

CASA Public Interest Disclosure Procedures

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Responsible Area	Branch Manager, Litigation, Investigation and Enforcement
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This document contains guidance material intended to assist CASA officers, delegates and the aviation industry in understanding the operation of the aviation legislation. However, you should not rely on this document as a legal reference. Refer to the civil aviation legislation including the Civil Aviation Act 1988 (Cth), its related regulations and any other legislative instruments—to ascertain the requirements of, and the obligations imposed by or under, the law.

Preface

As a Commonwealth government authority, CASA is committed to the highest standards of ethical and accountable conduct in the administration of its regulatory functions and duties. Consistent with that commitment, CASA encourages the disclosure of misconduct under the PID Act in all appropriate cases and will act on disclosures in a manner consistent with the requirements of the PID Act.

These procedures are designed to assist authorised persons and delegates performing activities under the PID Act to ensure that:

- Disclosures made under the PID Act are assessed in a timely manner
- Disclosures assigned to CASA for investigation are investigated in a transparent, systematic and timely manner;
- Reports into disclosures made under the PID Act are comprehensive, evidence based and reach defensible findings;
- Persons making disclosures under the PID Act are given the full measure of protection intended by the PID Act for good faith reporting.

Adherence to the procedures described in this manual will help to ensure that CASA's duties under the PID Act are administered in a consistent, lawful and transparent manner and that the important principles upon which the PID Act is based are given full force and effect in the interests of ethical public administration.

Pip Spence PSM
Chief Executive Officer and
Director of Aviation Safety

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Glossary

Acronyms and abbreviations

Acronym / abbreviation	Description
CASA	Civil Aviation Safety Authority
DAS	Director of Aviation Safety
IGIS	Inspector-General of Intelligence and Security
LIRA	Legal, International and Regulatory Affairs Division
PID Act	<i>Public Interest Disclosure Act 2013</i>
PID Rules	<i>Public Interest Disclosure Rules 2019</i>
Principal Officer	The DAS

Revision history

Revisions to this Standard Operating Procedures are recorded below in order of most recent first.

Version no.	Date	Parts / sections	Details
3.0	November 2021	All	Amendments to reflect new CASA organisational structure and to incorporate a range of quick reference guides
2.0	July 2015	3.5	Minor amendments to deal with reprisal risk assessment
1.0	January 2014	All	First issue

1 Introductory matters

Section 3 of this document constitutes the procedures to be used by the Civil Aviation Safety Authority (**CASA**) in facilitating and dealing with public interest disclosures for the purposes of section 59(1) of the PID Act. The operation of these procedures will be reviewed regularly to ensure their continued effectiveness and consistency with any amendments to the legislation. In these procedures, all references to the DAS include references to delegate(s) of the DAS.

2 What are Public Interest Disclosures?

The PID Act is intended to remove barriers that prevent people who work in the public sector from speaking up about serious problems. It also makes sure disclosures are properly investigated and provides protection for those that report allegations. It:

- encourages and facilitates the disclosure of information by public officials about suspected wrongdoing in the public sector;
- ensures persons making public interest disclosures are supported and protected from negative consequences;
- ensures disclosures by public officials are properly investigated and dealt with.

Not every disclosure of information that might be made to CASA will be a "public interest disclosure" (a **PID**) for the purposes of the PID Act. A disclosure of information will only be a PID to which these procedures relate if:

- (a) it is made by a "public official" who "belongs to" or has belonged to CASA, which includes current and some former CASA employees and contracted service providers¹;
- (b) the information tends to show, or the discloser believes on reasonable grounds that the information tends to show, one or more instances of "disclosable conduct" as defined by the PID Act²; and
- (c) the disclosure is made to an appropriate person, including the principal officer, an authorised officer or a supervisor.³

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

Only if each of the requirements mentioned above has been met will the disclosure be covered by the PID Act and will the discloser have the benefit of the protections the PID Act confers. Accordingly, it is important that persons contemplating making a disclosure of information carefully review the contents of the PID Act and seek independent legal advice where

¹ See section 69 of the PID Act.

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

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

appropriate in order to determine whether the disclosure can be made in a way that attracts the protections of the PID Act.

No protection for false or misleading statements

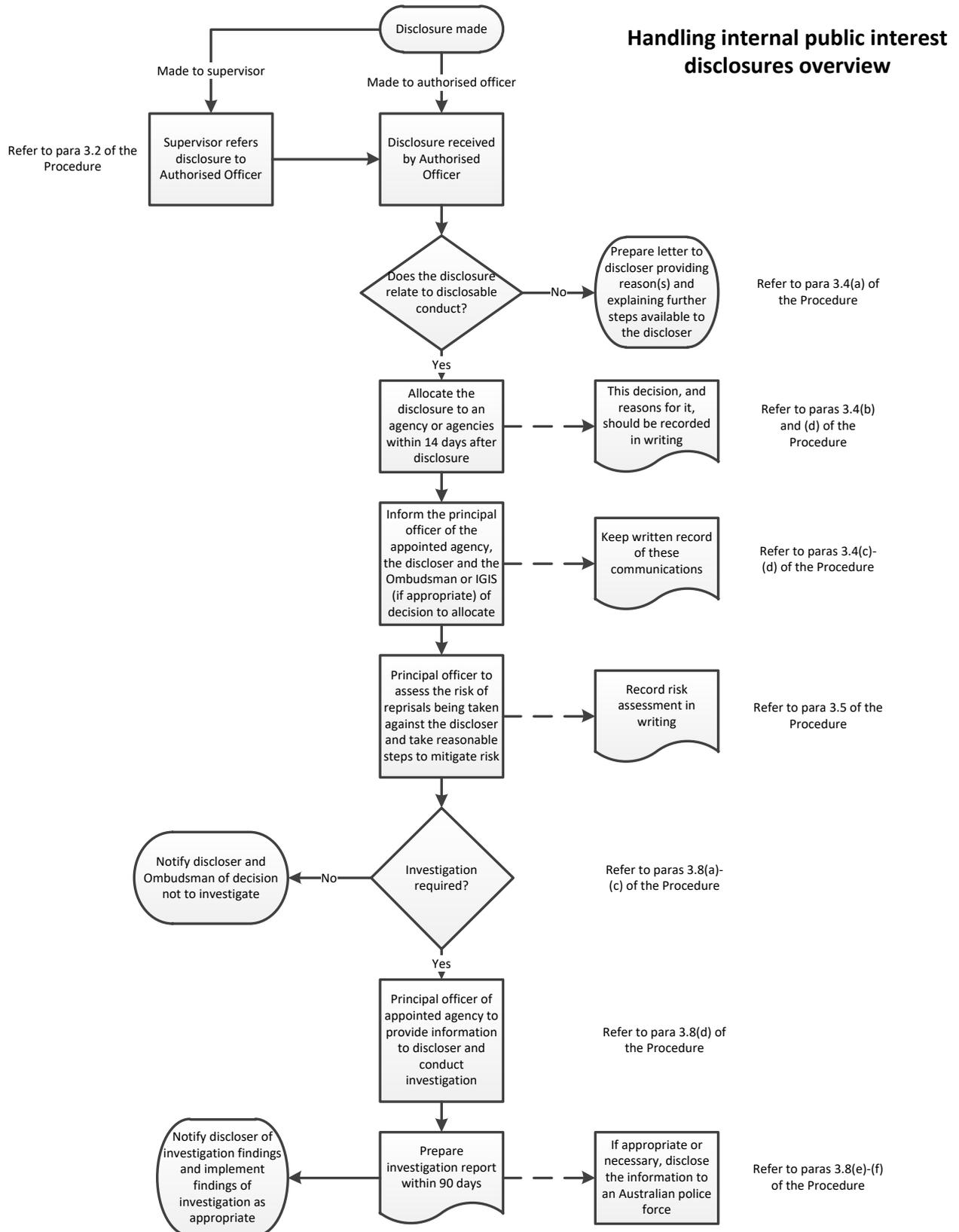
It is important to note that disclosers, who, in making a disclosure under the PID Act, knowingly make a statement that is false or misleading, may be subject to criminal or disciplinary action (or both) for doing so.

