

Public Interest Disclosure Policy

Objective

The Australian Institute for Teaching and School Leadership Limited (**AITSL**) is committed to the highest standards of ethical and accountable conduct. In keeping with this commitment, AITSL encourages people who have a genuine concern relating to suspected wrongdoing within AITSL to report their concerns. This policy ensures that AITSL meets its obligations under the *Public Interest Disclosure Act 2013* (Cth), *Public Interest Disclosure Amendment (Review) Act 2023* (Cth), and the *National Anti-Corruption Commission Act 2022* (Cth).

AITSL will ensure that those who disclose their concerns, or who are considering disclosing their concerns, are supported and protected from any adverse consequence relating to the disclosure.

Policy Statement

The *Public Interest Disclosure Act 2013* (**PID Act**) commenced on 15 January 2014. The PID Act promotes the integrity and accountability of the Commonwealth public sector by creating a framework for facilitating the reporting of suspected wrongdoing ('disclosable conduct' or personal work-related conduct) and ensuring timely and effective investigation of reports. The *National Anti-Corruption Commission Act 2022* (Cth) (**NACC Act**) establishes the National Anti-Corruption Commission (**NACC**). The NACC can investigate retrospective or current corruption issues to determine whether or not the corrupt conduct is **serious** or **systemic**. That is:

- the corruption issue concerns the conduct of a person who is, or was, a staff member of AITSL while that person is, or was, a staff member of AITSL; and
- the Authorised Officer suspects the corruption issue could involve serious or systemic corrupt conduct.

Corrupt conduct under the NACC Act is limited to:

- conduct by a public official (including AITSL employees, staff, contractors, and directors); or
- conduct that adversely affects, or could adversely affect, the honest or impartial exercise or performance of a public official's powers, functions, or duties.

This policy, and the supporting procedures, reflect the process specified in the PID Act and the NACC Act for the making and receiving of internal public interest disclosures under the PID Act and/or the NACC Act.

This policy covers:

- AITSL employees and former employees and directors
- all contracted service providers and their current and former employees who provide, or who have provided, services to AITSL under a contract with AITSL,

These are collectively referred to as 'public officials' in the PID Act and the NACC Act.

All public officials and former public officials are entitled to make a disclosure under the PID Act.

In the event of any inconsistency between the policy and procedures and the PID Act or the PID Standard, the PID Act and the PID Standard will apply to the extent of any such inconsistency.

What is a Public Interest Disclosure?

'Disclosable Conduct' under the PID Act includes illegal conduct, corruption, maladministration, wastage of public money, unreasonable danger to health or safety, danger to the environment, or abuse of position or any other conduct the nature of which is serious enough to constitute grounds for disciplinary action including reasonable grounds for termination of employment.

This may include serious conduct that a person reasonably believes:

- contravenes a law
- is corrupt
- perverts the course of justice
- results in a wastage of public funds or property
- is an abuse of public trust
- unreasonably endangers health and safety or endangers the environment
- is maladministration, including conduct that is unjust, oppressive, or negligent
- is an abuse of a public official's position
- if proved, could give reasonable grounds for disciplinary action.

Refer to **Appendix A** for a comprehensive list of kinds of disclosable conduct.

'Personal work-related conduct' under the PID Act is an act or omission of a public official in relation to another public official that occurs in the other public official's engagement or employment and would have or tend to have personal implications for the other public official. For example:

- conduct relating to an interpersonal conflict between the public official and the other public official (including, but not limited to, bullying or harassment);
- conduct relating to the transfer or promotion of the other official;
- conduct relating to the terms and conditions of engagement or appointment of the other public official;
- disciplinary action taken in relation to the other public official; or
- the suspension or termination of the other public official's employment.

Provided the discloser makes the disclosure in accordance with the procedures outlined under the PID Act, the person making the disclosures:

- is protected from detrimental treatment or reprisal action by the organisation or person about whom the Disclosable Conduct is made
- is granted immunities from criminal and administrative liability which might otherwise apply in relation to the disclosure of the Disclosable Conduct.

