TOWN OF Bassendean

Public Interest Disclosure (PID)

Procedure



© State of Western Australia 2016

The Town of Bassendean acknowledges that this publication has been copied in part, and was originally published by the Public Sector Commission, July 2016.

Contents

Purpose of these guidelines 4

Public interest disclosure procedures for the Town of Bassendean..... 5

A. Organisational commitment for reporting public interest information..... 5

B. Purpose of the internal procedures..... 6

C. Scope and application of internal procedures..... 7

D. Overview of roles and responsibilities of parties involved in the disclosure process at Town of Bassendean. 8

E. Managing public interest disclosures 12

F. How to make a public interest disclosure 18

Purpose of these guidelines

The Town of Bassendean (Town) has adopted these guidelines, developed by the Public Sector Commissioner (Commissioner) in accordance with s. 21 of the *Public Interest Disclosure Act 2003* (PID Act). Under s. 23(1)(e) and s. 23(2) principal executive officers (PEOs) of public authorities (authorities) are required to prepare and publish internal procedures relating to their obligations under the PID Act. Internal procedures must be consistent with the PID Act and these guidelines.

In the development of these internal procedures, the Town considered the Commissioner's guidelines in conjunction with:

- *the Public Interest Disclosure Act 2003*
- *the Public Interest Disclosure Regulations 2003*
- *Public Interest Disclosure (PID): Supporting information for Principal Executive Officers and PID Officers (proper authorities)*
- *Don't be afraid to speak up*
- *Guide for managers.*

Important note

While information provided in these guidelines and the supporting information for principal executive officers and proper authority (PID Officer) reflects the requirements of the PID Act, there will be, from time to time, circumstances that raise complex questions of law, where there is a real possibility of litigation or where the matter is otherwise highly contentious. In these cases, further legal or other professional advice should be sought before taking action.

Public interest disclosure procedures for the Town of Bassendean

A. Organisational commitment for reporting public interest information

The Town of Bassendean does not tolerate corrupt or other improper conduct.

The Town of Bassendean is committed to the aims and objectives of the *Public Interest Disclosure Act 2003* (PID Act). The PID Act recognises the value and importance of reporting as a means to identify and address wrongdoing.

We strongly support disclosures being made by employees about corrupt or other improper conduct. We also strongly support contractors and members of the community making disclosures about corrupt or improper conduct.

The Town of Bassendean does not tolerate any of its employees, contractors or subcontractors taking reprisal action against anyone who makes or proposes to make a public interest disclosure.

The Town of Bassendean will take all reasonable steps to protect employees from any detrimental action in reprisal for the making of a public interest disclosure.

The commitment to effectively manage public interest disclosures extends to a proper authority of Town of Bassendean. The persons responsible for receiving disclosures of public interest information designated under s. 23(1)(a) of the PID Act will abide by the PID Code of conduct and integrity in performing their duties.

The Town of Bassendean is also committed to responding to the disclosure thoroughly and impartially. We will treat all people in the disclosure process fairly, including those who may be the subject of a disclosure.

The Town of Bassendean will provide as much information as possible to people considering making a public interest disclosure. These internal procedures are accessible to all employees and contractors. Copies are available from the designated person appointed as the proper authority (Public Interest Disclosure (PID) Officer) and will be kept on the Town's intranet and document management system.

General information about public interest disclosures and how the Town of Bassendean will manage a disclosure is available for external clients and members of the community on our website: www.bassendean.wa.gov.au

While these procedures focus on public interest disclosures, we are committed to dealing with all reports of suspected wrongdoing. We encourage people to report, if they witness any such behaviour. The Town of Bassendean will consider each matter under the appropriate reporting pathway and make every attempt to protect staff members making reports from any reprisals.

B. Purpose of the internal procedures

The CEO must prepare and publish these internal procedures under s. 23(1)(e) of the PID Act.

These procedures outline the Town will meet its obligations under the PID Act. They cover the roles and responsibilities of the CEO, the person designated as the proper authority in accordance with s. 23(1)(a) and s. 5(3)(h) referred to in this document as the PID Officer, the discloser and the subject of the disclosure.