Summaries of the rights and responsibilities of a discloser and a person who is the subject of a disclosure under this procedure are set out at **Appendix B** and **Appendix C** respectively.

Further guidance material can also be obtained from the following website: <http://www.ombudsman.gov.au/pages/pid>.

Links to relevant definitions in the PID Act are set out in **Appendix D**.

Handling internal public interest disclosure overview



3. Procedures

3.1 Authorised Officer

The "authorised officers" for the purposes of the PID Act are:

- the DAS as the principal officer for the purposes of the PID Act; and
- any authorised officers appointed by the DAS.

The DAS has appointed the Executive Manager LIRA and the Executive Manager, Corporate Services Division as authorised officers.⁴

A PID can be made to an authorised officer of CASA if the PID relates to CASA and the discloser "belongs" to CASA, or last belonged to CASA – see paragraph 2(a) above.

Under section 60 of the PID Act, where a person discloses, or proposes to disclose information to an authorised officer and the authorised officer has reasonable grounds to believe that:

- (a) the information concerns, or could concern disclosable conduct;
- (b) the person may be unaware of the requirements for making a disclosure under the PID Act,

then the authorised officer must:

- (c) inform the person that the disclosure could be dealt with under the PID Act
- (d) explain what the Act requires for the making of such a disclosure (see 2(a)-(c) above).

3.2 Disclosure to a supervisor

If a public official discloses information to a supervisor and the supervisor has reasonable grounds to believe that the information concerns, or could concern, disclosable conduct, the supervisor must give the information to an authorised officer of CASA as soon as reasonably practicable. It is important to appreciate that the obligation of the supervisor to report the matter to an authorised officer is not optional, or even contingent upon the discloser's agreement to the information being passed on to the authorised officer. Once the supervisor receives information they reasonably believe may constitute disclosable conduct, that information must be passed on to an authorised officer.

3.3 Protecting confidentiality

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

Only individuals directly involved in dealing with the PID (such as the authorised officer, the DAS and any person appointed to investigate the PID) may be advised of the details of the PID. These individuals must not disclose the identity of the discloser or any information which is likely to reveal the identity of the discloser without the consent of the discloser.

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

⁴ Schedule 1, CASA-ADMIN 05/21 – Civil Aviation (*Public Interest Disclosure Act 2013*) Instrument 2021.

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

- in the course of conducting a disclosure investigation; or
- in connection with the performance of a function or the exercise of a power by the person under the PID Act.

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

3.4 Initial consideration and allocation

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

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

If the authorised officer is so satisfied:

- they will allocate the disclosure to one or more agencies for further handling and investigation in accordance with the process outlined at step 2 and proceed with the other steps in these Procedures⁵.
- if the disclosure relates to a CASA Board member, the authorised officer will allocate the disclosure for assessment and investigation (if necessary) by the Commonwealth Ombudsman.

If the authorised officer is *not* so satisfied:

- the disclosure will not be allocated and:
 - if contacting the discloser is reasonably practicable, the authorised officer must inform the discloser in writing of:
 - the reasons why the disclosure will not be allocated to an agency; and
 - any other course of action that might be available to the discloser under other laws of the Commonwealth; and
 - if the disclosure relates to conduct that may need to be addressed under CASA's:
 - Fraud Control and Integrity Policy;
 - Values and Code of Conduct Directive;
 - Managing Suspected Breaches of the Code procedures;
 - Work Health and Safety Policy;
 - Performance Appraisal and Communication Scheme; or

⁵ Note – the allocation of a disclosure to one or more agencies will in most (if not all instances) involve the disclosure being allocated to CASA for investigation. However, in some instances, allocation may be made to a more appropriate agency, such as the Department of Infrastructure, Transport, Regional Development and Communications or the Commonwealth Ombudsman.

- any other of CASA's policies or procedures,

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

The principal officer and authorised officers have access to sample letters that deal with notifying a discloser of the decision whether or not to allocate a disclosure under the PID Act (sample letter 1 and sample letter 2 in **Appendix E**).

Step 2: Allocate the disclosure

The authorised officer will use their best endeavours to decide the allocation within 14 days after the disclosure is made to the authorised officer. In deciding the agency or agencies to which a disclosure will be allocated, the authorised officer will have regard to:

- the principle that an agency – other than the Ombudsman, the Inspector-General of Intelligence and Security (IGIS) or an investigative agency prescribed by the PID Rules – should only deal with disclosures that relate to that agency; and
- such other matters (if any) as the authorised officer considers relevant.

In addition, the authorised officer should consider the desirability of obtaining the discloser's consent for the authorised officer to notify the discloser's identity and contact details to a principal officer (including the principal officer of an agency other than CASA). In doing so, the authorised officer should have regard to whether investigation of the disclosure will be impractical if such consent is withheld.

In addition, if the authorised officer is contemplating allocating the disclosure to the Ombudsman, the IGIS or an investigative agency that has been prescribed by the PID Rules, the authorised officer must have regard to additional matters set out in the PID Act.⁶

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

The principal officer and authorised officers have access to sample letters relevant to the allocation of disclosures to other agencies (sample letter 3 and sample letter 4 in **Appendix E**).

Step 3: Inform relevant persons of the allocation

Informing the receiving agency

When the authorised officer allocates the handling of a disclosure to CASA, the authorised officer will inform the principal officer of:

- the allocation to CASA;
- the information that was disclosed to the authorised officer;
- the suspected disclosable conduct; and
- if the discloser's name and contact details are known to the authorised officer and the discloser consents to the principal officer being informed – the discloser's name and contact details.

⁶ See subparagraphs 44(3)(a)(ii)-(iv) of the [PID Act](#).

