

DEWNR PROCEDURE



Government of South Australia
Department of Environment,
Water and Natural Resources

Ref: DEWNR 00018968

WHISTLEBLOWERS PROTECTION PROCEDURE

This Procedure provides a process for:

- Persons making disclosures of public interest information under the Whistleblowers Protection Act; and
- The management of such disclosures in DEWNR.

What guides this Procedure?

[DEWNR Whistleblowers Protection Policy](#)

[Whistleblowers Protection Act 1993](#)

[Public Sector Act 2009](#)

[Code of Ethics for the South Australian Public Sector](#)

[Commissioner for Public Sector Employment Determination 4: Qualifications for Designated Whistleblower Contact Officers](#)

[Independent Commissioner Against Corruption Act 2012 \(ICAC Act\)](#) and [ICAC Directions & Guidelines](#)

What is the scope of this Procedure?

This Procedure applies to all DEWNR employees and board members and any member of the public, volunteer or contractor who has public interest information pertaining to a matter within the sphere of responsibility of DEWNR. This includes DEWNR employees receiving such disclosures relevant to DEWNR.

Public interest information¹ means information that tends to show that—

- (i) a person (whether or not a public officer), body corporate or Government agency is or has been involved (either before or after the commencement of the Act):
 - in an illegal activity; or
 - in an irregular and unauthorised use of public money; or
 - in substantial mismanagement of public resources; or
 - in conduct that causes a substantial risk to public health or safety, or to the environment, or
- (ii) a public officer is guilty of maladministration in or in relation to the performance of official functions.

What is the context of this Procedure?

The [Whistleblowers Protection Act](#) ("WP Act") was enacted to encourage the disclosure of maladministration and waste in the public sector and of corrupt or illegal activity generally, by providing a process for making such disclosures and providing protections for person who make a disclosure.

DEWNR employees and Board members are required to disclose corruption, misconduct and maladministration under the [Independent Commissioner Against Corruption Act 2012](#) and the [Code of Ethics for the South Australian Public Sector](#).

Members of the public are encouraged to disclose corruption, misconduct, maladministration or any illegal activity involving DEWNR.

Procedure Writer:	Jo Mitchell-Smith	Version:	Final Approved Version
DEWNR Branch:	Organisational Performance	Date approved:	25 September 2017
DEWNR Group:	People & Performance	Review date:	25 September 2020
Keywords:	Whistleblower		
File Name:	Whistleblowers Protection Procedure		Page 1 of 8

¹Refer to section 4(1) of the Whistleblowers Protection Act 1993.

DEWNR PROCEDURE



Government of South Australia
Department of Environment,
Water and Natural Resources

What steps do I need to take to comply?

This Procedure is divided into two sections:

- Section One describes the process for making a whistleblower disclosure in DEWNR.
- Section Two describes the process which will be followed if a disclosure has been made.

SECTION ONE: MAKING A DISCLOSURE UNDER THE WHISTLEBLOWERS PROTECTION ACT TO DEWNR

The Principal Policy Officer (Probity & Complaints), Office of the Chief Executive and the Manager, Performance and Strategy are responsible for managing all whistleblower disclosures and are able to:

- Provide advice on making a whistleblower disclosure and support DEWNR officers and members of the public to make disclosures;
- Review whistleblower disclosures and make recommendations on the appropriate course of action; and
- Report matters to the, Office for Public Integrity (OPI) or Anti-corruption Branch of South Australia Police.

For advice on whether or not a matter could be appropriately disclosed under the [WP Act](#), your responsibilities and the options available for reporting dishonest activity, please contact:

Name	Title	Contact details
Wiebke Billows	Principal Policy Officer (Probity & Complaints), Office of the Chief Executive)	(08) 8204 1213
Andrew Copus	Manager Performance & Strategy	(08) 8204 9208

NOTE: A whistleblower disclosure is considered to be made as soon as details of the suspected illegal activity are given. If a DEWNR employee only wants advice, they should not provide any details about the suspected illegal activity to the Principal Policy Officer (Probity & Complaints) or the Manager, Performance and Strategy.

