



# Public Interest Disclosure Policy

**Approval date** 13 June 2018

**Purpose** APRA is committed to ensuring that all its business activities are both ethical and compliant with legislation, regulation, internal policies and accepted community standards. With this in mind, and in line with APRA's Corporate Values, staff are encouraged to report improper conduct they encounter.

This document sets out the policy and procedure for the handling of reports made by public officials about suspected wrongdoing (public interest disclosure), and for providing protection against victimisation or discrimination for the person making the report.

**Related documents** [\*Public Interest Disclosure Act 2013\*](#)  
[\*Public Interest Disclosure Standard 2013\*](#)  
APRA Code of Conduct  
APRA Fraud Control Plan  
APRA Human Resources Policy Manual  
[Commonwealth Ombudsman Guidelines](#)

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# Policy

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## Policy context and application

Disclosing wrongdoing is relevant to all organisations and all people, as every business and public body faces the risk of things going wrong internally. Where such a risk arises, usually the first people to realise or suspect the wrongdoing are those who work (or have worked), in or with the organisation. At some point in their career, people may be concerned about issues they see or hear during the course of their work.

The *Public Interest Disclosure Act 2013* (PID Act) came into effect on 15 January 2014. The purpose of the PID Act is to promote the integrity and accountability of the Commonwealth public sector.

APRA is required under the PID Act to have procedures in place for facilitating and dealing with public interest disclosures relating to APRA.

APRA's PID policy and procedure has been introduced to enable staff and others to raise genuine concerns about any suspected misconduct at an early stage and in the right way. It sets out the principles and processes for handling reports made to APRA by public officials about wrongdoing; is designed to ensure that such disclosures are investigated promptly and fairly; and for providing protection against victimisation or discrimination for the person making the report.

APRA has a positive commitment to reporting wrongdoing and prefers that a matter is raised, even if it is just a concern, rather than someone waiting for proof, and encourages people to raise concerns with APRA in the first instance.

Public officials must use one of the proper avenues outlined in this policy to gain the protections available under the PID Act. Those protections include confidentiality and immunity from criminal or civil liability or disciplinary action. A public official will not receive these protections if they give information to someone outside of Government unless the conditions for an external or emergency disclosure are met (as defined under the PID Act). Further, 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.

This policy complements APRA's other notification, investigation and complaints / grievance handling schemes.

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**What is disclosable conduct?**

It includes conduct engaged in by APRA, a public official (in that capacity) or service providers contracted to APRA which:

- contravenes a Commonwealth, State or Territory law;
- in a foreign country, contravenes a foreign law that applies to APRA, an official or a 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, or other misconduct in relation to analysis or advice<sup>1</sup>;
- results in wastage of public money or public property;
- unreasonably endangers health and safety; or
- endangers the environment.

Disclosable conduct also includes conduct by a public official that involves the abuse of their position as a public official and conduct that could be reasonable grounds for disciplinary action against the public official. It does not matter if the person has ceased to be a public official employee since the conduct occurred.

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**What is not disclosable conduct?**

Conduct is not disclosable conduct if it relates only to a person's:

- Disagreement with a policy or proposed APRA policy; or amounts, purposes or priorities, or expenditure or proposed expenditure, relating to such a policy or proposed policy.
- Private grievances, including complaints about individual employment matters that may be referred to People & Culture for mediation or be resolved through other parts of APRA's People & Culture policies and procedures.

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**What is a Public Interest Disclosure?**

A disclosure of information will generally be a public interest disclosure<sup>2</sup> if:

- The person making the disclosure is, or has been, a public official.
  - The person receiving the disclosure is a supervisor, manager or an Authorised Officer.
  - The information that tends to show, or the discloser believes on reasonable grounds, that the information tends to show, one or more instances of disclosable conduct.
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<sup>1</sup> The PID Act also covers fabrication, falsification, plagiarism or deception or other misconduct in relation to scientific research.

<sup>2</sup> Categories of public interest disclosure include internal, external, emergency and legal practitioner disclosures as defined in the PID Act.

