



Public Interest Disclosure Act 2003

Shire of Three Springs

Internal Procedures

CONTENTS

DRAFT INTERNAL PROCEDURES

- A. **Support for Staff who make Public Interest Disclosures**
 - B. **Purpose of this Policy**
 - C. **Object of the Act**
 - D. **Designation of Public Interest Disclosure (PID) Officer**
 - E. **Receiving Public Interest Disclosures**
 - 1. Advice to Informants
 - 2. Assessing a Public Interest Disclosure
 - 3. Form of Public Interest Disclosure
 - F. **Investigating a Public Interest Disclosure**
 - 1. Determining whether the matter must be investigated
 - 2. Investigating information received in a Public Interest Disclosure
 - 3. Maintaining confidentiality in an investigation
 - 4. Recording the outcome of an investigation
 - G. **Taking Action Following an Investigation**
 - 1. General
 - 2. Maintaining confidentiality when taking action
 - 3. Recording action taken
 - H. **Reporting to an Informant on the Progress and Outcome of an Investigation**
 - I. **Protecting Informants**
 - 1. Victimisation and reprisals
 - 2. Confidentiality
 - J. **Public Interest Disclosure Register**
 - K. **Reporting Requirements**
 - L. **Making Information Available**
-
- Appendix 1: Rights and Obligations under the Public Interest Disclosure Act
 - Appendix 2: Flowchart for Receiving Disclosures
 - Appendix 3: Flowchart for Investigating Information Disclosed
 - Appendix 4: Flowchart for Taking Action after Investigation
 - Appendix 5: Public Interest Disclosure Register
 - Appendix 6: Staff Information

A. Support for Staff who make Public Interest Disclosures

The **Shire of Three Springs** does not tolerate corrupt or other improper conduct, including mismanagement of public resources, in the exercise of the public functions of the **Shire of Three Springs** and its officers, employees and contractors.

The **Shire of Three Springs** is committed to the aims and objectives of the *Public Interest Disclosure Act 2003*. It recognises the value and importance of contributions of staff to enhance administrative and management practices and strongly supports disclosures being made by staff as to corrupt or other improper conduct.

The **Shire of Three Springs** will take all reasonable steps to provide protection to staff who make *such* disclosures from any detrimental action in reprisal for the making of a public interest disclosure.

The **Shire of Three Springs** does not tolerate any of its officers, employees or contractors *engaging* in acts of victimisation or reprisal against those who make public interest disclosures.

B. Purpose of this Policy

These internal procedures provide for the manner in which the **Shire of Three Springs** will comply with its obligations under the *Public Interest Disclosure Act 2003*. They provide for the manner in which:

- *Disclosures of public interest information shall be made to the Public Interest Disclosure Officer (PID Officer).*
- *The PID Officer shall investigate the information disclosed, or cause that information to be investigated.*
- *The PID Officer may take action following the completion of the investigation.*
- *The PID Officer shall report to the informant as to the progress and outcome of that investigation and the action taken as a consequence.*
- *The confidentiality of the informant, and any person who may be the subject of a public interest disclosure, shall be maintained.*
- *Records as to public interest disclosures shall be maintained and reporting obligations complied with.*

C. Object of the Act

The *Public Interest Disclosure Act 2003* commenced operation on 1 July 2003. The object of the Act is to:

- *facilitate the disclosure of public interest information;*
- *provide protection for those who make disclosures; and*
- *Provide protection for those who are the subject of a disclosure.*

This is achieved by:

- *protecting the person making the disclosure from legal or other action;*
- *providing for the confidentiality of the identity of the person making the disclosure and a person who is the subject of a disclosure; and*
- *Providing remedies for acts of reprisal and victimisation that occur substantially because the person has made a disclosure.*

The rights and obligations created by the Act are described in Appendix 1 to these Procedures.

D. Designation of Public Interest Disclosure (PID) Officer

The person from time to time holding or acting in the position of **Chief Executive Officer** is designated as the Public Interest Disclosure Officer, or PID Officer, of the **Shire of Three Springs**. The PID Officer is responsible for receiving disclosures of public interest information relating to matters falling within the sphere of responsibility of the **Shire of Three Springs**.

The contact details of the PID Officer are as follows:

152 Railway Road Street
Three Springs WA 6519
Phone: 08 9954 1001
Fax: 08 9954 1183
Email: ceo@threesprings.wa.gov.au

The person holding or acting in the position of **Chief Executive Officer**, or after assuming or beginning to act in the position of **Chief Executive Officer** must forward a completed PID Officer's Declaration (see FORMS) to the Office of the Public Sector Standards Commissioner. A copy of the completed PID Officer's Declaration shall be retained on a file to be kept for that purpose.

Anti-Corruption Commission

The Act also provides for the Anti-Corruption Commission 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 Commission who receives, on behalf of the Commission, information relating to an offence under State law.

Police

The 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 an officer who receives a public interest disclosure relating to an offence under State law.

Ombudsman

The 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 police officers and 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.

Auditor General

The Act also provides for the Auditor General to receive public interest disclosures of information relating to substantial unauthorised or irregular use of, 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.

