



# new protections for whistleblowers

## Factsheet for the South Australian community

All South Australians can now receive protection under the new *Public Interest Disclosure Act 2018* (PID Act – which commences on 1 July 2019) if reporting issues which they believe pose substantial risks to public health and safety, or to the environment, as long as they comply with the requirements set out in the PID Act.

### What will the new Act do?

From 1 July 2019, the PID Act establishes a scheme that encourages and facilitates the appropriate disclosure of public interest information to certain persons or authorities (a public interest disclosure). It provides protections for some people who make a public interest disclosure and sets out processes for dealing with such disclosures.

The new law does not refer to whistleblowers, but instead refers to informants. The new law focuses on the disclosure of information. Whether a person receives protection will depend on:

- who they are
- what type of information is disclosed
- to whom the information is disclosed.

### What protections an informant can receive

The Act creates an obligation to keep the identity of an informant confidential (subject to

some exceptions). In addition, it is an offence to victimise a person who has made an appropriate disclosure in accordance with the Act.

### Public interest information

Public interest information affects the wellbeing of the community. The Act applies differently to the following two types of public interest information:

1. Environmental and health information – where there is a substantial risk to the environment or to public health and safety.
2. Public administration information – where there is potential corruption, misconduct or maladministration in public administration.

*Protections are provided for public officers who make an appropriate disclosure of public administration information and for all persons who make an appropriate disclosure of environmental and health information.*



### **What is a disclosure of environmental and health information?**

Environmental and health information means information that raises a potential issue of a substantial risk to the environment or to the health and safety of the public generally or a significant section of the public (whether occurring before or after the commencement of the new PID Act).

### **Who can make a disclosure of environmental and health information?**

Any member of the community can make a disclosure of environmental and health information.

However, to gain the protections provided under the PID Act, a person who makes a disclosure of environmental and health information:

- must believe on reasonable grounds that the information is true; or
- not being in a position to form such a belief, believes on reasonable grounds that the information may be true and is of sufficient significance to justify its disclosure so that its truth may be investigated.

A disclosure of environmental and health information that is accompanied by either of these beliefs is referred to as an appropriate disclosure of environmental and health information for the purposes of the PID Act.

### **Who can receive a disclosure of environmental and health information?**

- For a disclosure to be considered an appropriate disclosure of environmental and health information it must be made to a relevant authority.
- Where information relates to a risk to the environment you should consider making a disclosure to the Environment Protection Authority.
- Where the information relates to a location within the area of a particular local council, you should consider making a disclosure to a member, officer or employee of that council.

There are other relevant authorities that can receive disclosures relating to environmental and health information. A full list is available at [www.icac.sa.gov.au](http://www.icac.sa.gov.au)

### **Inappropriate disclosure**

If you disclose information knowing that it is false or misleading, you may face a maximum penalty of \$20,000 or 2 years imprisonment.

### **Helpful resources**

Each State Government agency will publish its own procedures.

More information about protections for whistleblowers is available from the Office of the Commissioner for Public Sector Employment [www.publicsector.sa.gov.au](http://www.publicsector.sa.gov.au) including:

→ [FAQs](#)

→ [Guidelines](#) – which are also available from

ICAC: [www.icac.sa.gov.au](http://www.icac.sa.gov.au)