Informing another agency

When the authorised officer allocates the handling of a disclosure to an agency other than CASA, the authorised officer will inform the principal officer of that agency of:

- the allocation to the agency;
- the information that was disclosed to the authorised officer;
- the suspected disclosable conduct; and
- if the discloser's name and contact details are known to the authorised officer and the discloser consents to the principal officer being informed – the discloser's name and contact details.

The principal officer and authorised officers have access to a sample letter relevant to the allocation of disclosures to other agencies (sample letter 3 at **Appendix E**).

Informing the discloser

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

The principal officer and authorised officers have access to a sample letter that deals with the notification of an allocation to disclosers (sample letter 5 at **Appendix E**).

Informing other relevant agencies

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

The principal officer and authorised officers have access to a sample letter that deals with the notification of allocations to the Ombudsman (sample letter 4 at **Appendix E**). An interactive form for notifying the Ombudsman of the allocation of a disclosure is also available on the Ombudsman's website at: <https://www.ombudsman.gov.au/Our-responsibilities/making-a-disclosure/Tools-and-Resources>

Step 4: Make a record of the allocation decision

Record of decision

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

- the decision (including the name of each agency to which the disclosure is to be allocated);
- the reasons for the decision; and
- the consent provided by the authorised officer of the agency to which the allocation is made.

Record of communication of decision to discloser

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

- the day and time the discloser was notified; and
- the means by which the discloser was notified; and
- the content of the notification.

These records should be kept confidential.

Assessment quick reference guides

A quick reference guide for the DAS in relation to the assessment, allocation and investigation process is included at **Appendix F**.

A quick reference guide in relation to the assessment and allocation process for authorised officers is included at **Appendix G**.

3.5 Risk Assessment

Step 1: Conduct a risk assessment

When a PID is allocated to CASA for investigation, the DAS will assess the risk that reprisals will be taken against the discloser. This assessment will be completed and recorded using the form contained at **Appendix G** of these procedures and retained in the relevant electronic file.

Assessing the likelihood of potential reprisals

When considering the likelihood of a reprisal being taken against a discloser, the following relevant factors should be taken into account:

- whether the discloser is a current CASA employee
- if so, the likelihood of the discloser being identified, which may involve a consideration of:
 - the size of the work area in which the discloser is located; and
 - the number of people who are aware of the information leading to the disclosure;
- the number of people implicated in the disclosure;
- the subject matter of the disclosure;
- the number of people who are aware of the disclosure or are likely to become aware of the disclosure (for example, through participation in the investigation as witnesses);
- the culture of the workplace;
- whether any specific threats against the discloser have been received;
- whether there are circumstances that will make it difficult for the discloser not to discuss the disclosure in the workplace;
- whether there are allegations about individuals in the disclosure;
- whether there is a history of conflict between the discloser and the subject of the disclosure; and
- whether the disclosure can be investigated while maintaining confidentiality.

When assessing the likelihood of potential reprisals, and where consistent with protecting the discloser's confidentiality, the discloser may be asked why they are reporting the wrongdoing

and from whom they might fear a reprisal. The views of the discloser's supervisor or manager may also be sought as to the likelihood of any reprisals, however, discretion should be exercised in this regard, particularly where the discloser has sought confidentiality.

Assessing the overall seriousness of the risk of reprisals

If it is determined that there is a risk that reprisals will be taken against the discloser, the CASA risk assessment and response matrix (suitably modified for present purposes) is to be used to assess the overall seriousness of that risk:

		Likely seriousness of reprisal				
		Insignificant	Minor	Moderate	Major	Critical
Likelihood of reprisal being taken against a discloser	Almost certain	Medium	Medium	High	Extreme	Extreme
	Likely	Medium	Medium	High	High	Extreme
	Possible	Low	Medium	Medium	High	High
	Unlikely	Low	Low	Medium	Medium	High
	Rare	Low	Low	Low	Medium	Medium

Examples of seriousness of reprisals

- Insignificant: no direct or indirect reprisal action is likely to occur
- Minor: Occasional or one-off action that is likely to have a relatively minor adverse effect on the person (for example, occasional exclusion of the person from a social activity or one-off isolated comments from peers).
- Moderate: Repeated action which is likely to have an adverse effect on the person (for example, routinely failing to "cc:" the person on work-related emails).
- Major: Sustained or one-off action which has a significant impact on the person (for example, consistently excluding the person from team discussions or imposing a negative performance assessment or the denial of a promotion opportunity).
- Extreme: Action which is likely to have a very severe impact on the person (for example, physical or verbal assault causing physical or psychological harm, bullying and harassment or any other risk to their health or safety).

Criteria for assessing likely seriousness of potential reprisals

In considering the likely seriousness of any potential reprisal against a discloser, the following relevant factors should be taken into account:

- whether the discloser is a current employee;
- the significance of the issue being disclosed;
- the likely outcome if the conduct disclosed is substantiated;
- the subject matter of the disclosure;
- whether the discloser is isolated;

- whether the discloser is employed on a full-time, part time or casual basis;
- whether the alleged wrongdoing that is the subject of the disclosure was directed at the discloser; and
- the relative positions of the discloser and the person whose alleged wrongdoing is the subject of the disclosure.

Step 2: Develop a risk mitigation strategy if necessary

The DAS is required by the PID Act to take reasonable steps to protect disclosers who are CASA employees, from detriment and threats of detriment. The DAS will take account of the risk assessment in step 1 in developing a risk management strategy that discharges this obligation.

The risk mitigation strategy may include some or all of the support measures set out at paragraph 3.6 and, in appropriate circumstances could include raising the matter with employees by reminding staff that taking or threatening to take a reprisal against a discloser is a criminal offence. Where the risk mitigation strategy has been developed by an investigating delegate, the delegate must obtain the DAS' approval of the terms of the proposed strategy before it is implemented. The DAS must oversee the implementation and ongoing management of the risk mitigation strategy or nominate a senior manager with sufficient authority to ensure the effective implementation of the strategy, to be responsible for this task.

Step 3: Monitor and review risks

The DAS or the nominated senior manager as applicable, should monitor and review the risk assessment as necessary throughout the investigation process.

3.6 Support for disclosures

Regardless of the outcome of the risk assessment, the DAS or the investigating delegate will take all reasonable steps to protect CASA employees or contracted service providers who have made a PID from detriment or threats of detriment relating to the PID.

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

- a) appointing, on a confidential basis, a support person to assist the discloser who is responsible for monitoring and checking on the wellbeing of the discloser regularly;
- b) informing the discloser of the progress of the investigation;
- c) advising the discloser of the availability of the Employee Assistance Program;
- d) where there are any concerns about the health and wellbeing of the discloser, liaising with officers responsible for work health and safety in CASA;
- e) transferring the discloser to a different area within the workplace.