The procedures are to be read in conjunction with the PID Act, *Public Interest Disclosure Regulations 2003* and *Don't be afraid to speak up*.

Awareness raising

The Public Sector Commission has a number of products on its website www.publicsector.wa.gov.au

The Town encourages PID Officers, managers, employees and members of the community to inform themselves about matters relating to Public Disclosure. 'Don't be afraid to speak up' is a handy guide for people thinking about making a disclosure.

C. Scope and application of internal procedures

These procedures apply to all people involved in the public interest disclosure process, including the Town's CEO, PID Officer(s), employees of the Town and/or any person making a public interest disclosure and any subject(s) of a disclosure.

These procedures should be read in conjunction with:

- *Public Interest Disclosure Act 2003*
- *Public Interest Disclosure Regulations 2003*
- *Local Government Act 1995.*
- Town of Bassendean Employee Code of Conduct

The behaviour of all employees involved in the public interest disclosure process must accord with the Town's Employee Code of Conduct at all times. A breach of the Code of Conduct may result in disciplinary action.

D. Overview of roles and responsibilities of parties involved in the disclosure process at Town of Bassendean.

Person / role	Responsibilities
Principal executive officer (s. 23) In the Town of Bassendean the CEO:	• *Designates the occupant of a specified position (a PID Officer) to receive public interest disclosures related to the Town of Bassendean (s. 23(1)(a).* • *Provides protection from detrimental action or the threat of detrimental action for any employee of the Town of Bassendean who makes a public interest disclosure (s. 23(1)(b)).* • *Ensures the Town of Bassendean complies with the PID Act and the code of conduct and integrity established by the Public Sector Commissioner (ss. 23(1)(c) and (d)).* • *Prepares and publishes internal procedures, consistent with those prepared by the Public Sector Commission, detailing how the Town of Bassendean will meet its obligations under the PID Act (s. 23(1)(e)).* • *Provides information (s. 23(1)(f)) to the Public Sector Commissioner on the:* • *number of disclosures received by the Town of Bassendean results of any investigations conducted as a result of the disclosures* • *action, if any taken, as a result of each disclosure* • *any matters as prescribed.* • *May have a role in enabling an investigation to be undertaken or taking disciplinary action against individuals under functions and powers separately from the PID Act.*

Person / role	Responsibilities
The Proper Authority (s. 5(3), s. 7 and s. 18) or PID Officer/s 23(1)(a)):	• *As is designated by ss. 5(3)(a-g) or by the CEO of the Town of Bassendean, under s. 23(1)(a) the PID Officer is to receive disclosures related to the Town of Bassendean Provides information to potential disclosers about their rights and responsibilities consistent with the Code of conduct and integrity established under s. 20(1).* • *Receives and manages public interest disclosures in accordance with the PID Act (s. 5(3)).* • *Notifies the discloser within three months of the disclosure being made about what action is planned in dealing with the disclosure (s. 10(1)).* • *Where appropriate, investigates, or causes an investigation of, the matters in the disclosures (s. 8(1)).* • *Where appropriate, provides information to subjects of a disclosure about their rights, responsibilities, duties and potential offences (s. 9(2), s. 14, s. 15, s. 16 and s. 24).* • *Where appropriate, takes such action as is necessary and reasonable, within their functions and powers in accordance with s. 9.* • *Maintains confidentiality of the identity of the discloser and subject(s) of disclosures, in accordance with the requirements of the PID Act (s. 11 and s. 16).* • *Provides progress reports where requested and a final report to the discloser in accordance with s. 10.* • *Creates and maintains proper and secure records in relation to the disclosures in accordance with the Code of conduct and integrity established under s. 20(1) and the State Records Act 2000.*

Person / role	Responsibilities
	• *Completes a PID Register for each disclosure lodged (s. 23(1)(f)).* • *Acts in accordance with the rules of natural justice (s. 9(2) and s. 16(1)(b)).* • *Acts in accordance with the code of conduct and integrity established by the Public Sector Commissioner (s. 20(1)) and any authority-specific code of conduct established separately from the PID Act.*

