

POLICY

HR-106: Public Interest Disclosure policy

Purpose

The purpose of this policy is to describe how Australian Hearing will comply with the *Public Interest Disclosure Act 2013 (Cth)*.

Audience

The audience for this policy is individuals who can make a Public Interest Disclosure, which consists of:

- Current and former Australian Hearing employees.
- People who are currently (or were previously) 'associated' with Australian Hearing (e.g. contractors, secondees or trainees); and
- Current and former employees of contractors or sub-contractors that were engaged by Australian Hearing to provide services.

Effective Date: **May 2019**

Effective Until / Review Date: **May 2020**

Table of Contents

1	BACKGROUND	3
2	DEFINITIONS AND ABBREVIATIONS	3
3	SCOPE	3
3.1	WHO CAN MAKE A PUBLIC INTEREST DISCLOSURE?	3
3.2	WHAT IS A PUBLIC INTEREST DISCLOSURE?	3
3.3	WHAT IS DISCLOSABLE CONDUCT?	4
3.4	WHAT IS NOT DISCLOSABLE CONDUCT?.....	4
3.5	PROTECTIONS PROVIDED TO A DISCLOSER UNDER THE ACT.....	4
4	MAKING A PUBLIC INTEREST DISCLOSURE	4
4.1	DOES A PUBLIC INTEREST DISCLOSURE NEED TO BE VERBAL OR IN WRITING?	4
4.2	WHO CAN I MAKE A PUBLIC INTEREST DISCLOSURE TO?	5
4.3	WHAT INFORMATION SHOULD BE INCLUDED IN A PUBLIC INTEREST DISCLOSURE?	5
4.4	CAN I MAKE A DISCLOSURE TO SOMEONE EXTERNAL TO AUSTRALIAN HEARING?	5
5	PROTECTING CONFIDENTIALITY	6
6	HOW WILL A PUBLIC INTEREST DISCLOSURE BE MANAGED?	6
6.1	INITIAL CONSIDERATION (STEP 1)	6
6.2	ALLOCATION OF THE DISCLOSURE (STEP 2)	6
6.3	INFORM THE RELEVANT PERSON OF THE ALLOCATION (STEP 3)	6
6.4	WHAT IF A DISCLOSER IS NOT SATISFIED WITH THE HANDLING OF THEIR DISCLOSURE? (STEP 4)	7
7	RISK ASSESSMENT	7
7.1	CONDUCTING A RISK ASSESSMENT	7
7.2	DEVELOPING A RISK MITIGATION PLAN.....	8
7.3	MONITORING AND REVIEWING RISKS.....	8
8	ALLOCATIONS FROM OTHER COMMONWEALTH AGENCIES	8
9	RELATED DOCUMENTS	8
10	DOCUMENT CONTROL	9

1 BACKGROUND

The PID Act aims to promote integrity and accountability in the Australian Public Sector by encouraging the disclosure of information about actual or suspected wrongdoing, protecting people who make disclosures and ensuring that disclosures are properly investigated and addressed.

The mechanism by which the PID Act will achieve its aims is via the establishment of the Public Interest Disclosure Scheme. Further information about the Scheme can be accessed via the Commonwealth Ombudsman's website (see www.ombudsman.gov.au).

2 DEFINITIONS AND ABBREVIATIONS

Term or Acronym	Definition
Authorised Officer	Nominated people a disclosure can make a Public Interest Disclosure to (see section 4.2).
PID Act	The <i>Public Interest Disclosure Act 2013 (Cth)</i>
Principal Officer	The Managing Director
The Scheme	The Public Interest Disclosure Scheme

3 SCOPE

3.1 WHO CAN MAKE A PUBLIC INTEREST DISCLOSURE?

The following people can make a public interest disclosure and are referred to as '**Public Officials**' under the Act:

- Current and former Australian Hearing employees;
- People who are currently (or were previously) 'associated' with Australian Hearing (e.g. contractors, secondees or trainees); and
- Current and former employees of contractors or sub-contractors that were engaged by Australian Hearing to provide services.

3.2 WHAT IS A PUBLIC INTEREST DISCLOSURE?

A disclosure of information is a '**public interest disclosure**' for the purposes of the Act if it meets each of the following requirements:

- It is made by a Public Official;
- The information tends to show, or the discloser believes on reasonable grounds that it tends to show, 'disclosable conduct'; and
- The disclosure is made to an appropriate person, i.e. an authorised internal recipient or (in the case of a current Australian Hearing Employee) the discloser's manager.

3.3 WHAT IS DISCLOSABLE CONDUCT?

A Public Official can disclose information that they believe, on reasonable grounds, tends to show '**disclosable conduct**'. Disclosable conduct is conduct that:

- Contravenes a Commonwealth, State or Territory law;
- Occurred in a foreign country and contravenes a foreign law;
- Perverts the course of justice or 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 that results in the wastage of public money or public property;
- Unreasonably endangers health and safety; or
- Endangers the environment.