3.7 Support for a person against whom a disclosure has been made

The DAS or the investigating delegate will also take steps to support any employee or contracted service provider who is the subject of a PID, including through consideration of whether to appoint a support person on a confidential basis.

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

- a) advising the employee of his or her rights and obligations under the PID Act and about CASA's investigation procedures, including the employee's rights to procedural fairness and to access a support person;
- b) informing the employee of the progress of the investigation;
- c) advising the employee of the availability of the Employee Assistance Program;
- d) ensuring that the identity of the employee is kept confidential as far as reasonably practicable;
- e) where there are any concerns about the health and wellbeing of the employee, liaising with officers responsible for work health and safety in CASA;
- f) transferring the employee to a different area within the workplace.

3.8 Consideration and investigation by principal officer or appointed delegate

3.8.1 Delegates appointed to conduct investigations

Rather than personally investigate a PID which has been allocated to CASA, the DAS may assign the conduct of the investigation to a person to whom they have delegated their powers of investigation under the PID Act. The persons currently appointed as delegates for these purposes are:

- a. Executive Manager, Legal, International and Regulatory Affairs
- b. Executive Manager, Corporate Services
- c. Branch Manager, Advisory and Drafting
- d. Branch Manager, Litigation, Investigations and Enforcement
- e. Branch Manager, People
- f. Industry Complaints Commissioner
- g. Manager, Investigations
- h. Section Manager, People, Policy and Performance⁷

Step 1: Provide initial information to disclosers

Within 14 days of CASA being allocated a PID, the DAS will contact the discloser (if it is possible to do so) to advise that they are considering whether or not to investigate the disclosure further and that the discloser will be notified in due course whether an investigation will be conducted or not.

Step 2: Consider whether to investigate the disclosure

If a PID is allocated to CASA, the DAS will consider whether or not to investigate the PID.

The DAS may decide not to investigate a disclosure only if the DAS considers that one of the following applies:

- the discloser is not and has not been a public official;
- the information does not, to any extent, concern serious disclosable conduct;

⁷ Schedule 2, CASA-ADMIN 05/21 – Civil Aviation (*Public Interest Disclosure Act 2013*) Instrument 2021.

- the disclosure is frivolous or vexatious;
- the information is the same or substantially the same as disclosable conduct that has been or is currently being investigated as part of another disclosure investigation;
- the information concerns disclosable conduct that is the same or substantially the same as disclosable conduct that is being investigated under a law of the Commonwealth or the executive power of the Commonwealth and:
 - it would be inappropriate to conduct another investigation at the same time; or
 - the DAS or the investigating delegate is reasonably satisfied that there are no further matters concerning the disclosure that warrant investigation;
- the discloser has informed the DAS that the discloser does not wish for the investigation of the disclosure to be pursued *and* the DAS is reasonably satisfied that there are no matters concerning the disclosure that warrant investigation;
- it is impracticable for the disclosure to be investigated because:
 - the discloser's name and contact details have not been disclosed;
 - the discloser fails or is unable to give such information or assistance as the person who is or will be investigating asks the discloser to give; or
 - the age of the information makes this the case.

If none of the above circumstances under Step 2 above apply, the DAS will conduct an investigation.

What is serious disclosable conduct?

The PID Act does not define “serious disclosable conduct”. The DAS should consider all the relevant circumstances based on the information before them. Factors which might be considered include:

- whether the wrongdoing, if proven, involves an offence with a significant penalty or would lead to severe disciplinary or other consequences;
- whether the wrongdoing was one of a series of incidents that indicates a course of conduct;
- the level of trust, confidence or responsibility placed in a public official who is alleged to have acted wrongly;
- the level of risk to others or to CASA;
- the harm or potential harm arising from the conduct, including the amount of public money wasted;
- the benefit or potential benefit derived by the public official or others;
- whether the public official acted in concert with others, and the nature of their involvement;
- any apparent premeditation or consciousness of wrongdoing;
- what the public official ought to have done and how their conduct might reasonably be viewed by their professional peers;

- any applicable policies and the code of conduct;
- maladministration that relates to significant failure in the administration of government policy, programs, or procedures.

Step 3: Notify the discloser and Ombudsman

If the disclosure will not be investigated

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

- if reasonably practicable to contact the discloser, inform the discloser that the DAS or the investigating delegate has decided not to investigate the disclosure, identifying:
 - the reasons for the decision not to investigate (other than those reasons that would be exempt for the purposes of Part IV of the *Freedom of Information Act 1982*, or have or be required to have a national security or other protective security classification or contain intelligence information); and
 - any courses of action that might be available to the discloser under other laws of the Commonwealth; and
- inform the Ombudsman of the decision not to investigate and the reasons for that decision.

If the disclosure will be investigated

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

- that they are required to investigate the disclosure; and
- of the estimated length of the investigation.

The principal officer, investigating delegate and authorised officers have access to sample letters that deal with decisions to investigate or not to investigate a PID (sample letter 6, sample letter 7 and sample letter 8 at **Appendix E**). A decision not to investigate a complaint can also be notified to the Ombudsman using an interactive form available from the Ombudsman's website: <https://www.ombudsman.gov.au/Our-responsibilities/making-a-disclosure/Tools-and-Resources>

Step 4: Conduct an investigation

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

General principles

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

- maintaining the confidentiality of the identity of the discloser will be paramount when conducting the investigation;
- information relating to the disclosable conduct will be collated as quickly as possible;

- the information relating to the disclosable conduct will be collected and conclusions will be drawn impartially and objectively;
- the person conducting the investigation must be (and must be perceived to be) impartial and unbiased;
- all evidence relevant to the matter will be collected whether it supports the allegations or refutes them;
- a decision whether evidence is sufficient to prove a fact will be determined on the balance of probabilities; and
- a person who is the subject of the investigation will be provided with an opportunity to respond.

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

Additional procedures required in particular circumstances

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

- Fraud Control and Integrity Policy;
- Values and Code of Conduct Directive;
- Managing Suspected Breaches of the Code of Conduct procedures;
- Work Health and Safety Policy;
- Performance Appraisal and Communication Scheme;
- any other of CASA's policies or procedures,

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

If the DAS considers that information disclosed in the course of a PID may be appropriately dealt with under another procedure or policy of CASA, they may recommend in the investigation report that this occur and refer the matter to the relevant part of CASA.

Obtaining information

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

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

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

- the identity and function of each individual conducting the interview;
- the process of conducting an investigation;

- the authority of the DAS or the investigating delegate under the PID Act to conduct the investigation; and
- the protections provided to witnesses under section 57 of the PID Act.

The DAS will ensure that:

- an audio or visual recording of the interview is not made without the interviewee's knowledge and consent;
- when the interview ends, the interviewee is given an opportunity to make a final statement or comment or express a position; and
- any final statement, comment or position by the interviewee is included in the record of the interview.