Person / role	Responsibilities
The discloser:	• *Makes a public interest disclosure to a proper authority or our PID Officer if the matter relates to the Town of Bassendean (s. 5(1)).* • *Believes on reasonable grounds the information in their disclosure is, or may be, true (s. 5(2)).* • *Does not disclose information subject to legal professional privilege (s. 5(6)).* • *Does not knowingly and recklessly make a false or misleading disclosure (s. 24(1)).* • *Maintains confidentiality of the information disclosed and the identity of the person(s) to whom the information relates, in accordance with the requirements of the PID Act (s. 16 and s. 17(1)(b)).* • *Assists any person investigating the matter to which the disclosure relates by supplying the person with any information requested (s. 17(1)(a)).*
The subject of the disclosure (person about whom disclosure is made):	• *Is afforded the opportunity to make a submission, either orally or in writing, in relation to the matter before preventative or disciplinary action is taken (s. 9(2)).* • *Maintains confidentiality of the identity of the discloser, in accordance with the requirements of the PID Act (s. 16(1)).* • *Is to be treated in accordance with the rules of natural justice (s. 16(1)(b)).* • *Does not take or threaten to take detrimental action (defined in s. 3) against a person because they have made or intend to make a disclosure (s. 14(1)).* • *Does not incite another person to take detrimental action against another because they have made or intend to make a disclosure (s. 14(2)).* • *Does not commit an act of victimisation by taking or threatening to take detrimental*

Person / role	Responsibilities
	action against the person making or intending to make a disclosure (s. 15(1)).
An investigating officer:	• *May investigate matters of public interest information on behalf of a proper authority of the Town of Bassendean in accordance with the terms of reference given to them.* • *Maintains confidentiality of the identity of the disclosure and any persons subject to the disclosure, in accordance with s. 16.* • *Makes, and keeps secure, comprehensive records of any investigation undertaken.*

E. Managing public interest disclosures

The following procedures describe how the Town of Bassendean will manage the public interest disclosure process.

Overarching requirements of the Public Interest Disclosure Act 2003

The PID Act has some overarching requirements for handling disclosures. These requirements separate the public interest disclosure process from other reporting or complaint handling processes. The PID Act does not, however, displace the notification or reporting requirements of the *Corruption, Crime and Misconduct Act 2003*, which are paramount. The following section outlines how we will meet these requirements, as well as expectations of you, as a discloser, and any subject(s) of your disclosure.

What is 'public interest information'?

The PID Act only applies to disclosures of public interest information (defined in s. 3). Public interest information means information that:

- *relates to the performance of a public function by a public authority, public officer or public sector contractor (either before or after the commencement of the PID Act) and*
- *shows or tends to show that a public authority, a public officer, or a public sector contractor is, has been or proposes to be involved in*
- *improper conduct or*
- *an act or omission that constitutes an offence under a written (State) law or*
- *substantial unauthorised or irregular use of, or substantial mismanagement of, public resources or*

- *an act done or omission that involves a substantial and specific risk of*
- *injury to public health or*
- *prejudice to public safety or*
- *harm to the environment or*
- *a matter of administration that can be investigated under section 14 of the Parliamentary Commissioner Act 1971 by the Parliamentary Commissioner (Ombudsman Western Australia).*

Confidentiality

Maintaining confidentiality is an important part of managing a disclosure. The confidentiality requirements of the PID Act (s. 16) not only protects the discloser, but also any other people affected by the disclosure.

The confidentiality requirements do not apply to all information in a disclosure, although, we are committed to maintaining confidentiality around:

- *any information that may identify the discloser or any person who may be the subject of a disclosure, including the fact a disclosure has been made*
- *information relating to a disclosure that, if known, may cause detriment.*

Throughout the disclosure process and after its completion, the PID Act provides for the discloser's identity and the identity of any persons, that is, any subject of the disclosure to be kept confidential, except in certain circumstances. Disclosing information which might identify or tend to identify the disclosers s. 16(1)) or any person, that is, the subject(s) (s. 16(3)) of your disclosure, except in accordance with the PID Act, is an offence punishable with a penalty of a $24 000 fine or imprisonment for two years.

