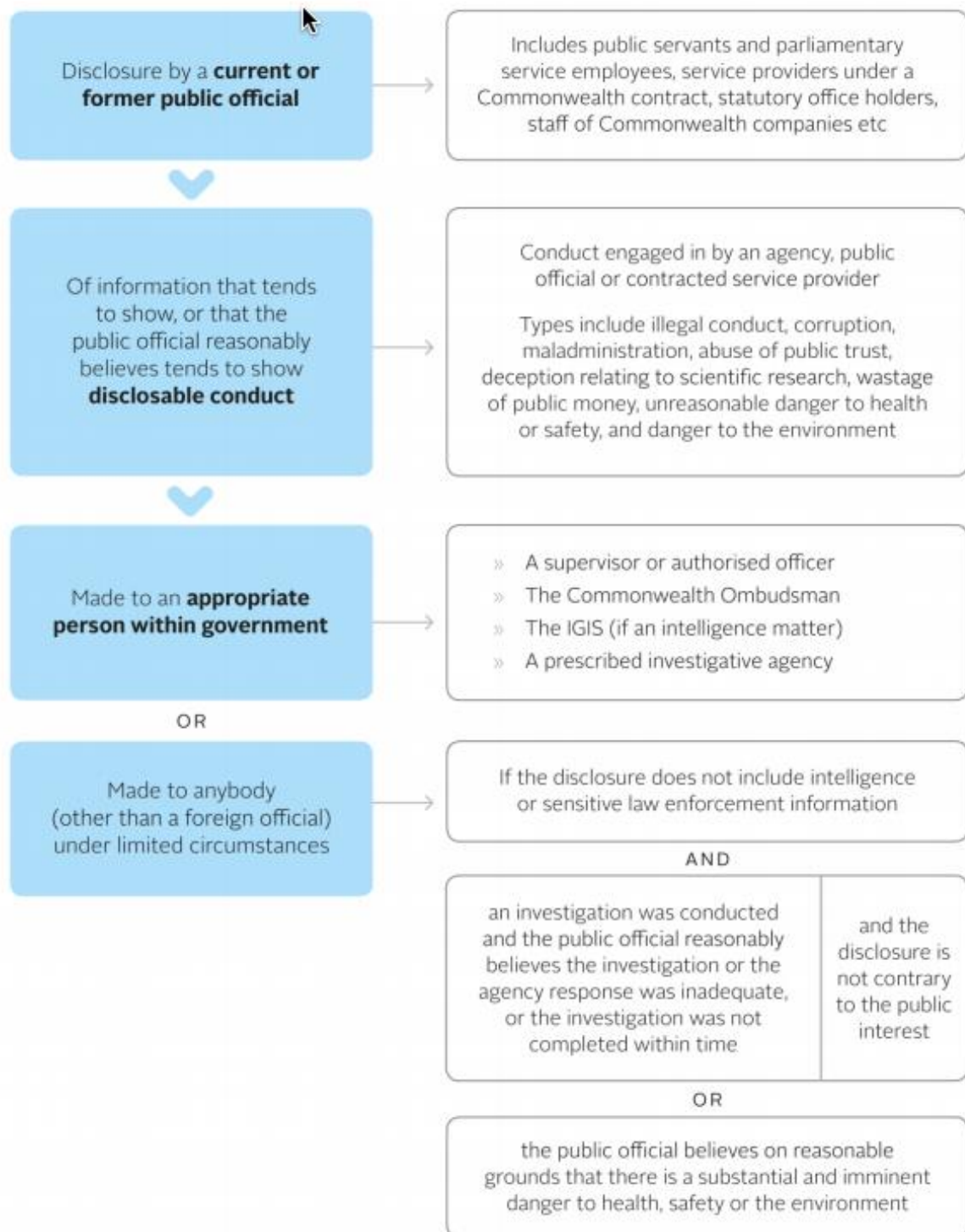


Figure 1: What is a public interest disclosure?