The conduct must be engaged in by:

- An agency;
- A public official in connection with their position; or
- A Commonwealth service provider in connection with entering into or giving effect to a contract.

In the case of public officials, disclosable conduct includes conduct that involves or is engaged in by the official for the purposes of abusing their position, or could give reasonable grounds for disciplinary action.

3.4 WHAT IS NOT DISCLOSABLE CONDUCT?

Conduct is not disclosable conduct if a person simply disagrees with current or proposed government policy or expenditure that relates to such a policy.

3.5 PROTECTIONS PROVIDED TO A DISCLOSER UNDER THE ACT

Public Officials who make a public interest disclosure are immune from civil, criminal and administrative liability (including disciplinary action) that might otherwise arise from making the disclosure. They are also entitled to certain levels of protection from having their identity disclosed without their consent and protection from threats of reprisal and actual reprisal.

To gain these protections, the discloser must comply with the requirements of the Act. If a discloser makes a disclosure to someone who is not authorised to receive it, the discloser may not have the protections provided under the Act.

4 MAKING A PUBLIC INTEREST DISCLOSURE

4.1 DOES A PUBLIC INTEREST DISCLOSURE NEED TO BE VERBAL OR IN WRITING?

A public interest disclosure may be made in writing or verbally. If the disclosure is in writing, it can be addressed to an Authorised Officer or by email to PID@hearing.com.au.

4.2 WHO CAN I MAKE A PUBLIC INTEREST DISCLOSURE TO?

A public interest disclosure can be made to the following authorised officers (who will have the appropriate level of training):

- Ms Gina Mavrias, Chief Operating Officer
(email: gina.mavrias@hearing.com.au, ph: 03 8325 9021)
- Mr Brent Edwards, Director – NAL
(email: brent.edwards@hearing.com.au, ph: 02 9412 6902)
- Mr Nick Fitzgerald, Chief Financial Officer
(email: nick.fitzgerald@hearing.com.au, ph: (02) 9412 6927)
- Mr Mike Brett, Chief Information Officer
(email: mike.brett@hearing.com.au; ph (02) 02 9412 7020)
- Ms Ann Travers, Head of Network
(email: anne.travers@hearing.com.au, ph: (03) 9236 1019)
- Mr Andrew Krestovsky, Head of Human Resources
(email: andrew.krestovsky@hearing.com.au, ph: (02) 9412 6989)

In addition, current Australian Hearing employees may also make a public interest disclosure to their manager.

4.3 WHAT INFORMATION SHOULD BE INCLUDED IN A PUBLIC INTEREST DISCLOSURE?

A disclosure should contain as much information as possible to assist a decision to be made on an appropriate investigation. Ideally, this would include:

- The discloser's name and contact details;
- The nature of the disclosable conduct and who engaged in that conduct;
- When and where the disclosable conduct occurred and any relevant events surrounding the issue;
- If the discloser did anything in response to the disclosable conduct;
- Others who know about the disclosable conduct and may have allowed it to continue;
- Names of any witnesses or people who may be able to verify what the discloser is saying;
- If the discloser is concerned about possible reprisals as a result of making the disclosure; and
- Any supporting documentation the discloser may have to support the disclosure (e.g. emails or file notes).

A discloser may choose to remain anonymous, however this will reduce an investigator's ability to investigate the matter, and the outcomes of the disclosure or investigation may not be able to be reported back to the discloser. If the discloser advises that they wish to remain anonymous, the Authorised Officer will make all endeavours to keep the discloser's contact details and identifying information confidential.

4.4 CAN I MAKE A DISCLOSURE TO SOMEONE EXTERNAL TO AUSTRALIAN HEARING?

A discloser may choose to make a complaint directly to the Commonwealth Ombudsman where the discloser has reasonable grounds for believing it is not appropriate for Australian Hearing to handle the disclosure. Generally, the Commonwealth Ombudsmen will only

investigate public interest disclosures where it considers the relevant agency (i.e. Australian Hearing) cannot handle the matter appropriately. This could be due to a conflict of interest, confidentiality issues or a fear of reprisal that cannot be reasonably managed by the agency.

5 PROTECTING CONFIDENTIALITY

All disclosures will be handled confidentially. Australian Hearing will take all reasonable steps to protect the identity of a public official who has made a public interest disclosure.

Only individuals directly involved in dealing with the public interest disclosure (such as the Authorised Officer) may be advised of its details. 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 discloser's consent.

Identifying information will only be used for the purposes of the Act (including the investigation) unless the discloser consents to some additional use.

6 HOW WILL A PUBLIC INTEREST DISCLOSURE BE MANAGED?

6.1 INITIAL CONSIDERATION (STEP 1)

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

- If the Authorised Officer is so satisfied, they will allocate to Australian Hearing or to another agency (e.g. because the disclosure relates to that other agency) for further handling and investigation in accordance with the process outlined at Step 2.
- If the Authorised Officer is not satisfied of this, the disclosure will not be allocated.