There are two primary avenues through which to make a whistleblower disclosure:

- 1) To a DEWNR 'Responsible Officer':

In accordance with section 7 of the [Public Sector Act 2009](#) and [Commissioner for Public Sector Employment Determination 4: Qualifications for Designated Whistleblower Contact Officers](#), DEWNR has designated the below positions as Responsible Officers under the WP Act:

- Principal Policy Officer (Probity & Complaints), Office of the Chief Executive;
- Manager, Performance and Strategy;
- Regional Director, South East;
- Director, Organisational Performance; and
- Regional Director, Kangaroo Island.

Procedure Writer:	Jo Mitchell-Smith	Version:	Final Approved Version
DEWNR Branch:	Organisational Performance	Date approved:	25 September 2017
DEWNR Group:	People & Performance	Review date:	25 September 2020
Keywords:	Whistleblower		
File Name:	Whistleblowers Protection Procedure		Page 2 of 8

DEWNR PROCEDURE



Government of South Australia
Department of Environment,
Water and Natural Resources



Nominated Responsible Officer positions	Contact details
Principal Policy Officer (Probity & Complaints), Office of the Chief Executive	(08) 8204 1213
Manager, Performance and Strategy	(08) 8204 9208
Regional Director, South East	(08) 8735 1204
Director, Organisational Performance	(08) 8463 7917
Regional Director, Kangaroo Island	(08) 8553 4415

- 2) To the OPI, if the disclosure involves corruption or serious or systemic maladministration or misconduct:
- by telephone: 8207 1777 (country callers can phone 1300 782 489 for the cost of a local call);
 - in writing: GPO Box 11066, Adelaide, SA 5001;
 - by email: admin@opi.sa.gov.au;
 - online: complete the online complaint form at <http://www.icac.sa.gov.au>;
 - in person: at the Office for Public Integrity, Level 1, 55 Currie Street, Adelaide. Make an appointment to attend in person by telephoning 8207 1777.

Your rights once you have made the disclosure – Protections provided by the Whistleblowers Protection Act

Provided the disclosure was made in good faith, the following safeguards will be implemented by DEWNR:

- No civil or criminal action will be taken against you, even if the disclosure made is not confirmed by an investigation.
- Your identity will be kept confidential and will not be divulged to any other person, without your consent, except so far as may be necessary to ensure the disclosure is properly investigated.
- You will be protected from victimisation or harassment. You should report any incidents of victimisation or harassment to the same 'Responsible Officer' or as per the department's Procedure on discrimination, harassment, bullying and victimisation.
- You will be informed of the outcome of any investigation into your disclosure.

Your obligations once you have made the disclosure

You must assist with the investigation into the disclosure to the extent required by the WP Act. Failure to do so without reasonable excuse may result in you losing the protection of the [WP Act](#).

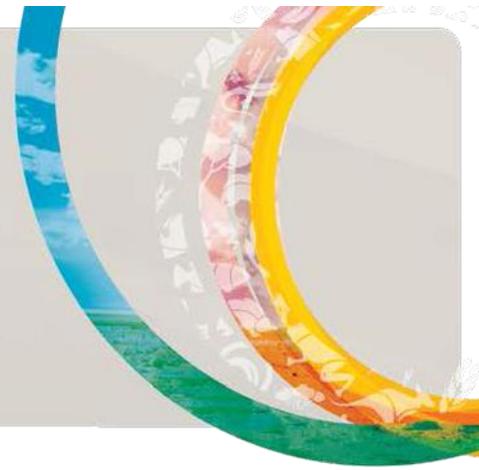
You must not discuss the claim of suspected fraud/corruption with any other persons (excepting your legal representative or a counsellor).