Confidentiality regarding the discloser

Maintaining confidentiality is an important part of protecting the discloser, from any detrimental action in reprisal for making or intending to make a disclosure.

If the discloser consents to having their identity revealed to assist the Town in dealing with the disclosure, our PID Officer will record this using the Consent to disclosure of identifying information form.

Sometimes the Town may need to identify the discloser, without the discloser's consent s. 16(1)(b)-(f) but only where:

- *it is necessary to do so having regard to the rules of natural justice or*
- *it is necessary to do so to enable the matter to be investigated effectively or*
- *we are ordered by a court or any other person or body having authority to hear, receive or examine evidence or*
- *we are required by ss.152 or 153 of the Corruption, Crime and Misconduct Act 2003.*

Before the Town identify the discloser for any of the reasons above, the PID Officer will take all reasonable steps to inform the discloser that this will happen and the reasons why. The PID Officer will use the Notification of disclosure of identifying information form to do this.

If the Town need to provide information about the identity of the discloser to another person for the reasons above, the PID Officer will inform the other person that further disclosure to a third person may put them at risk of committing an offence.

The Town PID Officer will also consider whether it is necessary to inform any external investigator about the identity of the discloser. Where it is necessary to provide this identifying information, the PID Officer will notify as described above.

Confidentiality regarding the person, that is, the subject of the disclosure

The subject of a disclosure may consent to having their identity revealed to assist with the disclosure process s. 16(3)(a). The Town's PID Officer will use the Consent to disclosure of identifying information form to record this.

Additionally, the Town may need to reveal identifying information about the subject(s) of a disclosure without their consent, ss. 16(3)(b)-(g) where:

it is necessary to do so to enable the matter to be investigated effectively

- *it is necessary to do so in the course of taking action under s. 9*
- *there are reasonable grounds to believe that it is necessary to prevent or minimise the risk of injury to any person or damage to any property*
- *the Town is ordered by a court or any other person or body having authority to hear, receive or examine evidence or*
- *the Town is required by ss. 152 or 153 of the Corruption, Crime and Misconduct Act 2003.*

There is no obligation to advise the subject of a disclosure that identifying information will be released.

Protections

The PID Act provides a range of protections for disclosers (Part 3). It also requires that the Town's CEO provides protection for any employees who make disclosures (s. 23(1(b)).

Don't be afraid to speak up contains general information about the protections provided by the PID Act. The Town's PID Officer will be able to expand on this information specific to the Town of Bassendean.

The Town is committed to ensuring that no detrimental action, including workplace reprisals by managers or other employees, occurs as a result of a person making a disclosure. If any of the above does occur, the discloser can request that we take action to protect them. Tell the PID Officer who is handling the disclosure immediately.

The PID Act also provides that the discloser may lose the protections provided in s. 13 in some circumstances, including where they on-disclose information or fail, without reasonable excuse, to assist any person investigating the matters of the disclosure.

Notification requirements

Jordan McDermott is the Town's PID Officer and will ensure that the Town complete all reporting in accordance with the legislative and administrative requirements of the PID Act.

Provided it is not an anonymous disclosure, the Town's PID Officer will provide the following reports:

- *within three months of making a disclosure, the action taken, or propose to take, in relation to the disclosure (s. 10(1))*
- *when the disclosure process has concluded, the outcome of the investigation and the reasons for taking any action following the investigation (s. 10(4)).*

The Town's PID Officer may also provide a progress report during any investigation, either on their initiative or upon your request (ss. 10(2) and (3)).

The Town's PID Officer has some limits on what they can include in their reports. Section 11 prevents provision of information that would be likely to adversely affect:

- *any person's safety s(1)(a) or*
- *the investigation of an offence or possible offences s(1)(b) or*
- *confidentiality as to the existence or identity of any other person who made a public interest disclosure s(1)(c).*

The Town's PID Officer is also prevented from giving any information they must not disclose under ss. 151, 152 or 153 of the *Corruption, Crime and Misconduct Act 2003*.