Protection from reprisals by the organisation or individual(s) about whom the disclosures are made is central to the PID scheme.

Mandatory Referral Obligations under NACC

Authorised Officers have mandatory referral obligations where they receive an internal public interest disclosure under the PID Act that raises a corruption issue under the NACC Act. Authorised Officers must refer Public Interest Disclosures to the NACC if **all of the following apply**:

- the internal disclosure is received in the course of the Authorised Officers performing their functions under the PID Act
- the internal disclosure raises a corruption issue under the NACC Act
- the corruption issue concerns the conduct of a person who is, or was, an AITSL employee, director and/or contractor while that person is, or was, an employee, director and/or contractor of AITSL, and
- the Authorised Officer suspects the corruption issue could involve serious or systemic corrupt conduct.

The Authorised Officer must refer the corruption issue to the NACC as soon as reasonably practicable or at up to 28 days upon becoming aware of it.¹ It is up to the NACC Commissioner to decide if they think a particular allegation of corrupt conduct is serious or systemic.

The Authorised Officer must also, in accordance with the PID Act, advise the public interest discloser that the matter has been referred to the NACC as soon as practicable.

A corruption issue is information, or an allegation, that raises a question of whether a person is, or has been, engaged in corrupt conduct in the past, present, or future.² The NACC Act defines 'corrupt conduct' as situations where a public official:

- does something that breaches the public trust;
- abuses their office as a public official; or
- misuses information the public official has access to in their capacity as a public official.

A corruption issue can also apply to any other person (whether a public official or not) who does something, or attempts to do something, that could adversely affect a public official's honesty or impartiality in their official capacity.³

¹ *National Anti-Corruption Commission Act 2022* (Cth), ss 35 & 38

² *National Anti-Corruption Commission Act 2022* (Cth), s 9

³ *National Anti-Corruption Commission Act 2022* (Cth), s 8

Examples of 'serious' corrupt conduct can involve any of the following:

- a criminal offence and, the seriousness of the offence and maximum penalty if a person is found guilty;
- a financial gain or loss, where the total value of money gained or lost is an amount that may constitute serious misconduct and/or criminal conduct
- another benefit or detriment and, the significance of that benefit or detriment
- misuse of information and, if so, the sensitivity of the information and potential harm from a misuse of that information;
- a person holding a senior or trusted role and, the seniority of the person, the level of trust they exercise in their role, and whether the person should have understood their responsibilities and duties in that role;
- a person trying to cause a public official to act dishonestly or in a biased way and, the significance if the public official did behave dishonestly or in a biased way.

Systemic corrupt conduct exists where, for example, a pattern of similar kinds of (corrupt) conduct is formed in an organisation.⁴

Voluntary Referral to NACC

Any person (including members of the public and public officials) can voluntarily refer a corruption issue, or provide information about a corruption issue, to the NACC. The NACC Commissioner will investigate serious or systemic corrupt conduct under the NACC Act.

Application of Procedure

This policy should be read in conjunction with the AITSL Public Interest Disclosure Procedures. These procedures apply to internal disclosures that relate to AITSL and are made by a current or former AITSL employees and stakeholders. An internal disclosure may be made to:

- the Manager of the discloser
- an Authorised Officer of AITSL
- the Commonwealth Ombudsman.

A disclosure must be made to one of these parties to gain the protections available under the PID Act.

Corrupt conduct that amounts to disclosable conduct under the PID Act or NACC Act can include conduct engaged in by AITSL, an employee or officer of AITSL, or a contractor to AITSL. It does not matter whether the person who engaged in the disclosed misconduct has ceased to be employed or

⁴ Mandatory referrals: Commonwealth agency heads, Australian Government Attorney-General's Department May 2023

engaged by AITSL since the time the conduct is alleged to have occurred, but it is necessary that they carried out the disclosable conduct in connection with their position as a public official.⁵

These procedures will apply regardless of whether the disclosable conduct occurred before or after 15 January 2014.