Procedure Writer:	Jo Mitchell-Smith	Version:	Final Approved Version
DEWNR Branch:	Organisational Performance	Date approved:	25 September 2017
DEWNR Group:	People & Performance	Review date:	25 September 2020
Keywords:	Whistleblower		
File Name:	Whistleblowers Protection Procedure		Page 3 of 8

DEWNR PROCEDURE



Government of South Australia
Department of Environment,
Water and Natural Resources



SECTION TWO: ACCEPTING AND REVIEWING DISCLOSURES MADE TO DEWNR UNDER THE WHISTLEBLOWERS PROTECTION ACT

The process outlined below is to be followed once a disclosure has been made to DEWNR.

Receipt of disclosure by Responsible Officer

Upon receiving a disclosure, the Responsible Officer must first determine if it meets the requirements of the [WP Act](#).

Having determined that the disclosure has been made in accordance with the [WP Act](#), the Responsible Officer should:

- advise the whistleblower of their rights and obligations under the Act to ensure the protection under the Act is attracted and maintained;
- explain to the whistleblower the process which will now be followed (as set out below) and attempt to obtain their consent to pass on their name;
- advise the whistleblower of their options to address any alleged victimisation; and
- refer the whistleblower to the Employee Assistance Program should they wish to use it.

Forward details of the disclosure to the Principal Policy Officer (Probity & Complaints) or the Manager, Performance and Strategy for review as soon as possible

Unless the consent of the whistleblower is obtained, the Responsible Officer (or other person) should not reveal the name of the whistleblower to the Principal Policy Officer (Probity & Complaints) or the Manager, Performance and Strategy at this stage. The Principal Policy Officer (Probity & Complaints) or the Manager, Performance and Strategy will determine if the whistleblowers name is required for review. The Responsible Officer will be requested to provide their own name.

Management of disclosure by Principal Policy Officer (Probity & Complaints) or the Manager, Performance and Strategy

The Principal Policy Officer (Probity & Complaints) or the Manager, Performance and Strategy will be responsible for managing and reviewing disclosures made under the [WP Act](#).

The Principal Policy Officer (Probity & Complaints) or the Manager, Performance and Strategy will as soon as possible after receiving a whistleblower disclosure, inform the following persons that a disclosure has been made:

- Chief Executive
- Relevant GED
- Chair of the Risk Management & Audit Committee of Executive (RMAC)

The Principal Policy Officer (Probity & Complaints) or the Manager, Performance and Strategy will undertake a review of the available information to determine the exact nature of the whistleblower disclosure.

If at any time during the review, the Principal Policy Officer (Probity & Complaints) or the Manager, Performance and Strategy reasonably suspects the matter is one of fraud/corruption or serious or systemic misconduct or maladministration then the matter will be referred to the OPI or the Anti-Corruption Branch of South Australia Police.

Procedure Writer:	Jo Mitchell-Smith	Version:	Final Approved Version
DEWNR Branch:	Organisational Performance	Date approved:	25 September 2017
DEWNR Group:	People & Performance	Review date:	25 September 2020
Keywords:	Whistleblower		
File Name:	Whistleblowers Protection Procedure		Page 4 of 8

DEWNR PROCEDURE



Government of South Australia
Department of Environment,
Water and Natural Resources

The Principal Policy Officer (Probity & Complaints) or the Manager, Performance and Strategy will continue the internal review of the matter unless otherwise requested not to by the OPI or Anti-Corruption Branch.

Each whistleblower disclosure will have its unique set of circumstances and complexities and may require a specific approach. Depending on the severity and complexity of the whistleblower disclosure, the Principal Policy Officer (Probity & Complaints) or the Manager, Performance and Strategy will determine whether the review is to be undertaken internally or by an external contractor.

The following processes and general principles of natural justice and procedural fairness will be adhered to throughout the review:

- The review will be carried out by an unbiased decision-maker.
- The person who is the subject of the whistleblower disclosure will be advised of the allegations against them and will be given the right to respond (this does not mean that the person will be advised of the allegation as soon as the whistleblower disclosure is received and/or the review has commenced).
- Any decision will be based on logically probative evidence, proven on the balance of probabilities.