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

Referral of information to police and others

If, during the course of the investigation, the DAS suspects on reasonable grounds that some of the information disclosed or obtained in the course of the investigation is evidence of the commission of an offence against a law of the Commonwealth or of a State or Territory, the DAS may disclose the information to a member of the Australian Federal Police, or to the Police Force of the relevant State or Territory. If the information relates to an offence that is punishable for a period of imprisonment of at least two years, the DAS must disclose the information to a member of the Australian Federal Police, or to the Police Force of the relevant State or Territory.

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

Step 4: Prepare investigation report

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

The DAS must complete the investigation report within 90 days after the disclosure was allocated to the DAS, unless this period is extended by the Ombudsman. An interactive form for seeking an extension of time from the Ombudsman is available from the Ombudsman's website at: <https://www.ombudsman.gov.au/Our-responsibilities/making-a-disclosure/Tools-and-Resources>

If the period is extended, the DAS will inform the discloser of the progress of the investigation.

Content of report

The report must set out:

- the matters considered in the course of the investigation;
- the duration of the investigation;
- the findings (if any);
- any regulations, rules, administrative requirements or similar matters to which the disclosable conduct relates;

- the action (if any) that has been, is being or is recommended to be taken; and to the extent relevant:

- the steps taken to gather evidence;
- a summary of the evidence; and
- any claims made about, and any evidence of detrimental action taken against the discloser, and CASA's response to those claims and that evidence.

Step 5: Provide report to discloser

If it is reasonably practicable to contact the discloser, the DAS will provide the discloser with a copy of the report within a reasonable time after preparing the report. However, the DAS may delete from the copy of the report given to the discloser any material:

- that is likely to enable the identification of the discloser or another person; or
- would be exempt for the purposes of Part IV of the *Freedom of Information Act 1982*, would require a national security or other protective security clearance, contains intelligence information or contravenes a designated publication restriction as defined in the PID Act.

The principal officer, investigating delegates and authorised officers have access to a sample letter that can be used to send a copy of a report to a discloser (sample letter 9 at **Appendix E**).

Investigation quick reference guide

A quick reference guide for the use of delegates conducting investigations is included at **Appendix H**.

Appendix A. Extracts from the Commonwealth Ombudsman's Agency guide to the Public Interest Disclosure Act 2013

Who can make a public interest disclosure?

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

What can be disclosed?

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

- an agency
- a public official in connection with their position
- a contracted Commonwealth service provider in connection with entering into or giving effect to the contract

if that conduct:

- contravenes a Commonwealth, State or Territory law
- in a foreign country, contravenes a foreign law that applies to the agency, official or service provider
- perverts the course of justice
- is corrupt
- constitutes maladministration, including conduct that is based on improper motives or is unreasonable, unjust, oppressive, or negligent
- is an abuse of public trust
- involves fabrication, falsification, plagiarism, or deception relating to scientific research, or other misconduct in relation to scientific research, analysis or advice
- results in wastage of public money or public property
- unreasonably endangers health and safety
- endangers the environment
- is prescribed by the PID rules (s 29(1)).

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

What is not disclosable conduct?

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

- a government policy or proposed policy
- action or proposed action by a minister, the Speaker of the House of Representatives or the President of the Senate
- expenditure or proposed expenditure related to such policy or action (s 31).

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

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

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

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

Making an internal disclosure

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

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

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

Appendix B. Rights and responsibilities for disclosures

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

- advised of the following:
 - any decision that a disclosure is not a disclosure within the meaning of the PID Act;
 - the allocation of their disclosure;
 - the decision of CASA to investigate their disclosure;
 - the estimated duration of the investigation into their disclosure;
 - if CASA decides not to investigate their disclosure, the reasons for that decision and any action that may be available to the discloser under other Commonwealth laws;
 - if an investigation is conducted under the PID Act and an extension of time is granted by the Ombudsman or IGIS, the progress of the investigation; and
 - the outcome of the investigation (including provision of a copy of the investigation report except to the extent that it would be exempt for the purposes of Part IV of the Freedom of Information Act 1982, would require a national security or other protective security clearance, contains intelligence information, or contravenes a designated publication restriction as defined in the PID Act).
- given support in accordance with paragraph 3.6 of the procedures.
- able to seek assistance from the Ombudsman in relation to the operation of the PID Act.

Responsibilities

A discloser must:

- comply with the PID Act requirements and the procedures set out in this document when making a PID;
- use his or her best endeavours to assist the principal officer of any agency in the conduct of an investigation;
- use his or her best endeavours to assist the Ombudsman in the performance of the Ombudsman's functions under the PID Act; and
- use his or her best endeavours to assist the IGIS in the performance of the IGIS's functions under the PID Act; and
- report to the DAS any detriment the discloser believes they have been subjected to as a result of making the disclosure.

Appendix C. Rights and responsibilities of persons who are the subject of a PID

Rights

An employee of CASA who is the subject of a disclosure will be:

- given support in accordance with paragraph 3.7 of the procedures; and
- able to seek assistance from the Ombudsman in relation to the operation of the PID Act.

Responsibilities

An employee of CASA who is the subject of a disclosure must:

- use his or her best endeavours to assist the DAS of any agency in the conduct of an investigation;
- use his or her best endeavours to assist the Ombudsman in the performance of the Ombudsman's functions under the PID Act;
- use his or her best endeavours to assist the IGIS in the performance of the IGIS's functions under the PID Act;
- comply with action taken by CASA to address risks or concerns in relation to the PID.

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

Appendix D. Definitions of relevant terms in the PID Act

The official PID Act site is found at:

<<https://www.legislation.gov.au/Details/C2019C00026>>.

Important definitions are located in the following provisions of the PID Act:

Section 26 – meaning of “disclosable conduct”.

Section 29 – meaning of “public interest disclosure”.

Section 8 – general definitions provision.

Section 13 – meaning of “take a reprisal” and “detriment”.

Section 30 – definitions of “contracted service provider” and “Commonwealth contract”.

Section 34 – meaning of “authorised internal recipient”.

Section 35 – description of when conduct “relates to an agency”.

Section 36 – definition of “authorised officer”.

Section 69 – description of who are “public officials”.

Section 70 – description of individuals who are taken to be public officials

Appendix E. Sample letters

E1 Sample letter (1) – to discloser informing that information must be dealt with under the PID Act



Australian Government
Civil Aviation Safety Authority

Day – Month – Year

Name

By email:

Dear (Name),

Public Interest Disclosure Act 2013 disclosure

I refer to the information you (proposed to disclose/disclosed) to (name of supervisor, authorised officer or principal officer to whom the information was disclosed) on (date) regarding (description of the information).

I am satisfied that there are reasonable grounds to believe that the information concerns, or could concern, disclosable conduct. Therefore, the disclosure of the information could be treated as an internal disclosure for the purposes of the *Public Interest Disclosure Act 2013* ('PID Act'). The PID Act provides a means for protecting public officials, and former public officials, from adverse consequences of disclosing information that, in the public interest, should be disclosed. It also provides for the investigation of matters that are disclosed.