E. Receiving Public Interest Disclosures

1. Advice to Informants

Before an informant makes a public interest disclosure to a PID Officer, the PID Officer shall advise the informant of the following matters:

- (a) If they choose to make a public interest disclosure they will not as a result
 - Incur any civil or criminal liability.
 - Be liable to any disciplinary action under State law.
 - Be liable to be dismissed or have his or her services dispensed with or otherwise terminated.
 - Be liable for any breach of a duty of secrecy or confidentiality or any other applicable restriction on disclosure.
- (b) If they choose to make a public interest disclosure they may have the right to take civil proceedings if they are subject to detrimental action as a result of making the disclosure.
- (c) If they choose to make a public interest disclosure then their identity will not be disclosed except in accordance with the Act (disclosure of their identity may be required in the course of the investigation or in taking action in some circumstances).
- (d) If they choose to make a public interest disclosure then they will have the right to be informed of the progress and outcome of the investigation and action taken as a result.
- (e) If they choose to make a public interest disclosure:
 - They are only protected if they believe on reasonable grounds that the information to be disclosed is or may be true;
 - They will commit an offence, and lose the protection of the Act, if they know the information to be false or misleading in a material particular or are reckless about whether the information is false or misleading in a material particular.
 - They will forfeit the protection given by the Act if they disclose the information otherwise than under the Act (i.e. if they provide the information to the media or a person who is not a proper authority).
 - They will forfeit the protection given by the Act if they fail, without reasonable excuse, to assist a person investigating the matter to which the information relates, by supplying any information requested.
 - They may commit an offence if they disclose information that might identify or tend to identify anyone as a person in respect of whom a disclosure of public interest information has been made.
- (f) The disclosure will only be protected if the PID Officer is the proper authority for receiving that kind of information, as indicated in the following table:

Proper Authorities for Receiving Disclosures of Public Interest Information

| When the disclosure relates to... | The proper authority is... |
|--|--|
| The sphere of responsibility of a public authority (eg matters about the public authority or its officers, or which the public authority has the function of investigating) | The Public Interest Disclosure Officer (PID Officer) of the Public Authority |
| Offences under State law. | A police officer or the Anti-Corruption Commission |
| Substantial unauthorised or irregular use of, or substantial mismanagement of, public resources | The PID Officer of the public authority concerned, or the Auditor General |
| Matters of administration affecting someone in their personal capacity falling within the jurisdiction of the Ombudsman | The PID Officer of the public authority concerned or the Ombudsman |
| A police officer | The Commissioner of Police or Ombudsman |
| A Member of the Legislative Council | The President of the Legislative Council |
| A Member of the Legislative Assembly | The Speaker of the Legislative Assembly |
| A judicial officer | The Chief Justice |
| A public officer who is not a member of Parliament, a Minister, a Judicial Officer or a Commissioned or other officer specified in schedule 1 of the Parliamentary Commissioner Act 1971 | The PID Officer of the public authority concerned, the Ombudsman or the Commissioner for Public Sector Standards |
| A person or a matter of a prescribed class | A person declared by the regulations to be a proper authority |

2. Assessing a Public Interest Disclosure

The PID Officer must, on receiving the information, make an initial assessment of whether:

- *The information disclosed relates to a public authority, a public officer or a public sector contractor.*
- *The information disclosed relates to the performance of a public function.*
- *The information disclosed tends to show improper conduct.*
- *The improper conduct is of the kind for which the PID Officer is the proper authority (see the table in section 1).*
- *The informant believes on reasonable grounds that the information is or may be true.*
- *The information is not protected by legal professional privilege.*
- *The informant, after receiving the advice referred to in section 1, wishes to make a public interest disclosure under the Act.*

If the above questions are all answered "yes", then the disclosure of information is a public interest disclosure to which the Act will apply.

In assessing whether a disclosure is a public interest disclosure, the PID Officer should consider the *Flowchart for Receiving Disclosures* at Appendix 2, as well as complete Part 1 of the *Assessment Form Public Interest Disclosure* at Appendix 5.

3. Form of Public Interest Disclosure

If a disclosure is a public interest disclosure, the informant and the PID Officer should complete the *Public Interest Disclosure Lodgement Form* (see FORMS). The PID Officer should also complete Part 2 of the *Assessment Form for Public Interest Disclosures* (see FORMS).

On completion of this form, the PID Officer should create a separate file for the Public Interest Disclosure, with the following text clearly marked on the front of the File.

"CONFIDENTIAL

The material in this file relates to a public interest disclosure made under the *Public Interest Disclosure Act 2003*

Disclosure of information that might identify or tend to identify either the informant or a person in respect of whom the disclosure has been made is an offence, unless the disclosure occurs in accordance with the Act.

Penalty: \$24,000 or imprisonment for two years"

The making of the public interest disclosure should also be recorded in the Public Interest Disclosure Register, described in section J of these Procedures, for reporting to the Commissioner for Public Sector Standards.

F. Investigating a Public Interest Disclosure

1. Determining whether the matter must be investigated

After receiving a disclosure, the PID Officer must consider whether:

- *The disclosure relates to the Shire of Three Springs, its officers or contractors.*
- *The disclosure relates to a matter or person that Shire of Three Springs has a function or power to investigate.*

If the answer to both of these questions is “no”, the PID Officer is not required by the Act to investigate the matter.

The PID Officer must also consider whether:

- *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 occurrence of the matter.*
- *The matter is being or has been adequately or properly investigated by another proper authority to which an appropriate disclosure of public interest information has been made under the Act.*

If the answer to any of these questions is “yes”, the PID Officer is not required by the Act to investigate the matter.

Where the PID Officer considers that he or she lacks sufficient power to effectively investigate the matter, but the information received causes him or her to form the opinion that a public authority, public officer or public sector contractor may have engaged in improper conduct, the PID Officer should refer the matter to another appropriate investigative body. For example, an allegation of an offence supported by cogent evidence may need to be referred by a PID Officer to the Police for investigation.