Record keeping

During the investigation the Town's PID Officer may make comprehensive and contemporaneous records of any discussions and interviews. These records along with any other documentation or files relating to the disclosure, whether paper or electronic, will be stored securely and only accessed by authorised persons.

PID Register

To assist with annual reporting to the Public Sector Commissioner the Town will maintain a public interest disclosure register. The Town will assign a unique register number to each disclosure and record key information about your disclosure, any investigation and the outcome in the public interest disclosure register. This register (paper and/or electronic) is kept strictly confidential and maintained in a secure location.

F. How to make a public interest disclosure

1. Before you make a disclosure

The Town of Bassendean strongly encourage anyone thinking about making a public interest disclosure to seek advice from the Town's PID Officer ('proper authority') before they do. A disclosure must be made to a proper authority for it to be covered by the PID Act.

A number of other requirements apply to the discloser, so it is important to understand the rights and responsibilities in the process. This information is outlined generally in Don't be afraid to speak up, available from the Public Sector Commission website at www.publicsector.wa.gov.au and from the Town's PID Officer.

At the Town of Bassendean, the occupant(s) of the following designated position(s) are specified with the authority as the person(s) responsible for receiving disclosures of public interest information in accordance with s. 23(1)(a). For the purposes of this procedure a PID Officer(s) is the proper authority designated under s. 5(3)(h) for dealing with information that falls within the sphere of responsibility for the Town of Bassendean.

Their names and contact details are:

Position	Name of PID Officer	Contact details
CEO	Cameron Woods	9377 8000 Cameron.woods@bassendean.wa.gov.au
Manager Governance and Strategy	Jordan McDermott	9377 8074 Jordan.McDermott@bassendean.wa.gov.au

Initial discussions between the discloser and the PID Officer should be general in nature and should not discuss the specific details of the disclosure until the discloser understands their rights and responsibilities under the PID Act. The Town's PID Officer will also let the discloser know that they need to make the disclosure voluntarily and consciously – the Town will never force a person to make a disclosure. This is because they cannot withdraw the disclosure once it is made. Once the Town receive your disclosure, the PID Officer is obliged to take action and may continue to look into the matters within your disclosure irrespective of your continued approval.

These initial discussions with the Town's PID Officer may help in deciding whether to make a public interest disclosure and also enable the PID Officer to ascertain if the information would be covered by the PID Act. If the information appears not to be the type covered by the PID Act, the PID Officer will discuss other mechanisms through which issues may be made, for example, the Town's general complaints or grievance resolution process.

The Town's PID Officer will be able to provide more detailed information about the Town of Bassendean's disclosure process and what people can expect from it.

You can also contact the Public Sector Commission Advisory Line on (08) 6552 8888 (or 1800 676 607 for country callers) for general information about the disclosure process.

What is 'sphere of responsibility'?

Under s. 5(3)(h) the PID Officer for an authority can receive information relating to a matter which falls within the 'sphere of responsibility' for their public authority. 'Sphere of responsibility' is not defined in the PID Act but may include:

- *matters that relate to the Town of Bassendean or*
- *a public officer or public sector contractor of the Town of Bassendean or*
- *a matter or person that the Town of Bassendean has a function or power to investigate.*

Sphere of Responsibility

The proper authority to which you need to make the disclosure depends on the type of disclosure information. Where the information is outside of the Town's PID Officer's sphere of responsibility, it may need to be made to another proper authority for it to be considered as a public interest disclosure and for the discloser to receive the protections of the PID Act. A list of proper authorities and the information they can receive is covered in *Don't be afraid to speak up*.

Proper authority

To be covered under the PID Act and for the protections of the PID Act to apply, a public interest disclosure must be made to a proper authority. The proper authority for a disclosure will depend on the information or 'matter' in the disclosure. In some cases, a public interest disclosure may be made to an external 'named' proper authority, as outlined in s. 5(3).

