

FACT SHEET

PUBLIC INTEREST DISCLOSURE ACT

(Whistleblowers legislation)

- The *Public Interest Disclosure Act* has three main aims:
 - To protect people who make disclosures from criminal and civil liability (ie cannot be sued or dismissed for a disclosure) and to protect anyone who may suffer harm as a result of reprisal action.
 - To provide a mechanism for anyone to make disclosures about the improper conduct of public officers and public bodies.
 - To provide for those disclosures to be properly investigated and ensure any impropriety revealed by an investigation is properly dealt with.
- The legislation is not a response to any lack of professionalism but is a demonstration of Government's support for open, accountable Government.
- The legislation has involved a long and extensive consultation process that included a discussion paper and discussion Bill for public comment.
- Anyone can make a disclosure.
- The information and identity of the person making the disclosure and the investigation process is private and confidential.
- Disclosures can be made about criminal or dismissible conduct involving bribes, improper inducements or other forms of dishonesty, inappropriate bias, breach of public trust, or misuse of confidential information.
- Disclosures can also be made about substantial misuse or mismanagement of public resources, substantial risk to public health or safety, substantial risk to the environment, or substantial maladministration (being action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive, or improperly discriminatory or based wholly or partly on improper motives) that specifically substantially and adversely affects someone's interests.
- Disclosures can also be made about reprisal action.
- Disclosures are made to the Commissioner for Public Interest Disclosures (except disclosures relating to Members of the Legislative Assembly which must be made to the Speaker who may refer them to the Commissioner for investigation).

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- Disclosures can be made to the Commissioner for Public Interest Disclosures through a public body.
- The Commissioner for Public Interest Disclosures must investigate all public interest disclosures unless they are an abuse of process, too trivial or too old to warrant investigation, have already been investigated or would more appropriately be dealt with by a court or tribunal or contain misleading information.
- To make a false or misleading disclosure is an offence carrying a maximum penalty of 400 penalty units ie \$44,000 or two years jail. This reflects the seriousness of a disclosure.
- The legislation also makes it an offence carrying a maximum penalty of 400 penalty units ie \$44 000 or two years jail to take reprisal action against a person involved in a disclosure.
- The Information Commissioner will take on the role of the Commissioner for Public Interest Disclosures (ie that person will have a dual role).
- The Commissioner for Public Interest Disclosures is an independent statutory officer.
- The legislation covers public bodies including public service agencies, local government councils, the police force, universities (ie the Charles Darwin University and Batchelor Institute of Indigenous Tertiary Education), public hospitals and nursing homes, government owned corporations (ie the Power and Water Corporation), bodies established under legislation for a public purpose (such as the Territory Insurance Office), bodies whose members are appointed by the Administrator or a Minister, and other prescribed bodies supported by government funds or controlled by the Northern Territory.
- Public officers include members of Parliament, members or employees of public bodies (including local government councils), police officers and public office holders who are appointed by the Administrator or a Minister. Some persons, such as Judges and the Auditor-General, and bodies, such as courts and tribunals and boards with judicial or quasi-judicial functions performing deliberative functions, are excluded.
- Protection for reporting improper conduct to the media is not part of the NT whistleblowers legislation ie if a disclosure is made to the media that person is not protected.
- The legislation is transparent and a report on the performance of the Commissioner's functions will be made public in an annual report – much like the current Ombudsman's report.
- A report on any matter arising in relation to a public interest disclosure can be presented to the Minister for tabling in Parliament.

During the establishment of the independent Office of the Commissioner for Public Interest Disclosures, information on the *Public Interest Disclosure Act* will be available via the Department of Justice website (www.nt.gov.au/justice) or phone Zoe Marcham, the Acting Information Commissioner on 8999 1463.