Making a Public Interest Disclosure

Public interest disclosures can be made orally or in writing:

- by an employee to their Manager
- to the Principal Officer or an Authorised Officer
- to PID@AITSL.edu.au
- in very limited circumstances, to a person outside the government other than a foreign official.

The identity of the discloser and any identifiable factors included in the public interest disclosure shall remain confidential and be protected by AITSL in accordance with the PID Act. However, in order to maintain such anonymity, the discloser must adhere to the PID Procedures and this policy document in accordance with the PID Act.

A person may also make a report anonymously; however:

- AITSL cannot then ensure the person is protected from reprisal.
- It can make further investigation difficult.
- AITSL cannot provide the person with updates on the progress of the investigation.

Read AITSL's PID Procedures for more information on how the company manages a disclosure.

Making an anonymous voluntary referral to the NACC can also mean the NACC Commissioner cannot:

- seek any further information from the discloser about their referral;
- notify the discloser about the outcome of any investigation into their referral; or
- ensure measures are in place to protect the discloser or other person(s) involved in their referral.

Form and Content

An internal disclosure may be made anonymously, orally, and/or in writing and may be made without a clear intention of making a public interest disclosure. If a disclosure is made orally, it is important that the person receiving the report makes a written record of the disclosure.

The information contained in a disclosure should be clear and factual, and should, as far as possible, avoid speculation, innuendo, supposition, rumour, personal attacks, and emotive language. It should

⁵ 'Public Official' includes employees of Commonwealth companies such as AITSL under the PID Act.

contain supporting evidence where available to the discloser and should, where possible, identify any witnesses to the disclosable conduct.

A disclosure statement should provide as much information as possible, including:

- the discloser's name and contact details unless they wish to remain anonymous
- a description of the serious or systemic corrupt conduct
- who committed or is suspected of committing the serious or systemic corrupt conduct
- the dates and timeframes of when the alleged corrupt conduct occurred or may have occurred
- relevant background information and events
- if anything has been done in response to the corrupt conduct
- contact details for anyone else who is aware of the corrupt conduct and has allowed it to continue
- whether the discloser believes the information is a public interest disclosure under the PID Act or the NACC Act; however, it does not need to be described this way for it to be treated as a public interest disclosure
- if the discloser is concerned about possible reprisal as a result of making a disclosure.

Definitions

Term	Definition
Authorised Officer	Authorised Officers of AITSL are the Chair of the Risk, Audit and Finance Committee (Board Director) and the Company Secretary. Other persons may be appointed as an Authorised Officer at any time by written notice from the Principal Officer. The Authorised Officer has a range of decision-making, notification, and other responsibilities under the PID Act.
Disclosable Conduct	Disclosable conduct is conduct of a kind outlined in Appendix A that is conduct: • engaged in by AITSL; or • engaged in by a public official, in connection with his or her position as a public official; or • engaged in by a contracted service provider for a Commonwealth contract, in connection with entering into, or giving effect to, that contract. The following are also considered disclosable conduct: • conduct engaged in by a public official that involves, or is engaged in for the purpose of, the public official abusing his or her position as a public official

Term	Definition
	- conduct engaged in by a public official that could, if proved, give reasonable grounds for disciplinary action against the public official. It is immaterial: - whether conduct occurred before or after the commencement of this section; or - if AITSL has engaged in corrupt conduct—whether AITSL has ceased to exist after the conduct occurred; or - if a public official has engaged in conduct—whether the public official has ceased to be a public official after the conduct occurred; or - if a contracted service provider has engaged in conduct—whether the contracted service provider has ceased to be a contracted service provider after the conduct occurred.
External Disclosure	A public interest disclosure made to any person, other than a foreign public official, if: - an investigation was conducted under internal disclosure procedures and the public official reasonably believes the investigation or AITSL's response was inadequate, or the investigation was not completed within the required time (i.e. 90 days unless an extension is approved by the Ombudsman); and - the disclosure is not contrary to the public interest; and - no more information is disclosed than is reasonably necessary.
Internal Disclosure	An internal disclosure is made when: - a person who is or has been a public official - discloses to their manager, or an authorised officer (including the Commonwealth Ombudsman) - information which tends to show, or the discloser believes on reasonable grounds tends to show, one or more instances of disclosable conduct.
Public Official	Includes public servants (ongoing, non-ongoing, and casual) and parliamentary service employees, service providers under a Commonwealth contract, statutory office holders, (for the purposes of the PID Act) staff of Commonwealth companies, and temporary employees engaged through a recruitment agency. A public official also includes any other person deemed by the authorised officer to be a public official for the purposes of the PID Act and the NACC Act.