The questions to be considered in the initial assessment by the PID Officer are indicated in the *Flowchart for Investigating Information Disclosed* at Appendix 3, and Part 1 of the *Assessment Form for Public Interest Disclosures* (see FORMS) should be completed.

In assessing whether a public interest disclosure should be investigated, a PID Officer should consider the *Flowchart for Investigating Information Disclosed* (Appendix 3) and complete Part 3 of the *Assessment Form for Public Interest Disclosures* (see FORMS).

2. Investigating information received in a Public Interest Disclosure

Where the PID Officer determines that the disclosure is a public interest disclosure that should be investigated, the officer must investigate the disclosed matter him or herself or engage another person to carry out the investigation.

In conducting an investigation, typical procedures could include:

- *Drawing up terms of reference, which should clarify the key issues identified by the disclosure.*
- *Specifying a date by which the investigation should be completed.*
- *Ensuring the objectives of the investigation include collecting and collating information relating to the disclosure, considering the information collected and drawing conclusions objectively and impartially.*
- *Maintaining procedural fairness for the person who is the subject of the disclosure.*
- *Giving information to the person who is the subject of a disclosure about their rights and obligations under the Act, the Code of Conduct and Integrity, any agency code of conduct, and the law.*
- *The investigator making contemporaneous notes of discussions and interviews and, where practicable and appropriate, recording discussions and interviews on audio or videotape.*
- *Ensuring strict security with all investigations, so as to maintain the confidentiality requirements of the Act.*

If a disclosure is withdrawn, a proper authority may still continue to investigate the issues raised.

3. Maintaining Confidentiality in an Investigation

The Act imposes strict confidentiality requirements in relation to the identity of the informant and persons in respect of whom a public interest disclosure has been made. The disclosure of information which might identify or tend to identify these persons, except in accordance with the Act, is a serious offence, punishable with a maximum penalty of \$24,000 or two years.

The confidentiality provisions of the Act do not apply to all information disclosed in a public interest disclosure, but only to information that might identify or tend to identify the informant and persons in respect of whom a public interest disclosure has been made.

One of the circumstances in which identifying information may be disclosed is with the consent of the person concerned. It is important that this consent be recorded. The *Consent to Disclosure of Identifying Information* form should be used for this purpose (see FORMS).

Identifying information relating to an informant may be disclosed without the informant's consent 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.*

However, before information is disclosed for these reasons the person making the disclosure must take all reasonable steps to inform the person whose identity is to be disclosed:

- *that the disclosure is being made; and*
- *The reasons for the disclosure being made.*

This information should be given, where practicable, in the form for *Notification of Disclosure of Identifying Information* (see FORMS).

Where identifying information in relation to an informant is conveyed to another person for these reasons, the other person should be warned that disclosure of the information to a third person may involve a serious offence.

Identifying information relating to a person in respect of whom a public interest disclosure has been made can be disclosed at the investigation stage where the disclosure:

- *is necessary to enable the matter to be investigated effectively;*
- *There are reasonable grounds to believe that the disclosure of identifying information is necessary to prevent or minimise the risk of injury to any person or damage to any property.*

In addition, disclosures under the *Anti-Corruption Commission Act* are exempt from these confidentiality requirements.

Particularly where an informant works for the **Shire of Three Springs**, protecting the identity of the informant is an important part of protecting the informant from reprisals and victimisation. Careful consideration must be given as to whether the disclosure of information that might identify or tend to identify an informant is necessary for the effective investigation of the matter or having regard to the rules of natural justice.

Where a PID Officer appoints a third person to conduct an investigation in relation to the public interest disclosure, he or she must consider whether it is necessary to inform the investigator of the identity of the informant. In some cases it may not be necessary to provide the investigator with the identity of the informant. Where it is necessary, to enable an effective investigation, or having regard to the rules of natural justice, to provide identifying information to the investigating officer, then the informant should be notified in the manner described above.

4. Recording the Outcome of an Investigation

The outcome of an investigation should be clearly and comprehensively recorded. In addition to any investigation report, the person conducting the investigation should complete part 4 of the *Assessment Form for Public Interest Disclosure* (see FORMS).

The result of the investigation should also be recorded in the Public Interest Disclosure Register, described in section J of these Procedures (sample Register is provided as Appendix 5). All reporting requirements to the Commissioner for Public Sector Standards required under the Act will be based on extracts from this Register.

G. Taking Action Following an Investigation

1. General

The PID Officer must take action where he or she forms the opinion that a person may be, or has been or may in the future be, involved in improper conduct. Action that may be taken includes:

- *preventing the matter to which the disclosure relates from continuing or occurring*
- *referring the matter to the Police or other appropriate body, or*
- *Taking disciplinary action against a person responsible for the matter.*

Before taking any action, the person against whom the action is to be taken is to be given the opportunity to make written or oral submissions.

In taking that action the PID Officer remains limited by the powers and functions that are conferred by the legislation under which the Officer operates. The Act does not give the PID Officer additional powers to take action.

As well as being limited to matters within the functions and powers of the PID Officer, the action to be taken is guided by what is necessary and reasonable.

2. Maintaining Confidentiality when Taking Action

When taking action, the confidentiality of identifying information must be maintained, unless its disclosure is authorised by the Act.

The only additional exception, beyond those identified in relation to investigations, is where disclosure of the identity of a person who is the subject of a public interest disclosure is necessary in taking action following the investigation.

3. Recording Action Taken

In addition to keeping other records, the PID Officer shall complete Part 5 of the *Assessment Form for Public Interest Disclosures* (see FORMS) and record a summary of the action taken in the Public Interest Disclosure Register. All reporting requirements to the Commissioner for Public Sector Standards required under the Act will be based on extracts from this Register.

