



Checklist: Protecting whistleblower confidentiality

This checklist will assist if you or your organisation has received a protected disclosure about serious wrongdoing in your workplace. It identifies what ought to be covered to ensure that decision makers comply with the confidentiality requirements of the Protected Disclosures Act 2000 (PDA). The checklist applies to both the public and private (including not-for-profit) organisations.

For more information, check out the Ombudsman's [Protected Disclosure – guidance on internal policies and procedures](#).

Clearly set out the confidentiality requirements

- Ensure your internal practices and procedures require that information that might identify the whistleblower is not disclosed, unless one of the following applies:
 - The person consents in writing to the disclosure of information that might identify them ([s19\(1\)\(a\) PDA](#)); or

You believe on reasonable grounds that disclosure of identifying information is essential:

- to the effective investigation of the protected disclosure ([s19\(1\)\(b\)\(i\) PDA](#));
- to prevent serious risk to the public health or public safety or the environment ([s19\(i\)\(b\)\(ii\) PDA](#)); or
- having regard to the principles of natural justice ([s19\(1\)\(b\)\(iii\) PDA](#)).

Have processes to ensure the identity of whistleblowers is protected

- Include a statement of the organisation's commitment to maintaining the confidentiality of whistleblowers.
- Outline responsibilities for those receiving disclosures from a whistleblower.
- Provide guidance on how information about a whistleblower's identity will be protected in practice. For example: whether a whistleblower's name and position will be redacted from documents, whether a pseudonym will be used, where the documents will be stored/saved to restrict access to other staff.

- Consider ways to investigate the disclosure without revealing a whistleblower's identity. For example seeking information from documentary records, interviewing the whistleblower along with other staff as a witness, thinking carefully about how the matter of concern is described to those interviewed.
- Have procedures to protect against inadvertent disclosure of a whistleblower's identity. For example consideration of whether certain actions taken to investigate the disclosure could indirectly reveal a whistleblower's identity, particularly if they were the only person who could have been aware of the issue in the first place.
- Note that a request pursuant to the Official Information Act 1982 or the Local Government Official Information and Meetings Act 1987 for information may be refused if it might identify a person who has made a protected disclosure ([s19\(2\) PDA](#)).
- Include a process for obtaining legal advice prior to a decision to disclose information that might identify a whistleblower.

Communicate with and provide support for the whistleblower

- Ensure your processes provide for early discussion with the whistleblower about any potential issues that might impact on your ability to protect their confidentiality. Include in your discussion the risks of any inadvertent disclosure of their identity. Consider reviewing the position and revisiting this conversation throughout the investigation.
- If disclosure of information which might identify a whistleblower is essential (pursuant to the strict requirements of [s19\(1\)\(b\) PDA](#)), then also ensure that you:
 - Consult with the whistleblower prior to disclosure to explain why you consider this is essential, and take their views into account.
 - Consider what possible protections can be put in place to mitigate any harm associated with the disclosure of identifying information (and revisit this throughout the investigation).
 - Consider support for the discloser, including peer support, support from a designated senior staff member, information about how to access external support, and ongoing monitoring of the support put in place.

Further guidance

The Ombudsman is available to provide confidential assistance to organisations who have received a protected disclosure. If you're concerned about how you ought to address confidentiality as the receiver of a protected disclosure, or you just need further information and guidance, you can [contact](#) the Ombudsman. Your enquiries will be treated in confidence, and will be dealt with by our specialist staff.