Term	Definition
Principal Officer	Means the Chief Executive Officer of AITSL and has specific obligations under the PID Act, as provided above and the NACC Act, as set out in the NACC Act Policy and Procedures.

Relevant Legislation

- *Public Interest Disclosure Act 2013* (Cth)
- *National Anti-Corruption Commission Act 2022* (Cth) (from 1 July 2023)
- *Crimes Act 1958* (Vic)
- *Crimes Act 1914* (Cth)

Related Documents

- FAQs for AITSL Employees
- PID Act Flowchart – Disclosure to AITSL
- Form 1 – Notice to discloser – Decision not to allocate
- Form 2 – Notice of allocation of disclosure
- Form 3 – Notice to discloser of allocation
- Form 3A – Notice to discloser – Investigation powers
- Form 4 – Notice to discloser – Decision not to investigate
- Form 4A – Notice to discloser – Decision to cease investigation
- Form 5 – Notice to discloser – Investigation of your disclosure
- Form 6 – Notice to Ombudsman – Decision not to investigate
- Form 6A – Notice to Ombudsman – Decision to cease investigation
- Form 7 – Notice to discloser of completion of investigation

Version Control

Version	Author	Date Approved	Reason for Update	Next Review
Version 1	Chief Executive Officer	17 October 2014	New policy	2017
Version 2	Chief Executive Officer	4 May 2017	Policy review	2018
Version 3	Corporate Services	12 November 2018	GDPR update and template refresh	2020
Version 4	Legal and Governance	9 June 2020	Policy Review	2022

Version	Author	Date Approved	Reason for Update	Next Review
Version 5	Legal and Governance	19 April 2022	Policy Review	2024
Version 6	Legal and Governance	22 August 2023	NACC update	2025

Appendix A

Kinds of Disclosable Conduct

The following table outlines kinds of disclosable conduct as stipulated in the PID Act.

1	Conduct that contravenes a law of the Commonwealth, a State, or a Territory.
2	Conduct, in a foreign country, that contravenes a law that: • is in force in the foreign country; and • is applicable to AITSL, public official, or contracted service provider; and • corresponds to a law in force in the Australian Capital Territory.
3	Conduct that: • perverts, or is engaged in for the purpose of perverting, or attempting to pervert, the course of justice; or • involves, or is engaged in for the purpose of, corruption of any other kind.
4	Conduct that constitutes maladministration, including conduct that: • is based, in whole or in part, on improper motives; or • is unreasonable, unjust, or oppressive; or • is negligent.
5	Conduct that is an abuse of public trust.
6	Conduct that is: • fabrication, falsification, plagiarism, or deception, in relation to: – proposing scientific research; or – carrying out scientific research; or – reporting the results of scientific research; or • misconduct relating to scientific analysis, scientific evaluation, or the giving of scientific advice.
7	Conduct that results in the wastage of: • public money (within the meaning of the <i>Financial Management and Accountability Act 1997</i>); or • public property (within the meaning of that Act); or

	• money of a prescribed authority; or • property of a prescribed authority.
8	Conduct that: • unreasonably results in a danger to the health or safety of one or more persons; or • unreasonably results in, or increases, a risk of danger to the health or safety of one or more persons.
9	Conduct that: • results in a danger to the environment; or • results in, or increases, a risk of danger to the environment.
10	Conduct of a kind prescribed by the PID rules.