A disclosure of information is an internal disclosure if the disclosure is made by a person who is, or has been, a public official ('the discloser'); the recipient of the information is an authorised internal recipient or a supervisor of the discloser; and the information tends to show, or the discloser believes on reasonable grounds that the information tends to show, one or more instances of disclosable conduct. Disclosable conduct is defined in s 29 of the PID Act. An allegation made in conjunction with such a disclosure is also considered an internal disclosure.

[If the authorised officer is aware of any orders or directions which are designated public restrictions:] Orders or directions that are designated publication restrictions and that may affect the disclosure of the information include (name(s) of order(s)/direction(s)). (Explain how/why the order(s)/direction(s) may affect the disclosure of the information).

For the purpose of allocating the handling of your disclosure, I will need to obtain necessary information and make enquiries. I will endeavour to allocate your disclosure within 14 days of receiving the disclosure, by (date of 14 days after the disclosure to the authorised officer). You will be informed of the allocation as soon as possible.

In the meantime, you are welcome to contact me on (number).

Yours sincerely,

(Name of authorised officer)

E2 Sample letter (2) - to discloser informing of reasons for not allocating and other avenues available



Australian Government
Civil Aviation Safety Authority

Day – Month - Year

Name

By email:

Dear *(Name)*,

Public Interest Disclosure Act 2013 – decision not to allocate disclosure

I refer to the information you (proposed to disclose/disclosed) to *(name of supervisor, authorised officer or principle officer to whom the information was disclosed)* on *(date)* regarding *(description of the information)*.

Having carefully considered the disclosure, I am not satisfied that there is any reasonable basis on which the disclosure could be considered to be an internal disclosure under the *Public Interest Disclosure Act 2013* ('PID Act'). Therefore, the disclosure will not be allocated to an agency for handling.

- ▲ A public interest disclosure is a process within government to deal with matters of a serious nature which if resolved would serve the public good. A disclosure of information is an internal disclosure if the disclosure is made by a person who is, or has been, a public official ('the discloser'); the recipient of the information is an authorised internal recipient or a supervisor of the discloser; and the information tends to show, or the discloser believes on reasonable grounds that the information tends to show, one or more instances of disclosable conduct.

My decision not to allocate is based on the following reasons *(explain why there is no reasonable basis on which the disclosure could be considered an internal disclosure. This may be because the discloser is not a public official or because the information does not tend to show one or more instances of disclosable conduct as defined in s 29 of the PID)*.

There may be other courses of action available to you under other laws of the Commonwealth. You may consider *(provide relevant examples of other avenues available to discloser. Examples may include internal procedures such as contacting Workplace Relations or the Equity and Diversity Contact Officer, or action under legislation such as the Sex Discrimination Act 1984, Age Discrimination Act 2004, Disability Discrimination Act 1992, Human Rights and Equal Opportunity Commission Act 1986, Fair Work Act 2009, Public Service Act 1999 etc.)*

Please contact me on *(number)* if you have any queries.

Yours sincerely,

(Name of authorised officer)

E3 Sample letter (3) - informing the principal officer of each agency to which a disclosure is allocated



Australian Government
Civil Aviation Safety Authority

Day – Month - Year

Name

By email:

Dear (Name),

Public Interest Disclosure Act 2013 – receipt of disclosure

Information has recently been disclosed to me in my capacity as an authorised officer at the Civil Aviation Safety Authority (CASA). I believe that there are reasonable grounds on which the disclosure of this information could be considered to be an internal disclosure under the *Public Interest Disclosure Act 2013* ('PID Act').

The disclosable conduct with which the information may be concerned relates to (*name of agency/agencies*). Having regard to this (*and list any other relevant matters*) under s 43 of the PID Act, I have decided to allocate the handling of the disclosure to (*name of agency/agencies*).

[If the agency to which the handling of the disclosure is allocated is not CASA:] (*Name of authorised officer of other agency*) consented to such an allocation on (*date*) by (*means*).

As you know, the allocation means that as the principal officer of your agency you are required to investigate the disclosure under s 47 of the PID Act, unless you are able to use discretion under s 48. Please examine the following information and determine whether you are required to investigate this disclosure under the PID Act and follow the necessary procedures resulting from your determination.

The information disclosed relates to (*provide one or two sentences summarising the information*). Please find the (*information/document/statement/email/letter/etc*) at attachment(s) (*number(s)*).

The suspected disclosable conduct is (*Provide details of the suspected disclosable conduct, if any, possibly in an attachment*).

[If the discloser consents to the principal officer being informed of his/her contact details:]
The discloser of this information, (*name*), of (*address*), may be contacted on (*phone number*) or at (*email address*) etc.

Yours sincerely,

(*Name of authorised officer*)

E4 Sample letter (4) - informing the Ombudsman of allocation



Australian Government
Civil Aviation Safety Authority

Day – Month – Year

Commonwealth Ombudsman
Level 5, Childers Square
14 Childers Street
Canberra City ACT 2601

Dear Ombudsmen,

Public Interest Disclosure Act 2013 – decision to allocate disclosure

Information has recently been disclosed to me in my capacity as an authorised officer at the Civil Aviation Safety Authority (CASA). I believe that there are reasonable grounds on which the disclosure of this information could be considered to be an internal disclosure under the *Public Interest Disclosure Act 2013* ('PID Act').

The disclosable conduct with which the information may be concerned relates to *(name of agency/agencies)*. Having regard to this *(and list any other relevant matters)* under s 43 of the PID Act, I have allocated the handling of the disclosure to *(name of agency/agencies)*.

[If the agency/agencies to which the handling of the disclosure is allocated is not CASA:]
Authorised officers from *(each agency to which the handling of the disclosure has been allocated/name of agency)* have consented to the allocation.

The information disclosed relates to *(provide one or two sentences summarising the information)*. Please find the *(information/document/statement/email/letter/etc)* at attachment(s) *(number(s))*.

The suspected disclosable conduct is *(Provide details of the suspected disclosable conduct, if any, possibly in an attachment)*.

[If the discloser consents to the Ombudsman being informed of his/her contact details:] The discloser of this information, *(name)*, of *(address)*, may be contacted on *(phone number)* or at *(email address)* etc.

Yours sincerely,

(Name of authorised officer)

E5 Sample letter (5) - informing disclosure of allocation



Australian Government
Civil Aviation Safety Authority

Day – Month – Year

Name

By email:

Dear (Name),

Public Interest Disclosure Act 2013 – decision to allocate disclosure

I refer to the information you disclosed to (*name of supervisor, authorised officer or principle officer to whom the information was disclosed*) on (*date*) regarding (*description of the information*).

As I mentioned in my letter dated (*date of letter*), I believe that there are reasonable grounds on which the disclosure of this information could be considered to be an internal disclosure under the *Public Interest Disclosure Act 2013* ('PID Act').