In these named authorities, a broader range of officers may require training to receive public interest disclosures. For example, any police officer may be a proper authority for disclosures relating to offences.

Named authority

If your authority is an authority named in the PID Act, your PEO also needs to appoint a PID Officer to deal with information relating to your authority (as per s. 5(3)). Include the relevant paragraph (below) in your procedures.

For the Corruption and Crime Commission

The PID Act also provides for the Corruption and Crime Commission (CCC) to receive public interest disclosures of information relating to an offence under State law. Subsequent references in these procedures to the PID Officer shall be taken to include an employee or officer of the CCC who receives, on behalf of the CCC, information relating to an offence under State law.

For the WA Police

The PID Act also provides for any police officer to receive public interest disclosures of information relating to an offence under State law. Subsequent references in these procedures to the PID Officer shall be taken to include a police officer who receives a public interest disclosure relating to an offence under State law.

For the Parliamentary Commissioner (Ombudsman Western Australia)

The PID Act also provides for the Ombudsman to receive public interest disclosures of information relating to matters of administration within the jurisdiction of the Ombudsman, and matters relating to most public officers. Subsequent references in these procedures to the PID Officer shall be taken to include an officer of the Ombudsman who receives, on behalf of the Ombudsman, information relating to these matters.

For the Auditor General

The PID Act also provides for the Auditor General to receive public interest disclosures of information relating to substantial unauthorised or irregular use or substantial mismanagement of public resources. Subsequent references in these procedures to the PID Officer shall be taken to include a person appointed by the Auditor General who receives, on behalf of the Auditor General, information relating to these matters.

For the Public Sector Commission

The PID Act also provides for the Public Sector Commissioner to receive public interest disclosures of information that relates to a Public Officer (other than a Member of Parliament, a Minister of the Crown, a judicial officer or an officer referred to in Schedule 1 to the Parliamentary Commissioner Act 1971). Subsequent references in these procedures to the PID Officer shall be taken to include the Public Sector Commissioner.

2. Making the disclosure

A discloser needs to clearly identify that they are making a public interest disclosure. For the purposes of accountability and certainty, persons wishing to make a disclosure of public interest information under the PID Act are encouraged to do so in writing. As the Town expect that most disclosures will be made in writing the Town of Bassendean has developed a form which can be used for the purpose of making such a disclosure. There is no requirement to use the form. The form will help to define the details of the disclosure. A discloser may fill out the form themself or the Town's PID Officer may complete the form if they are speaking with the discloser and then have them sign the form to acknowledge they are making a disclosure voluntarily and consciously.

The Town must accept anonymous disclosures, but if a discloser decides to make an anonymous disclosure, they should understand that it may be more difficult for the Town PID Officer to investigate or take action about the disclosure. This is because they cannot come back to seek any further information. The Town is also not required to provide any reports about the progress or final outcome of the disclosure, if the discloser chooses to remain anonymous.

An anonymous disclosure may not prevent the discloser from being identified during an investigation. Additionally, if the Town's PID Officer does not know who made the disclosure, it will be difficult for them to ensure the discloser is protected and to prevent any reprisal or detrimental action.

3. Determining whether your matter is an appropriate disclosure

Once the Town's PID Officer has received the disclosure they will assess whether it meets the requirements under the PID Act. It may be that our PID Officer undertakes initial inquiries and decides not to take the matter any further, as it does not constitute an appropriate public interest disclosure.

If the disclosure is not one to which the PID Act applies, the PID Officer will let the discloser know the reasons for their decision (unless you made an anonymous disclosure) and make proper and adequate records about it. Some matters raised within the disclosure may not be matters to which the PID Act applies and the PID Officer may discuss with the discloser other pathways to report these matters.

If the disclosure is one to which the PID Act applies, the PID Officer will ensure proper and adequate records are made and will communicate with the discloser further, unless it is an anonymous disclosure.

The Town's PID Officer will notify the discloser within three months about what the Town plan to do in dealing with the disclosure, unless it is an anonymous disclosure.