The Principal Policy Officer (Probity & Complaints) or the Manager, Performance and Strategy will keep the Chief Executive and relevant GED (and the OPI/Anti-Corruption Branch where relevant), informed throughout the review.

Outcome of review

For those allegations believed to be true, but involve only administrative mistakes or non-compliance with departmental policy or procedure, a recommendation will likely be made to the relevant Senior Manager(s) as to how the matter should be dealt with.

For those allegations believed to be true and involve misconduct or maladministration, but which is not considered to be serious or systemic, then the Principal Policy Officer (Probity & Complaints) or the Manager, Performance and Strategy will likely refer the matter to the Manager People, Capability & Culture to review and recommend an appropriate course of disciplinary action.

For those allegations believed to be true, but involve fraud/corruption or serious or systemic misconduct or maladministration, the OPI or Anti-Corruption Branch of South Australia Police will be advised.

For those allegations believed to be true and involve someone who is not a public officer, the matter will be referred to the South Australia Police.

For those allegations believed to be false, there will be no further action. However, if the person who made the whistleblower disclosure is believed to have been malicious or reckless in making the whistleblower disclosure, the matter will be managed as described under *malicious whistleblower disclosures* below. The employee about whom the whistleblower disclosure was made will be informed of this outcome as soon as possible.

A written report will be prepared for the Chief Executive by the Principal Policy Officer (Probity & Complaints) or the Manager, Performance and Strategy advising of the outcome of the review into the whistleblower disclosure and recommending appropriate actions.

Procedure Writer:	Jo Mitchell-Smith	Version:	Final Approved Version
DEWNR Branch:	Organisational Performance	Date approved:	25 September 2017
DEWNR Group:	People & Performance	Review date:	25 September 2020
Keywords:	Whistleblower		
File Name:	Whistleblowers Protection Procedure		Page 5 of 8

DEWNR PROCEDURE



Government of South Australia
Department of Environment,
Water and Natural Resources



If the review determines a breakdown of internal controls has directly impacted on the incident then a report prepared by the Principal Policy Officer (Probity & Complaints) or the Manager, Performance and Strategy outlining the circumstances of the control breakdown will be sent to RMAC to assess whether improvements in the internal controls are required.

Notification of the outcome of the review will be given to the relevant GED and the OPI if relevant.

Pursuant to the WP Act, the whistleblower will be informed of the outcome of the investigation.

The outcome and any recommended actions will be recorded on the confidential and restricted Whistleblower Register for statistical purposes. Regulation 7 of the [Public Sector Regulations 2010](#) requires DEWNR to report in its annual report the number of occasions on which public interest information has been disclosed to a responsible officer of DEWNR under the [WP Act](#).

Malicious whistleblower disclosures

Pursuant to the [WP Act](#), a person who makes a disclosure of false information, knowing it to be false or being reckless about whether it is false, is guilty of an offence and is not protected under the Act.

If the disclosure has been made by a DEWNR employee, and the review finds that there is a reasonable likelihood that the disclosure was made maliciously or recklessly, this could be considered as an act of victimisation against the employee whom the whistleblower disclosure was made. In such cases, the Principal Policy Officer (Probity & Complaints) or the Manager, Performance and Strategy will refer the matter to the Director, Organisational Performance to be investigated as per the DEWNR Procedure on Bullying, Discrimination and Harassment. If the malicious disclosure was made by a DEWNR employee, disciplinary action may result against the employee.

In addition, the employee about whom the whistleblower disclosure was made will be advised and may seek their own legal advice as to their rights of redress.

If the matter has been publically disclosed, the Chief Executive will consider any request by the employee to issue a statement of support setting out that the allegations are believed to be wrong and unsubstantiated.

