



# PUBLIC INTEREST DISCLOSURE ACT 2003

## **WHAT IS THE PUBLIC INTEREST DISCLOSURE ACT 2003?**

The Public Interest Disclosure Act 2003 became effective 1 July 2003.

The Act is designed to facilitate the disclosure of an allegation or complaint about a person who is a government official, public authority, agency or a government contractor.

If you believe that a government employee, agency or contractor is not acting in the public interest, the Act provides opportunities for you to discuss your concerns, and a process to undertake investigation.

## **WHO DOES IT RELATE TO?**

The Act relates to all public authorities including State Government agencies and departments, local governments and bodies established under a written law for a public purpose.

The Act also relates to employees of a public body or a public authority contractor.

The Shire of Ashburton, Elected Members, CEO, Administration Staff and contractors of the Shire are bound by the Public Interest Disclosure Act 2003.

## **WHO MAY MAKE A DISCLOSURE?**

Anyone may make a disclosure, including residents or employees of the Shire. The disclosure must relate to a matter that is covered by the Act and may pre-date 1 July 2003 or be currently occurring.

## **DISCLOSURES COVERED BY THE ACT**

A disclosure must relate specifically to one or more of the following areas:

- Improper conduct
- An offence under State Law, including corruption

- Irregular or unauthorized use of public resources
- Administration matters affecting you
- Substantial unauthorized or irregular use of, or substantial mismanagement of, public resources
- Conduct involving a substantial and specific risk or injury to public health, prejudice to public safety or harm to the environment

For issues outside the parameters of this list and therefore the Act, complaints against the Shire of Ashburton will be investigated under the Shire's Complaint Handling Procedure. Please note that this Procedure does not afford the protection offered by the Act.

Complaints against bodies other than the Shire of Ashburton should be made direct to the responsible body.

## **WHAT PROTECTION DOES THE ACT GIVE?**

The Act provides the person making the public interest disclosure with protection for making the disclosure. It also protects the identity of the person named in the disclosure.

Protection encourages people with particular knowledge to make a disclosure in the public interest.

The Act provides protection against:

- Reprisals
- Civil and criminal liability in the event of making a disclosure
- Dismissal or having services dispensed with
- Breach of confidentiality or secrecy agreements

The Shire will take all reasonable steps to protect employees who make a disclosure from any detrimental action in reprisal for making the disclosure.

There will be no tolerance for any act of victimization or reprisal against a person making a disclosure and any such act should be reported immediately to the Public Interest Disclosure Officer.

### **SHOULD I MAKE A DISCLOSURE?**

Before making a disclosure it is important that you are aware of the rights and responsibilities imposed on you and others under the Act. The Shire's PID Officer will assist you, but you should be aware that;

- It is an offence to disclose recklessly or if it is false and misleading
- If a matter is investigated, you are expected to cooperate
- You must keep your information confidential or you may lose your protection and commit an offence.

A disclosure should only be made where you have good reason to believe action should be taken. If you have any doubt, consider these questions:

- Are there reasonable grounds to believe that your information is true?
- Does the information relate to something important to be disclosed?
- Does it relate to a personal agenda?
- Do you fully understand your responsibilities under the Act?

### **MAKING A DISCLOSURE**

Each public agency must appoint a Public Interest Disclosure Officer who is responsible for handling the disclosures made.

The Shire of Ashburton has appointed one Public Interest Disclosure Officer: **Administration Manager.**

In some cases it may be necessary for the information disclosed to be referred to another proper authority to investigate.

### **WHAT HAPPENS WITH YOUR DISCLOSURE?**

The Public Interest Disclosure Officer must assess the information in your disclosure to ascertain if it meets the Act criteria. After that assessment the Shire must investigate the matter unless it is considered:

- Vexatious or frivolous
- There is no reasonable prospect of obtaining sufficient evidence due to the lapse of time
- It is or has been already adequately or properly investigated by a proper authority
- It does not relate to the Shire, an employee or a contractor of the Shire
- It does not relate to a matter which the Shire has the function, power or jurisdiction to investigate

Within 3 three months of lodging your disclosure, the Shire must inform you of the investigation outcomes, actions or progress.

### **RIGHTS OF APPEAL**

If dissatisfied with the outcome there is no right of appeal but you may be able to make another disclosure to a different proper authority.

Proper authorities include Corruption and Crime Commission, State ombudsman, Officer of the Auditor General and WA Police.

### **PENALTIES**

The Act provides severe penalties of up to \$24,000 for breaches, including the unauthorized disclosure of the identity of the informant or the subject of the complaint.

### **ENQUIRIES**

Enquiries regarding the Shire of Ashburton and the Public Interest Disclosure Act 2003 can be directed to:

**Administration Manager**

**Phone: (08) 9188 4444**

**Email: [soa@ashburton.wa.gov.au](mailto:soa@ashburton.wa.gov.au)**

**In Person: Lot 246 Poinciana Street, Tom Price WA 6751**