4. Determining whether your public interest disclosure will be investigated

After assessing the disclosure as one to which the PID Act applies, the Town's PID Officer will consider whether it will be investigated, guided by the requirements in s. 8. The reasons a PID Officer may not investigate the disclosure include:

- *the matter is trivial*
- *the disclosure is vexatious or frivolous*
- *there is no reasonable prospect of obtaining sufficient evidence due to the time that has elapsed since the matter(s) occurred*
- *the matter is being or has been adequately or properly investigated by another proper authority, s. 5(3).*

The PID Officer will make proper and adequate records of their decision and reasons about whether to investigate or not.

5. Referring public interest matters

Where the Town's PID Officer assesses the disclosure as one to which the PID Act applies, but they do not have the functions or power to investigate one or more matters within the disclosure, they will refer the information to the appropriate authority for investigation as provided for under the PID Act. Alternatively, a discloser may also be able to make a disclosure directly to this new authority, if they wish to receive reports from them about the disclosure. For example, the PID Officer may need to refer an allegation of an offence supported by evidence to the Western Australia Police for investigation.

6. Investigating the disclosure

The Town's PID Officer will investigate, or cause to be investigated, any matters in the disclosure within the sphere of responsibility. The PID Officer may cause the disclosure to be investigated by engaging a suitably skilled staff member within the Town of Bassendean or an externally contracted investigator.

If causing the disclosure to be investigated, the PID Officer will ensure that the person undertaking the investigation understands the requirements of the PID Act, in particular the confidentiality requirements and protections for disclosers. The PID Officer will only provide the name of the discloser and that of the subject of the disclosure to the investigator in accordance with s. 16 of the PID Act.

When investigating the disclosure, the PID Officer or investigator is limited by the functions and powers derived from our operating legislation. The PID Act does not provide for any additional investigative powers.

If you are an employee, you are expected to cooperate with any investigation into the disclosure to maintain the protections under the PID Act. A discloser is also expected to act in accordance with the Town's Code of Conduct at all times.

Employees who are the subject of the disclosure can clarify the process and what to expect with the PID Officer.

The PID Officer may also decide to discontinue an investigation, in accordance with s. 8(2). If this happens, they will give the discloser reasons for their decision in accordance with

s. 8(3), unless they made an anonymous disclosure. The PID Officer may also notify any subject(s) of the disclosure, if they discontinue the investigation.

To ensure the disclosure is adequately and properly investigated the PID Officer, or other investigator, will be guided by the Town's internal investigation procedure.

What are your responsibilities if you are the subject of a disclosure?

A subject of a disclosure is a person of interest about whom an allegation of a public interest disclosure has been made.

The Town will treat the person fairly and impartially throughout the process, and inform them of their rights and obligations. The Town will generally keep the parties involved informed during any investigation, although the Town cannot release any information to the person that may prejudice our investigation. As an employee it is expected that they will act in accordance with the Town's Code of Conduct at all times.

The PID Act provides the person with some rights and obligations as a person subject to a disclosure. Firstly, the subject has a right to have their identity kept confidential under s. 16(3), unless one of the following conditions apply:

- *you consent to your identity being disclosed*
- *it is necessary to enable the matter to be investigated effectively*
- *it is necessary to do so in taking action within s. 9*
- *there are reasonable grounds to believe that it is necessary to prevent or minimise the risk of injury to any person or damage to any property*
- *is made in accordance with a court order or other body having authority to hear evidence*
- *it is made in accordance with ss. 152 or 153 of the Corruption, Crime and Misconduct Act 2003.*

The Town will also provide appropriate natural justice. This means that, before we take any disciplinary or other action against the person under s. 9, we will give you the opportunity to:

- *be informed of the substance of the allegations and*
- *make a submission either verbally or in writing in relation to the matter.*

If you are the subject of a disclosure, you must not identify or tend to identify the identity of the discloser or a person who they think might be the discloser, as they also have rights to confidentiality under the PID Act. It is an offence under s. 16 to identify or tend to identify any person who has made a disclosure under the PID Act.