Ensuring the whistleblower is not subject to victimisation

The [WP Act](#) provides for a whistleblower whom has been victimised, to seek redress by commencing proceedings in court seeking a remedy in tort or lodging a complaint under the [Equal Opportunity Act 1984](#). The whistleblower should seek legal advice before taking one of these actions because the Act explicitly disallows you to lodge a claim under the [Equal Opportunity Act 1984](#) after you have commenced court proceedings or vice versa.

Any reports of victimisation made to DEWNR will be investigated in accordance with the DEWNR Procedure on Bullying, Discrimination and Harassment.

Recovery of stolen funds or property

If the matter relates to the theft of funds or property, DEWNR will investigate avenues to recover stolen funds or property. Advice will be sought from the Crown Solicitor's Office in this regard.

Procedure Writer:	Jo Mitchell-Smith	Version:	Final Approved Version
DEWNR Branch:	Organisational Performance	Date approved:	25 September 2017
DEWNR Group:	People & Performance	Review date:	25 September 2020
Keywords:	Whistleblower		
File Name:	Whistleblowers Protection Procedure		Page 6 of 8

DEWNR PROCEDURE



Government of South Australia
Department of Environment,
Water and Natural Resources



Definitions

Appropriate Authority

Pursuant to section 5 of the [Whistleblowers Protection Act 1993](#):

- (3) A disclosure is taken to have been made to a person to whom it is, in the circumstances of the case, reasonable and appropriate to make the disclosure if it is made to an appropriate authority (but this is not intended to suggest that an appropriate authority is the only person to whom a disclosure of public interest information may be reasonably and appropriately made).
- (4) For the purposes of subsection (3), a disclosure of public interest information is made to an appropriate authority if it is made to a Minister of the Crown or—
 - (a) where the information relates to an illegal activity—to a member of the police force;
 - (b) where the information relates to a member of the police force—to a member of the police force or the Office For Public Integrity;
 - (c) where the information relates to the irregular or unauthorised use of public money—to the Auditor- General;
 - (d) where the information relates to a public sector employee—to the Commissioner for Public Sector Employment;
 - (e) where the information relates to a member of the judiciary—to the Chief Justice;
 - (f) where the information relates to a member of Parliament—to the Presiding Officer of the House of Parliament to which the member belongs;
 - (g) where the information relates to a public officer (other than a member of the police force or a member of the judiciary)—to the Ombudsman;
 - (h) where the information relates to a matter falling within the sphere of responsibility of an instrumentality, agency, department or administrative unit of government—to a responsible officer of that instrumentality, agency, department or administrative unit;
 - (i) where the information relates to a matter falling within the sphere of responsibility of a local Government body—to a responsible officer of that body;
 - (j) where the information relates to a person or a matter of a prescribed class—to an authority declared by the regulations to be an appropriate authority in relation to such information.

Procedure Writer:	Jo Mitchell-Smith	Version:	Final Approved Version
DEWNR Branch:	Organisational Performance	Date approved:	25 September 2017
DEWNR Group:	People & Performance	Review date:	25 September 2020
Keywords:	Whistleblower		
File Name:	Whistleblowers Protection Procedure		Page 7 of 8

DEWNR PROCEDURE



Government of South Australia
Department of Environment,
Water and Natural Resources



What steps do members of the public need to take to comply with this procedure?

This Procedure applies to both DEWNR employees and members of the public alike.

Other relevant documents

[DEWNR Whistleblowers Protection Policy](#)

Contact

Wiebke Billows Principal Policy Officer (Probity & Complaints), Office of the Chief Executive (08) 8204 1213
Andrew Copus Manager Performance & Strategy (08) 8204 9208

Keith Baldry
A/GROUP EXECUTIVE DIRECTOR, PEOPLE AND PERFORMANCE

Date: 25 November 2017

Procedure Writer:	Jo Mitchell-Smith	Version:	Final Approved Version
DEWNR Branch:	Organisational Performance	Date approved:	25 September 2017
DEWNR Group:	People & Performance	Review date:	25 September 2020
Keywords:	Whistleblower		
File Name:	Whistleblowers Protection Procedure		Page 8 of 8