Source: Commonwealth Ombudsman's Agency Guide to the Public Interest Disclosure Act 2013

## APPENDIX 2: Template Public Interest Disclosure Form



### FORM 1: PUBLIC INTEREST DISCLOSURE

This template has been designed to assist with the reporting of a Public Interest Disclosure ("PID"). Full details on the PID framework can be found in the AIMS PID Policy and AIMS PID Procedures.

**Advice to disclosers:** The PID process is only available to public officials. Please refer to the AIMS Policy or the Commonwealth Ombudsman website for a definition of a public official. In completing this form, please clearly outline the details of your disclosure. It is recommended that you are clear and factual, avoid speculation, personal attacks and emotive language. If you have any additional information relevant to the disclosure, please provide either as attachments to this form or provide directly to the officer receiving the disclosure.

#### DISCLOSER DETAILS

Name	
Contact email	
Contact telephone	
Preferred method of contact	

Does the discloser wish to remain **anonymous**?  YES  NO

I am:

- A current AIMS staff member       A former AIMS staff member  
 A contractor or contractor employee       A former contractor or contractor employee  
 A current or former visitor  
 Other Please describe \_\_\_\_\_

#### DISCLOSURE DETAILS

**For the subject of the disclosure, please identify the nature of the conduct:**

*Please check all that apply*

Contravenes a law in Australia	<input type="checkbox"/>
Contravenes a law in a foreign country	<input type="checkbox"/>
Perverts the course of justice, or attempts to pervert the course of justice	<input type="checkbox"/>
Is corrupt	<input type="checkbox"/>
Maladministration, including unjust, oppressive or negligent conduct	<input type="checkbox"/>
Abuse of public trust	<input type="checkbox"/>
Abuse of a person's position or may give reasonable grounds for disciplinary action	<input type="checkbox"/>
Fabrication, falsification, plagiarism or deception relating to scientific research	<input type="checkbox"/>
Misconduct relating to scientific analysis, scientific evaluation or giving scientific advice	<input type="checkbox"/>
Results in the wastage of public money or public property	<input type="checkbox"/>
Unreasonably results in or increases the likelihood of, a danger to health or safety	<input type="checkbox"/>
Conduct that results in a danger to the environment, or increases the risk of danger to the environment	<input type="checkbox"/>

**Please provide the following additional information about the disclosure.**

*Information provided needs to be logical, factual and in chronological manner.*

**What information do you have about an instance of disclosable conduct that may have occurred or is about to occur? Please describe the conduct or event as fully as possible.**

**As a guide, please provide the location of the conduct, relevant dates or timeframes and details of any persons involved in the activity, including details of the person alleged to have committed the conduct, other parties who are aware of the event, witnesses and any persons you have contacted regarding the conduct. Please provide any details of any previous reports of the conduct, (including who and when the report was lodged) and details of any actions taken (if known). If you have taken any action in relation to the wrongdoing, please provide details.**

**Are you concerned about reprisals in your workplace if it becomes known that you made this disclosure?**

Yes:  No:

**If yes, please explain why you have this concern:**

**Do you have supporting information?** Yes:  No:

*If yes, please attach all additional supporting information. Please provide all supporting evidence, such as correspondence, file notes, or a diary of events relevant to the disclosure to AIMS authorised officer.*

**Consent to use of identifying information for PID Act notification purposes**

*This consent is not mandatory but will assist the administration of the PID Scheme at AIMS*

If an authorised officer allocates my disclosure for investigation, I consent to my name and contact details being provided to the following for notification purposes in accordance with the PID Act:

- the Chief Executive of AIMS (or nominee) if my disclosure is allocated to AIMS; or
- the principal officer(s) (or their nominee(s)) of the agency(ies) to whom my disclosure is allocated, if applicable; and
- the Commonwealth Ombudsman;

Name: .....

Signature: .....

Date: .....

**For internal use only:**

Name of the person receiving the disclosure	
Date disclosure received	
Reference	

## APPENDIX 3: Process for dealing with an internal disclosure