Also, you must not engage in reprisal action, threaten anyone with reprisal action or have someone else conduct this action on your behalf because someone has made, or intends to make, a disclosure. It is still an offence to conduct this action against any person you believe has made the disclosure even if they were not the individual who actually made the disclosure. This is an offence under s. 14(1) of the PID Act.

7. Taking action

The Town's PID Officer will take action where they form the opinion that a person may be, may have been or may in the future be involved in conduct which may be the subject of a public interest disclosure. Usually, the PID Officer will form this opinion at the conclusion of an investigation, although there may be instances where they need to take immediate action and the PID Act enables them to do this.

Action the PID Officer may take under s. 9 includes, but is not limited to:

- *preventing the matter disclosed from continuing or occurring*
- *referring the matter to the Western Australia Police or other appropriate body or*
- *taking disciplinary action against a person responsible for the matter.*

The options above are not mutually exclusive. The PID Officer may take more than one action depending on the circumstances. For example, the PID Officer may seek to terminate the employment of an employee caught stealing and refer the matter to the Western Australia Police.

In taking action our PID Officer and/or the Town of Bassendean is limited by the powers and functions derived from our operating legislation. The PID Act does not provide for any additional powers to take action. The Town is also guided by what is necessary and reasonable in the circumstances.

Before taking any action, the Town will give the person against whom the action is to be taken (the subject of the disclosure) an opportunity to respond, either verbally or in writing, to ensure procedural fairness.

Confidentiality and record keeping when taking action

The Town will maintain confidentiality in accordance with the PID Act when taking action.

The PID Officer will keep appropriate records about any action taken, as well as recording a summary of this action in the public interest disclosure register

8. After the public interest disclosure process has been finalised

The PID Act places no further obligations on the Town of Bassendean or the PID Officers after the disclosure process is complete. The confidentiality requirements of the PID Act, however, continue to apply to you and all other people involved with the disclosure.

The PID Act does not provide for you to appeal the outcome of the disclosure process. You may be able to make another disclosure to another proper authority, if the information relates to their functions or sphere of responsibility (s. 5). See Don't be afraid to speak up for the correct proper authority for your disclosure.

However, this 'new' proper authority may be able to decline to investigate the disclosure under s. 8, if they consider the matter(s) has already been properly or adequately investigated (as a public interest disclosure).

9. Making a disclosure to a journalist

The PID Act provides for certain circumstances where a discloser may be able to make a protected disclosure to a journalist s. 7A(d). These circumstances apply where the discloser has first made a disclosure to the PID Officer, or another proper authority named in the PID Act (outlined in s. 5 or Don't be afraid to speak up).

Importantly, the PID Act states that to attract the privileges and protections of the PID Act when disclosing to a journalist, the discloser must disclose information that is substantially the same as what was disclosed in the original disclosure and the PID Officer that received the original disclosure:

- *did not notify the discloser within three months of making the disclosure about actions they propose to take or have already taken or*
- *refused to investigate, or discontinued the investigation of, a matter raised in the disclosure or*
- *did not complete an investigation within six months of the discloser making the disclosure or*
- *completed an investigation but did not recommend that action be taken or*
- *did not provide the discloser with a report stating the outcome of any investigation or any action proposed or taken and the reasons for those actions.*

The Town is committed to ensuring that it provides the notifications required under the PID Act and that the discloser understands the reasons for its decisions and actions. If a discloser is considering making a disclosure to a journalist because they believe their circumstances meet one or more of the requirements outlined above, the Town would encourage the discloser to discuss this with the PID Officer prior to disclosure to a journalist.

It is also recommended that the discloser seek their own legal advice before taking any action in relation to matters that have been disclosed under the PID Act.

If a discloser makes an anonymous disclosure, they may not be able to demonstrate they meet the above requirements and the Town is not obliged to provide the discloser with any notifications about what happens to the disclosure.

10. Further information

Public Sector Commission - Public interest disclosures in WA public authorities