<p>The ways a Public Interest Disclosure can be made</p>	<p>A public interest disclosure can be made:</p> <ul style="list-style-type: none"> <li>• Orally.</li> <li>• In writing.</li> <li>• Anonymously.</li> <li>• Without the person making the disclosure asserting that the disclosure is made for the purposes of the PID Act</li> </ul>
<p>Authorised Officers</p>	<p>An Authorised Officer (defined in section 36 of the PID Act) is responsible for receiving and handling a public interest disclosure (including deciding whether there should be an investigation) and allocating responsibility for the investigation.</p> <p>In APRA, an 'Authorised Officer' is defined as an employee who performs the duties of:</p> <ul style="list-style-type: none"> <li>• APRA Member;</li> <li>• Executive General Manager;</li> <li>• Senior Manager, Performance, Risk and Compliance.</li> </ul> <p>An APRA supervisor / manager may also receive a public interest disclosure from an APRA employee. The APRA supervisor / manager needs to refer the disclosure to an Authorised Officer.</p>
<p>Who can make a Public Interest Disclosure?</p>	<p>A public interest disclosure can be made by any current or former public official. 'Public official' is defined broadly in section 69 of the PID Act and includes:</p> <ul style="list-style-type: none"> <li>• APRA employees, including temporary or contract employees;</li> <li>• service providers contracted to APRA; and</li> <li>• officers or employees of service providers contracted to APRA.</li> </ul> <p>A person who is not a current or former public official may also be deemed to be a public official by an Authorised Officer if they believe on reasonable grounds that the person has information that concerns disclosable conduct (section 70 of the PID Act).</p>
<p>Protections</p>	<p>APRA is committed to safeguarding the interests of, and will act to protect, public officials who make a public interest disclosure based on an honest and reasonable belief of suspected wrongdoing. APRA will not tolerate any reprisal action, including dismissal, injury, demotion or discrimination against persons who make a public interest disclosure, and ensure the protection provided by the PID Act is available.</p> <p>APRA may provide immunity from the above to a person acting in good faith and who has not him or herself engaged in serious or illegal misconduct.</p> <p>Public officials who have made a public interest disclosure are encouraged to tell the person to whom they made their disclosure if they believe they are being, or may be, subject to a reprisal.</p>

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APRA will make every reasonable effort to protect the identity of a public official who makes a public interest disclosure. However, in some circumstances action may be required to be taken under the PID Act that would reveal, or would be likely to reveal, the identity of the person.

Public officials have the right to make a public interest disclosure anonymously, however this will make it more difficult to investigate, and provide protections. It is hoped that the assurances provided in this policy approved by APRA's Executive Board will encourage the disclosure by the person of their identity to those who need to know it. Alternatively an external disclosure may be made to the Commonwealth Ombudsman who has jurisdiction to investigate complaints about administrative matters and can do so without disclosing the complainant's identity.

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#### Investigations

On receipt of a disclosure by an Authorised Officer, a decision whether to investigate is to be made, where practical, within fourteen days.

If required, the disclosure will be allocated to the investigating officer. If an investigation is not to be undertaken, the discloser is to be notified of the reasons within the fourteen day period (Section 9 of the Procedures).

A person under investigation will be advised of the allegations. The investigation may require, separate, fact finding meetings with the discloser and the person under investigation.

The discloser will be formally advised of the result of the investigation.

The person under investigation will be formally advised of the result of the investigation, and, if appropriate, any sanctions proposed, with the opportunity to respond before any formal action is taken.

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#### Reporting

A formal investigation report is to be submitted to the APRA Chairman<sup>3</sup> for consideration of recommendations within 90 days of allocating the disclosure to an investigator.

Public interest disclosures made under this policy will be recorded in a secure register. The register will be confidential and not record any information that may identify a person who has made a report. The Senior Manager, Performance, Risk & Compliance is responsible for maintaining the register which includes the following details:

- the Authorised Officer receiving the disclosure and the date received;
- the nature of the disclosure;
- whether an investigation was required;
- the investigating officer;
- the investigation outcome / reasons an investigation was not required;

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<sup>3</sup> In the event the disclosure relates to the APRA Chairman, the report is to be submitted to the APRA Deputy Chairman, or the APRA Member

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- recommendations included in an investigation report and actions taken (where applicable).

A summary of disclosures received and the associated outcome is to be reported to APRA's Executive Board on a quarterly basis as part of APRA's Risk and Compliance report.

APRA will report annually to the Commonwealth Ombudsman on public interest disclosures made and how they have been addressed. The report will include:

- the number of public interest disclosures received by APRA Authorised Officers during the relevant financial year;
- the kinds of disclosable conduct to which public interest disclosures relate;
- the number of disclosure investigations APRA conducted during the relevant financial year;
- the actions that the APRA Chairman has taken during the relevant financial year in response to recommendations in reports relating to those disclosure investigations; and
- any other information requested by the Ombudsman.

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**Conflicts of interest**

In the event a disclosure relates to an Authorised Officer, or a person that would normally be involved in the investigation process, directly or indirectly, alternate arrangements are to be made to maintain procedural fairness.

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