H. Reporting to an Informant on the Progress and Outcome of an Investigation

Where the PID Officer decides not to investigate information disclosed under the Act, or discontinues an investigation, the Officer must give the person who made the disclosure reasons for doing so.

Within three months of the disclosure being made the PID Officer must notify the informant of the action taken or proposed to be taken in relation to the disclosure.

An informant may also request a progress report.

If an investigation is not complete, the PID Officer may provide to the informant a progress report on the current status of the investigation.

If an investigation is complete, the PID Officer must provide a final report to the informant, stating the outcome of the investigation and the reason for taking action following the investigation.

In providing information and reports to informants, the PID Officer must not give information that, in the officer's opinion, would be likely to adversely affect:

- *any person's safety;*
- *the investigation of an offence or possible offence; or*
- *Necessary confidentiality as to the existence or identity of another person who has made a disclosure of public interest information under the Act.*

I. Protecting Informants

1. Victimisation and Reprisals

The **Shire of Three Springs** will not tolerate any acts of victimisation or reprisal as a result of a person making, or proposing to make, a public interest disclosure.

Any victimisation or reprisals must be reported immediately to the Chief Executive Officer or the PID Officer, who must take immediate action to prevent the continuance of this unlawful conduct.

Where victimisation or reprisals are reported, a record of the report and the action taken must be placed on the file relating to the public interest disclosure.

Steps taken to prevent acts of victimisation or reprisal should be recorded in a manner that they will be accessible for reference, should legal action be taken against the **Shire of Three Springs**.

2. Confidentiality

The confidentiality requirements in relation to information which might identify or tend to identify an informant or a person in respect of whom a public interest disclosure has been made must be complied with at all times. As noted above, the disclosure of this identifying information, except in accordance with the Act, is an offence.

All files relating to a public interest disclosure, whether paper or electronic, must be secure and accessible only by authorised persons. Files should carry clear warnings that there are penalties for unauthorised divulgence of information concerning a disclosure.

It is strongly recommended that sensitive information is not emailed or faxed to machines with general or shared access.

J. Public Interest Disclosure Register

The **Shire of Three Springs** shall maintain a Public Interest Disclosure Register recording a unique register number and key information for each disclosure.

The register should include a summary of information relating to:

- The informant
- Public authorities about which a disclosure is made
- People named in the disclosure
- The nature of the disclosure
- The investigation process and the action, if any, taken
- Communication with the informant
- Disclosure of the informant's identity, if applicable
- Disclosure if identity of persons named in the disclosure
- Claims of unlawful disclosure of informant's identity or identity of persons named in the disclosure
- Claims of victimisation
- Key dates

A sample *Public Interest Disclosure Register* is provided at Appendix 5.

All reporting requirements to the Commissioner for Public Sector Standards required under the Act will be based on extracts from the fields shown in the sample Register.

K. Reporting Requirements

Under the Act public authorities will need to report to the Commissioner each year as outlined below.

Principal Executive Officer Report

Under section 23 (f) of the Act, the **Shire of Three Springs** is required to report annually to the Commissioner for Public Sector Standards on:

- *the number of public interest disclosures received over the report period;*
- *the results of any investigations conducted as a result of the disclosures; and*
- *The action, if any, taken as a result of each investigation.*

Commissioner's Compliance Report

Under section 19 and 22 of the Act, the Commissioner is required to monitor compliance with the Act, to assist public authorities to comply with the Act and the Code and to provide an Annual Report to Parliament.

Under section 27 of the Act the Minister will carry out a review of the Act in 2006.

To enable the Commissioner and the Minister to meet these obligations **Shire of Three Springs** will provide a report each year on compliance with and administration of the Act as requested by the Commissioner.

Report Format and Submission

An electronic format for the Principal Executive Officer Report and the information for the Commissioner's Compliance Report will be provided each year by the Commissioner and both will be able to be submitted in a single electronic submission. The reports will cover the period 1 July in any year to 30 June in the subsequent year. The **Shire of Three Springs** will provide these reports to the Commissioner by the date set by the Commissioner.

Where there has been no action on a disclosure in the reporting period the format of the report will provide for a simple nil return. Where action relating to one or more disclosures has occurred, all data required will be obtainable as a simple extract from the Public Interest Disclosure Register.

L. Making Information Available

These internal procedures shall be made available for access by all staff and members of the public. Copies of these internal procedures are available from the Public Interest Disclosure Officer and are to be kept at **the office of the Chief Executive Officer, Shire of Three Springs.**

After the commencement of the Act all staff should be provided with the *Information for Staff* at Appendix 6. This information should also be provided to new staff on induction.

Where a person makes an allegation about improper conduct, but the person has not referred to the Act, the person should be advised that they might want to make a public interest disclosure under the Act. If they may wish to do so, they should be referred to the PID Officer for guidance on how to make a disclosure under the Act and on the implications of having done so.

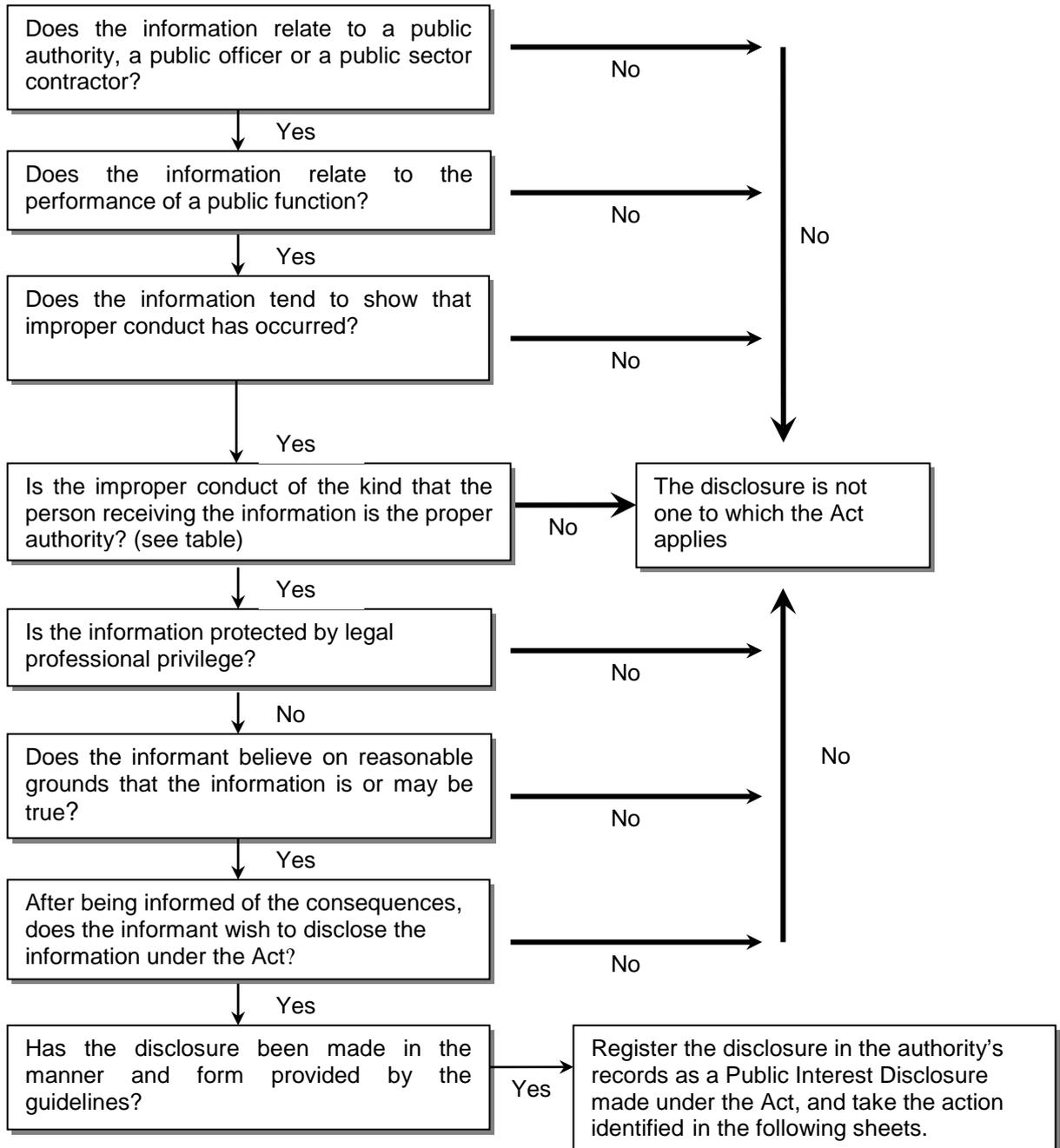
Public Interest Disclosure Act 2003

APPENDIX 1

RIGHTS AND OBLIGATIONS UNDER THE PUBLIC INTEREST DISCLOSURE ACT

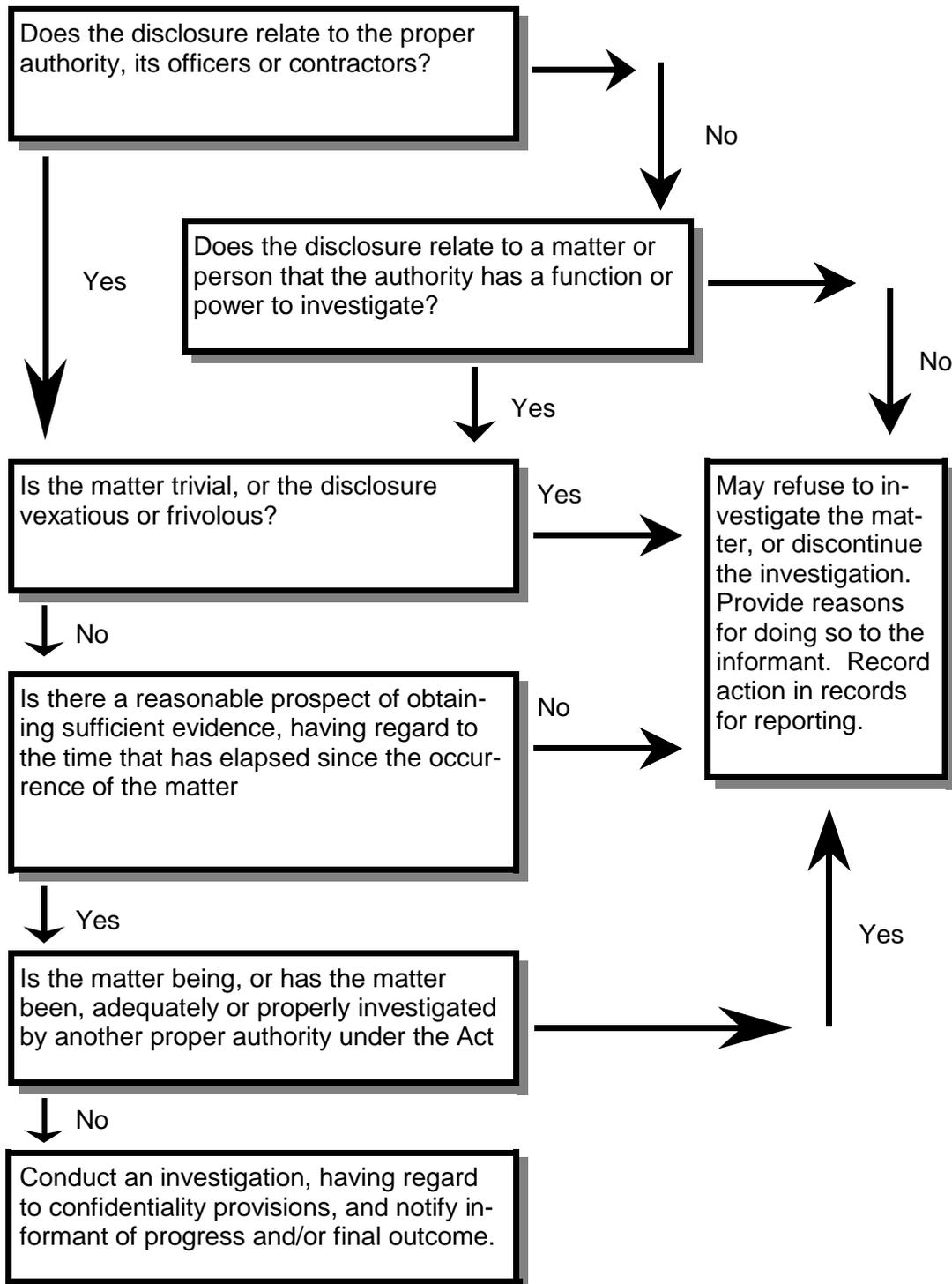
APPENDIX 2

FLOWCHART FOR RECEIVING DISCLOSURES



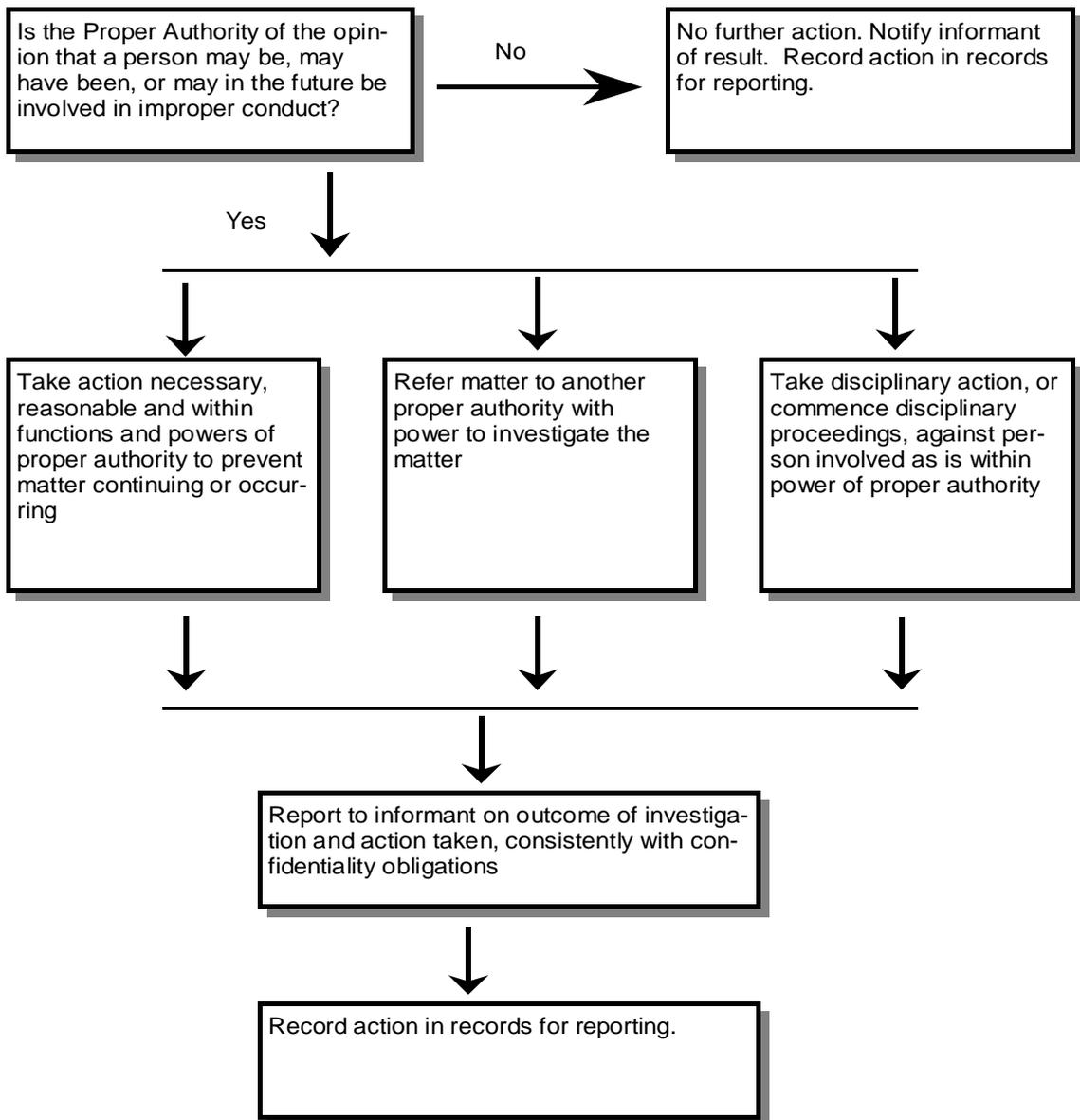
APPENDIX 3

FLOWCHART FOR INVESTIGATING INFORMATION DISCLOSED



APPENDIX 4

FLOWCHART FOR TAKING ACTION AFTER INVESTIGATION



APPENDIX 5

PUBLIC INTEREST DISCLOSURE REGISTER

It is suggested that proper authorities use this Register to record public interest disclosures. All information required for reporting to the Commissioner for Public Sector Standards will be able to be extracted from this draft register.

Proper authorities should ensure that the *Public Interest Disclosure Register*, both in electronic and hardcopy forms, is kept strictly confidential and in a secure place.

This Register is also provided in electronic format on the website. In the electronic version most of these fields will have drop down menus with choices from which to select. If you wish to use a hard copy, as below, it is advised that you obtain a list of choices from the Office of the Public Sector Standards Commissioner.

- **Disclosure Number:** _____

- **Disclosure Code (Unique Register No)** _____

- **Person Making the Disclosure (Informant)**

Name of informant: _____

Gender of informant: _____

Name of public authority employing the Informant (if applicable) _____

Relationship of informant to public authority about which disclosure is made _____

- **First Public Authority about which the Disclosure is made**

Name of public authority _____

Individuals named in the disclosure _____

- **Second Public Authority about which the Disclosure is made**

Name of public authority _____

Individuals named in the disclosure _____

- **Nature of Disclosure**

Type of disclosure _____

Brief description of nature of disclosure _____

- **Investigation Process and Action Taken**

Investigation undertaken Yes No

Reason if no investigation or investigation discontinued _____

Outcome of investigation _____

Brief description of results of Investigation _____

Brief description of action taken if investigation has substance _____

- **Key Dates**

Date lodged _____

Date of decision on whether to investigate _____

Date Investigation completed or discontinued _____

Date of decision on action to be taken _____

- **Communication with Informant**

Total number of written progress reports to informant _____

| | Yes/No | Date |
|---|--------|------|
| First advice to informant of action taken or proposed within 3 months | | |
| Reasons given if no investigation or Investigation discontinued | | |
| Final report requested by informant | | |
| Final report provided to informant | | |

- **Disclosure of Identity of Informant**

| | Yes/No | Date |
|---|--------|------|
| Informant's identity disclosed | | |
| Informant advised of reasons for disclosure | | |
| Claim of unlawful disclosure made | | |
| Reason for disclosure of identity | | |

- **Disclosure of Identity of Persons Named in the Disclosure**

| | Yes/No | Date |
|--|--------|------|
| Person's identity disclosed | | |
| Person advised of reasons for disclosure | | |
| Claim of unlawful disclosure made | | |
| Reason for disclosure of identity | | |

- **Unlawful Disclosure of Informant's Identity**

Outcome of investigation _____

Brief description of results of investigation _____

Brief description of action taken if claim has substance _____

- **Unlawful Disclosure of Identity of Person Named in Disclosure**

Outcome of investigation _____

Brief description of results of investigation _____

Brief description of action taken if claim has substance _____

- **Claim of Victimization**

Claim of victimisation made Yes No Date

Brief description of nature of claim of victimisation _____

Internal or Equal Opportunity Commission Investigation _____

- **Internal Handling of Victimisation Claim (if applicable)**

Outcome of investigation _____

Brief description of results of investigation _____

Brief description of action taken if claim has substance _____

- **Victimisation Claims Lodged with Equal Opportunity Commission (if applicable)**

Outcome of investigation _____

Brief description of results of investigation _____

Brief description of action taken if claim has substance _____

STAFF INFORMATION

WHAT IS A PUBLIC INTEREST DISCLOSURE?

The Public Interest Disclosure Act came into effect on 1 July 2003. The Act facilitates the disclosure of public interest information by providing protection for those who make disclosures and those who are the subject of disclosures.

The **Shire of Three Springs** is committed to the aims and objectives of the *Public Interest Disclosure Act 2003*. It recognises the value and importance of contributions of staff to enhance administrative and management practices and strongly supports disclosures being made by staff regarding corrupt or other improper conduct.

WHAT DO I NEED TO KNOW BEFORE MAKING A DISCLOSURE?

The Act deals with disclosures by anyone (not just government employees) but the information must be specific to the following areas:

- | | |
|---|--|
| <input type="checkbox"/> Improper conduct | <input type="checkbox"/> Irregular or unauthorised use of public resources |
| <input type="checkbox"/> An offence under State law, including corruption | <input type="checkbox"/> Substantial unauthorised or irregular use of, or substantial mismanagement of, public resources |
| <input type="checkbox"/> Administration matter(s) affecting you | <input type="checkbox"/> Conduct involving a substantial and specific risk of injury to public health, prejudice to public safety or harm to the environment |

If your information falls outside the above areas then you may still be able to make a complaint, but this will not be a public interest disclosure under the Act.

Before making a disclosure it is important that you are aware of the rights and responsibilities imposed on informants and others under the Act. Three issues are worth highlighting:

- it is an offence to make a disclosure if you know, or are reckless about, it being false and misleading.
- with some exceptions, the public authority will investigate your information and in doing so you will be expected to cooperate
- you will have to keep your information confidential – or else you may lose protection under the Act and may commit an offence under the Act

The Act only confers protection where a disclosure is made to an appropriate proper authority. The identity of the appropriate proper authority will vary according to the kind of information to be disclosed.

The Public Interest Disclosure Officer of the **Shire of Three Springs** is:

Chief Executive Officer
152 Railway Road
Three Springs WA 6519
Phone: 08 9954 1001
Fax: 08 9954 1183
Email: ceo@threesprings.wa.gov.au

This Officer is responsible for receiving disclosures of public interest information relating to matters falling within the sphere of responsibility of the **Shire of Three Springs**.

PROPER AUTHORITIES FOR RECEIVING DISCLOSURES OF PUBLIC INTEREST INFORMATION

| When the disclosure relates to... | the proper authority is... |
|---|--|
| The sphere of responsibility of a public authority (eg matters about the public authority or its officers, or which the public authority has the function of investigating) | The Public Interest Disclosure Officer (PID Officer) of the public authority |
| Offences under State law | A police officer or the Anti-Corruption Commission |
| Substantial unauthorised or irregular use of, or substantial mismanagement of, public resources | The PID Officer of the public authority concerned or the Auditor General |
| Matters of administration affecting someone in their personal capacity falling within the jurisdiction of the Ombudsman | The PID Officer of the public authority concerned or the Ombudsman |
| A police officer | The Commissioner of Police or the Ombudsman |
| A Member of the Legislative Council | The President of the Legislative Council |
| A Member of the Legislative Assembly | The Speaker of the Legislative Assembly |
| A Judicial officer | Chief Justice |
| A public officer who is not a member of Parliament, a Minister, a judicial officer or a Commissioned or other officer specified in schedule 1 of the <i>Parliamentary Commissioner Act 1971</i> | The PID Officer of the public authority concerned, the Ombudsman or the Commissioner for Public Sector Standards |
| A person or a matter of a prescribed class | A person declared by the regulations to be a proper authority |

WHAT YOU SHOULD ASK YOURSELF

Making a disclosure is a serious matter and needs to be fully considered. You should ask yourself:

- Whether you have reasonable grounds to believe the information you are thinking of disclosing is or may be true.
- If the information is something that you think is important to be disclosed because it is in the public interest. The information should not be tied to any personal agenda.
- If you have sought proper advice
- If you fully understand your responsibilities under the Act if you make a disclosure

I HAVE MADE A DISCLOSURE - WHAT NEXT?

After assessing your information the public authority will have to investigate unless it considers

- The matter to be trivial
- The disclosure to be vexatious or frivolous
- There is no reasonable prospect of obtaining sufficient evidence, due to the lapse of time
- The matter is being, or has already been, adequately or properly investigated by a proper authority under the Act
- The information does not relate to the proper authority, an officer or contractor of the authority or a matter that the proper authority has the function or power to investigate

WILL I BE KEPT INFORMED?

Yes – the public authority must inform you within three months of making the disclosure of what they intend to do about your disclosure.

Where the information is under investigation you will be able to request a progress report.

You are entitled to a report on the outcome and any action taken when the investigation is complete.

WHAT ABOUT CONFIDENTIALITY AND MY PROTECTION?

As the disclosure is about a public interest matter rather than a specific complaint, the Act requires confidentiality to be maintained on:

- The identity of the person making the disclosure
- The identity of any person named in the disclosure

There are exceptions to these rules and anyone thinking of making a disclosure should seek advice from OPSSC on these prior to making a disclosure.

A person making a disclosure is provided with protection under the Act for

- Any reprisals
- Civil and criminal liability in the event of making a disclosure
- Dismissal or having services dispensed with
- Breach of confidentiality or secrecy agreements

A person alleging victimisation as a result of a disclosure can complain to the Equal Opportunity Commission or may be able to take civil action. (The Equal Opportunity Commission is at Level 2 Westralia Square 141 St Georges Terrace. Telephone (08) 9216-3900 or via its Website eoc@equalopportunity.wa.gov.au).

AFTER THE INVESTIGATION

After making a disclosure you will not normally be required to do anything else other than cooperate with an investigation. If you are unhappy with the public authorities response to your disclosure there is no right of appeal under the Act to challenge the public authority's actions. You may, however, be able to make another disclosure to a different proper authority.

VICTIMISATION AND REPRISALS

The **Shire of Three Springs** will take all reasonable steps to provide protection to staff who make such disclosures from any detrimental action in reprisal for the making of a disclosure.

The **Shire of Three Springs** does not tolerate any of its officers, employees or contractors engaging in acts of victimisation or reprisal against those who make public interest disclosures. These acts should be reported immediately to the Public Interest Disclosure Officer or the **Chief Executive Officer**.

NAMED PROPER AUTHORITIES

When a public authority deals with a relevant disclosure it is referred to in the Act as a proper authority. There are some public authorities that are named as proper authorities in the Act that may be able to offer you assistance. These are listed below.

- The Anti-Corruption Commission will be able to provide advice on corruption
Telephone (08) 9213-4300 Website: www.acc.wa.gov.au
- The Ombudsman will be able to provide advice on matters of administration
Telephone (08) 9220-7555 Website www.ombudsman.wa.gov.au
- The Office of the Auditor General will be able to provide advice on proper use and management of public resources and more generally public authorities' accountability and performance requirements

Telephone (08) 9222-7500 Website www.audit.wa.gov.au
- The Police Service will be able to provide advice on offences under a State law
Telephone (08) 9222-1111 Website www.police.wa.gov.au

- The Office of the Public Sector Standards Commissioner will be able to provide assistance to public authorities and public officers to comply with the Code of Conduct and Integrity, and with the Act

Telephone (08) 9260-6600

Website www.wa.gov.au/opssc/