If the decision is made that the disclosure will not be allocated and provided contacting the discloser is reasonably practicable, the Authorised Officer must inform the discloser in writing:

- Of the reasons why the disclosure will not be investigated;
- Of any other course of action that might be available to the discloser under other laws of the Commonwealth; and
- Whether there are any other policies or procedures of Australian Hearing under which the matter may be referred to be dealt with.

6.2 ALLOCATION OF THE DISCLOSURE (STEP 2)

The Authorised Officer will use their best endeavours to decide the allocation within 14 days after a disclosure is made. The Authorised Officer will not allocate a disclosure to another agency unless an authorised officer of that agency has consented to the allocation.

6.3 INFORM THE RELEVANT PERSON OF THE ALLOCATION (STEP 3)

If the disclosure is allocated to Australian Hearing for action and contacting the discloser is reasonably practicable, as soon as practicable after the allocation has occurred, the Authorised Officer will inform the discloser in writing of this and of the information that has been provided to the Principal Officer.

If the Authorised Officer allocates the handling of the disclosure to another agency (e.g. Department of Human Services), they must keep an appropriate record of the:

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

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;
- Means by which the discloser was notified; and
- Content of the notification.

Any investigation conducted by Australian Hearing must be completed within 90 days unless the Ombudsman grants an extension.

The investigation, if any, will be conducted in accordance with the Act. The discloser may be contacted if more information is required, and they will be provided with a copy of the investigation report. The investigation report may be reviewed and redacted by Australian Hearing prior to its release to the discloser to address confidentiality and privacy requirements.

6.4 WHAT IF A DISCLOSER IS NOT SATISFIED WITH THE HANDLING OF THEIR DISCLOSURE? (STEP 4)

If a discloser is not satisfied with the handling of their disclosure, the discloser may raise their concerns with the Commonwealth Ombudsman. The Commonwealth Ombudsman's website provides further information on how it will address such complaints.

7 RISK ASSESSMENT

7.1 CONDUCTING A RISK ASSESSMENT

When an Authorised Officer decides to allocate a public interest disclosure to Australian Hearing, they will assess the risk that reprisals will be taken against the discloser. In assessing the risk of reprisals, the Authorised Officer should use Australian Hearing's risk assessment matrix, which forms part of Australian Hearing's Risk Management Framework.

Examples of seriousness of reprisals include:

- **Minor:** occasional or one off action that is likely to have a relatively minor adverse effect on the person (i.e. occasional exclusion from a social event);
- **Moderate:** repeated action which is likely to have an adverse effect on the person (for example, routinely failing to 'cc' the person into work related emails);
- **Major:** sustained or one-off action that is likely to have a significant impact on the person (for example, consistently excluding the person from team discussions or imposing negative performance assessments on the person); and
- **Severe:** action which is likely to have a very severe impact on the person (for example, physical violence; the denial of a promotion opportunity; inability to remain in the workplace).

When assessing the likelihood of a reprisal being taken against a discloser, the Authorised Officer should take into account all relevant factors, including the following where relevant:

- The likelihood of the discloser being identified;
- The number of people implicated in the disclosure;

- The subject matter of the disclosure;
- Whether any specific threats against the discloser have been received;
- Whether there are allegations about individuals in the disclosure; and
- Whether the disclosure can be investigated while maintaining confidentiality.

When conducting a risk assessment, where consistent with protecting the discloser's confidentiality, the Authorised Officer may ask the discloser why they are reporting the wrongdoing and who they might fear reprisal from and may also speak to the discloser's supervisor or manager.

7.2 DEVELOPING A RISK MITIGATION PLAN

Where the risk level is assessed at anything greater than low, the Authorised Officer will develop a risk management strategy for mitigating the risk of reprisals being taken against the discloser.

7.3 MONITORING AND REVIEWING RISKS

The Authorised Officer will monitor and review the risk assessment as necessary throughout the investigation process.

8 ALLOCATIONS FROM OTHER COMMONWEALTH AGENCIES

Other Commonwealth agencies who propose to allocate a public interest disclosure to Australian Hearing should first contact one of Australian Hearing's Authorised Officers or email PID@hearing.com.au.

9 RELATED DOCUMENTS

- Risk management framework
- Whistleblower policy

10 DOCUMENT CONTROL

Version Number	Author	Owner	Date Effective	Replaces	Review Date
1	Head of Human Resources	Operations Director	January 2014	-	January 2015
2	Head of Human Resources	Operations Director	April 2015	1	April 2016
3	Head of Human Resources	Operations Director	July 2017	2	July 2018
4	Head of Human Resources	Chief Operating Officer	July 2018	3	July 2019
5	Head of Human Resources	Chief Operating Officer	May 2019	4	May 2020