The disclosable conduct with which the information may be concerned relates to (*name of agency/agencies*). Having regard to this (*and list any other relevant matters*) under s 43 of the PID Act, I have decided to allocate the handling of the disclosure to (*name of agency/agencies*).

The principal officer of (*name of agency/agencies*) will now decide whether he/she is required to investigate the disclosure under s 47-8 of the PID Act. He/she will inform you of his/her decision.

Yours sincerely,

(Name)

E6 Sample letter (6) - informing disclosure of investigations



Australian Government
Civil Aviation Safety Authority

Day/Month/Year

Name

By email:

Dear,

Public Interest Disclosure Act 2013 investigation

I refer to the information you disclosed to the DAS on 10 February 2015 regarding the conduct of CASA National Manager (name).

As you know, the disclosure was allocated to me, for handling on 16 February 2015.

I am writing to advise you that I have determined that I am required to investigate the disclosure under ss 47-8 of the Public Interest Disclosure Act 2013 ('PID Act').

I estimate that the investigation will be completed within 90 days after the allocation.

On 18 February 2015 I requested further information from you which was received on 2 March 2015 and allowed me to form the basis that an investigation of the disclosure should occur. On the basis of that information you provided I have sought further information. I will keep you updated as the matter progresses.

Yours sincerely,

(Name)

Manager

Investigations Branch

E7 Sample letter (7) - to discloser informing that the PO has decided not to investigate



Australian Government
Civil Aviation Safety Authority

Day – Month - Year

Name

By email:

Dear (Name),

Sample letter to discloser informing that the PO has decided not to investigate

I refer to the information you disclosed to (*name of supervisor, authorised officer or principle officer to whom the information was disclosed*) on (*date*) regarding (*description of the information*).

As you know, the disclosure was allocated to (*name of agency*), for handling on (*date of allocation*).

I am writing to advise you that I have decided not to investigate the disclosure (any further). I have come to this decision using the discretion given to me under s 48 of the *Public Interest Disclosure Act 2013* ('PID Act').

The reasons for my decision are:

(give reasons for not investigating/investigating further – except for reasons exempt for the purposes of Part IV of the Freedom of Information Act 1982, having a protective security classification or containing intelligence information. Reasons may include: the discloser is not a public official; the information does not concern serious disclosable conduct to any extent; the disclosure is frivolous or vexatious; the disclosure is the same as another disclosure already (being) investigated under the PID, another law of the Commonwealth or the executive power of the Commonwealth and further investigation would be inappropriate/unwarranted; the discloser has informed the PO that the discloser does not wish the investigation to be pursued, and the PO is reasonably satisfied that there are no matters concerning the disclosure that warrant investigation; and/or it is impracticable for the disclosure to be investigated because the discloser's name and contact details have not been disclosed, because the discloser is unable to give requested information or because of the age of the information (see s 48 of the PID Act)).

There may be other courses of action available to you under other laws of the Commonwealth. You may consider (*provide relevant examples of other avenues available to discloser. Examples may include internal procedures such as contacting Workplace Relations or the Equity and Diversity Contact Officer, or action under legislation such as the Sex Discrimination Act 1984, Age Discrimination Act 2004, Disability Discrimination Act 1992, Human Rights and Equal Opportunity Commission Act 1986, Fair Work Act 2009, Public Service Act 1999 etc.*

Please contact me on (*number*) if you have any queries.

Yours sincerely,

(*Name of PO*)

E8 Sample letter (8) - to Ombudsman giving reasons for deciding not to investigate



Australian Government
Civil Aviation Safety Authority

Day – Month - Year

Name

By email:

Dear (Ombudsmen),

Public Interest Disclosure Act 2013 – decision not to investigate disclosure

As you know, a disclosure of information regarding (*description of the information*) was allocated to me for handling in my capacity as a principal officer under the *Public Interest Disclosure Act 2013* ('PID Act') on (*date of allocation*).

I am writing to advise you that I have decided not to investigate the disclosure (any further). I have come to this decision using the discretion given to me under s 48 of the PID Act.

The reasons for my decision are (*give reasons for not investigating/investigating further. Reasons may include: the discloser is not a public official; the information does not concern serious disclosable conduct to any extent; the disclosure is frivolous or vexatious; the disclosure is the same as another disclosure already (being) investigated under the PID, another law of the Commonwealth or the executive power of the Commonwealth and further investigation would be inappropriate/unwarranted; the discloser has informed the PO that the discloser does not wish the investigation to be pursued, and the PO is reasonably satisfied that there are no matters concerning the disclosure that warrant investigation; and/or it is impracticable for the disclosure to be investigated because the discloser's name and contact details have not been disclosed, because the discloser is unable to give requested information or because of the age of the information (see s 48 of the PID Act)*).

Yours sincerely,

(Name of PO)

Appendix F. PID quick reference guide for Director of Aviation Safety (DAS)

1. Potential PID received

Option 1 – assessment by authorised officer

Refer the potential PID to an authorised officer for assessment of whether the disclosure is a PID within the meaning of the PID Act. If this option is chosen, go to step 2.

Option 2 – assess personally

Within 14 days of receipt, determine whether the disclosure is a PID.

Guidance on determining whether a disclosure is or is not a PID may be found at Appendix A of the CASA PID Procedures

- If not:
 - (a) write to the discloser advising of the reasons why it has been determined that the disclosure is not a PID
 - (b) consider whether the disclosure identifies other conduct which might require action in accordance with a different CASA process or policy – for instance should the matter be considered in accordance with the code of conduct policy or does it identify a potential performance issue in relation to a particular employee. If so, forward the disclosure to the appropriate business area for consideration.

- If the disclosure is assessed as being a PID, allocate in accordance with step two.

2. Allocation of PID

Option 1 – allocation by authorised officer

If a disclosure has been assessed by an authorised officer in accordance with option 1 above and determined to be a PID, then the authorised officer will allocate the PID.

Option 2 – allocate personally

If a disclosure is assessed in accordance with option 2 above and determined to be a PID, then:

- (a) allocate the PID to CASA recording this decision in writing
- (b) if the PID relates to another agency, allocate it to that agency (sample letter 3). Notify the IGIS of this allocation if it is made to an intelligence agency.
- (c) if the PID is allocated to CASA:
 - i. notify the discloser (if their identity is known) of the decision to allocate the PID (sample letter 5)
 - ii. seek the discloser's permission to provide the discloser's identity and contact details to the investigating officer noting the potential difficulties associated with an investigation if the discloser wishes to remain anonymous
 - iii. notify the Ombudsman of the decision to allocate the PID (sample letter 4)
 - iv. assign the PID for investigation by an appropriate investigating officer – see section 3.8 of the PID Procedures.

- v. conduct reprisal risk assessment or ask that investigating officer conduct that assessment prior to commencement of investigation

3. Investigation

If a PID is allocated to CASA in accordance with steps 1 and 2 above, then assign the PID to an appropriate delegate for investigation. Delegates appointed for this purpose are identified at section 3.8 of the CASA PID Procedures.

Ensure that the investigation is concluded, including receipt of written report from investigating officer, within 90 days of allocation.

If the report will take longer than 90 days, ensure that an appropriate extension has been granted by the Ombudsman.

Monitor to ensure that there are no reprisals are taken against any discloser and to ensure that all people potentially affected by the investigation have access to appropriate support.

4. Receipt of report

Upon receipt of the investigating officer's report:

- (a) Provide a copy of the report to the discloser (with redactions as appropriate)
- (b) Consider report findings and any recommendations made by the investigating officer
- (c) Implement any changes to organisational process or procedure which are considered necessary or appropriate having regard to the findings and recommendations made by the investigating officer.

5. Record keeping

Keep comprehensive records of your involvement in each step of the process, and particularly in relation to your reasons for any decisions made throughout – i.e.: decision to allocate a PID, or to accept or reject a recommendation arising from a report.

This information is required to be provided to the Ombudsman's officer on an annual basis.

Appendix G. PID quick reference guide for authorised officers

1. Potential PID received

Within 14 days of receipt of a disclosure, determine whether the disclosure is a PID.

Guidance on determining whether a disclosure is or is not a PID may be found at Appendix A of the CASA PID Procedures.

- If not:
 - (a) write to the discloser advising of the reasons why it has been determined that the disclosure is not a PID
 - (b) consider whether the disclosure identifies conduct which might require action in accordance with a different CASA process or policy – for instance should the matter be considered in accordance with the code of conduct policy or does it identify a potential performance issue in relation to a particular employee. If so, forward the disclosure to the appropriate business area for consideration.
- If the disclosure is assessed as being a PID proceed to allocate in accordance with step two.

2. Allocation of PID

If a disclosure is assessed and determined to be a PID, then:

- (a) allocate the PID to CASA recording this decision in writing
- (b) if the PID relates to another agency, allocate it to that agency (sample letter 3)
- (c) if the PID is allocated to CASA:
 - i. notify the DAS of the allocation [CASA PID Procedures 3.4(c)]
 - ii. notify the discloser (if their identity is known) of the decision to allocate the PID (sample letter 5)
 - iii. seek the discloser's permission to provide the discloser's identity and contact details to the investigating officer noting the potential difficulties associated with an investigation if the discloser wishes to remain anonymous
 - iv. notify the Ombudsman of the decision to allocate the PID (sample letter 4)
 - v. identify an appropriate investigating officer to whom the DAS may consider assigning the PID for investigation – officers to whom the DAS's powers of investigation have been delegated are identified in CASA-ADMIN 03/17.

3. Record keeping

Keep comprehensive records of your involvement in each step of the process, and particularly in relation to your reasons for any decisions made throughout – i.e.: decision to allocate a PID. Also keep copies of any communications to and from the discloser and other persons during the course of the assessment and allocation process. This information is required to be provided to the Ombudsman's Office on an annual basis.

Appendix H. PID quick reference guide for investigating delegates

1. Determine whether to conduct investigation

Upon allocation of the investigation by the DAS or an authorised officer:

- (a) Make initial contact with the discloser (if contact is possible) to advise them that you are considering whether their disclosure will be investigated
- (b) Determine whether to investigate. Grounds upon which a decision not to further investigate a PID may be based are set out in section 3.8 of the CASA PID Procedures
- (c) If a decision is made not to further investigate then:
 - i. If the identity of the discloser is known, notify the discloser of the decision and the reasons for it
 - ii. Notify the Ombudsman of the decision not to investigate and the reasons for it

2. Conduct of investigation

If a decision to investigate is made, then:

- (a) Conduct a risk assessment (if the DAS has not already done so) in accordance with section 3.5 of the CASA PID Procedures and put in place any necessary mitigation plan or support arrangements in consultation with the DAS
- (b) Conduct investigation in accordance with section 3.8(d) of the CASA PID Procedures
- (c) Complete investigation (including investigation report) within 90 days of the PID being allocated to CASA
- (d) If the investigation is unable to be completed in 90 days, seek an extension of the time frame from the Ombudsman.

3. Investigation report

The investigation report should set out:

- (a) The PID and when it was received
- (b) The information and other evidence obtained during the investigation
- (c) The duration of the investigation
- (d) Any legal provisions relevant to the conduct alleged in the PID each
- (e) The findings of fact made by the investigator based on the evidence and other material obtained
- (f) Clear conclusions as to whether the conduct alleged in the PID is substantiated
- (g) Any recommendations of the investigator in relation to the findings made in the report, including as to whether the matter should be brought to the attention of police, or to People and Culture branch for consideration of disciplinary action.
- (h) Any other matters set out in section 3.8(e) of the CASA PID Procedures.

4. Notification of discloser

Once the investigation report has been considered by the DAS, a copy should be provided to the discloser. Consider whether any redactions should be made to the report before a copy

is provided. The grounds upon which redactions may be made, or, potentially, the entire report could be withheld are explained at section 3.8(f) of the CASA PID Procedures.

5. Record keeping

Keep comprehensive records of your involvement in each step of the investigation process, and particularly in relation to the preparation and finalisation of your investigation report.

Information is required to be provided to the Ombudsman's Office on an annual basis concerning the PID's assessed, allocated and investigated by CASA in the previous financial year. By keeping comprehensive records you will ensure that CASA is able to supply information that is accurate and complete.

Appendix I. Risk Assessment - Reprisals

This risk assessment is required to assess the likelihood and potential consequences of any reprisals that might be suffered by a discloser in the course of a PID Investigation as required under section 3.5 of the PID Procedures.

Likelihood of reprisals (circle appropriate selection)	<ul style="list-style-type: none"> ▪ Rare ▪ Unlikely ▪ Possible ▪ Likely ▪ Almost Certain
Outline factors contributing to assessment (i.e.: number of persons likely to become aware of PID investigation) <ul style="list-style-type: none"> ▪ ▪ ▪ 	

Consequences of reprisals (Circle appropriate selection)	<ul style="list-style-type: none"> ▪ Insignificant ▪ Minor ▪ Moderate ▪ Major ▪ Critical
Outline factors contributing to assessment (i.e.: whether any reprisals are likely to result in physical or mental harm to the discloser) <ul style="list-style-type: none"> ▪ ▪ ▪ 	
Overall risk assessment (likelihood x consequences) as per the risk assessment matrix at page 15 of the procedures.	<ul style="list-style-type: none"> ▪ Low ▪ Medium ▪ High ▪ Major ▪ Extreme

If the overall risk assessment is above low, then a mitigation strategy must be put in place and agreed to by the DAS.

Mitigation strategies: For each risk list the mitigation strategies that will be used to reduce the risk of reprisals.

Risk	Mitigation
▪	▪

Signed:

Investigator

Date:

Signed:

Director of Aviation Safety

Date: