

# Public Interest Disclosure

LEG-PR-002

## Applicability

ARTC Network Wide

## Publication Requirement

Internal Only

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## 1 Introduction

### 1.1 Purpose

The Public Interest Disclosure Procedure ("PID Procedure") sets out procedures for facilitating and dealing with Public Interest Disclosures relating to ARTC, including procedures:

- a) for reporting and dealing with Disclosable Conduct, including actual or suspected breaches of the Corporations Legislation;
- b) to ensure that Public Officials who make Public Interest Disclosures are supported and protected from Reprisals (including assessing risks that Reprisals may be taken); and
- c) providing for confidentiality of investigative processes.

#### **Public Interest Disclosures**

Broadly speaking, a Public Interest Disclosure is a disclosure of information by an ARTC Public Official (which includes a staff member, the CEO or contracted service provider of ARTC) concerning Disclosable Conduct (including suspected or probable illegal conduct or other wrongdoing) that is made:

- a) to an Authorised Internal Recipient, which includes:
  - i. the ARTC Public Official's supervisor;
  - ii. the CEO or an ARTC staff member authorised by the CEO or by a delegate of the CEO; or
  - iii. in certain circumstances, an authorised officer of the Ombudsman or another appropriate investigative agency;
- b) to any other person, if:
  - i. an internal disclosure of the information has not been adequately dealt with, and if wider disclosure satisfies public interest requirements; or
  - ii. there is substantial and imminent danger to health or safety;
- c) to an Australian legal practitioner for purposes connected with the above matters.

#### **Relevant Law**

Public Interest Disclosures are governed by the *Public Interest Disclosure Act 2013* (Cth) ("PID Act") and, to the extent that they relate to a contravention of the Corporations Legislation, may also be protected under the Corporations Act.

A disclosure of information in good faith by an officer, employee, or contracted service provider of ARTC may also be protected under Part 9.4AAA of the Corporations Act if the discloser has reasonable grounds to suspect that the information indicates that ARTC (or an officer or employee of ARTC) has, or may have, contravened a provision of the Corporations Legislation.

**NOTE:** This PID Procedure contains a summary only of certain requirements of the PID Act and the Corporations Act relating to Public Interest Disclosures and disclosures concerning contraventions of the Corporations Legislation. Accordingly, this PID Procedure should not be relied on as a complete or accurate statement of the requirements of the PID Act or the Corporations Act. ARTC Public Officials should consider the PID Act and the Corporations Act, and should seek legal advice if required.

## 1.2 Scope

The PID Procedure applies to all ARTC Public Officials.

The PID Procedure:

- a) sets out the procedures for facilitating and dealing with Public Interest Disclosures;
- b) addresses the protection and appropriate management of ARTC Public Officials in making Public Interest Disclosures (including assessing risks that Reprisals may be taken); and
- c) provides for confidentiality of investigative processes.

## 1.3 Procedure Owner

The Company Secretary is the PID Procedure Owner.

## 1.4 Responsibilities

This section of the PID Procedure outlines the key responsibilities of ARTC Public Officials, Authorised Officers and the CEO in connection with Public Interest Disclosures.

### ***ARTC Public Officials***

- a) ARTC Public Officials are to make any Public Interest Disclosure in accordance with this PID Procedure;
- b) ARTC Public Officials must not, under any circumstance, engage in any activity that is, or could be perceived to be, victimisation or harassment of a person who makes a Public Interest Disclosure;
- c) ARTC Public Officials must not, under any circumstance, engage in any activity (including by omission) that would constitute taking a Reprisal against a person; and
- d) ARTC Public Officials must not disclose or use information that:
  - i. was obtained in that person's capacity as a Public Official; and
  - ii. is likely to enable the identification of a person who has made a Public Interest Disclosure,  
unless:
    - iii. the disclosure is made to the person who made the Public Interest Disclosure;
    - iv. the disclosure or use is for the purposes of the PID Act or another law of the Commonwealth or a prescribed law of a State or Territory;
    - v. the disclosure or use is made with the consent of the person who made the Public Interest Disclosure;
    - vi. the information has previously been lawfully published; or
    - vii. the disclosure or use is otherwise permitted under the PID Act, the Corporations Act and any other relevant law.
- e) An ARTC Public Official must use his or her best endeavours to:
  - i. assist the Investigator in the conduct of an investigation under this PID Procedure or the PID Act; and
  - ii. assist the Ombudsman or the IGIS in the performance of their functions under the PID Act.

***PID Officer:***

The PID Officer has the following responsibilities:

- a) Accountability for the core operation of the PID Procedure. The PID Officer has direct access to the CEO and the Chairman of the Audit and Compliance Committee of the Board;
- b) Providing general advice about the operation of the PID Procedure for any person wishing to make a Public Interest Disclosure or a disclosure about a Detriment;
- c) Acting as a point of contact for ARTC Public Officials to field questions, and to provide assistance or support during the disclosure process;
- d) Receiving all phone calls, emails and letters from ARTC Public Officials seeking to make a Public Interest Disclosure;
- e) Making arrangements for Public Interest Disclosures to be made privately and discreetly and, if necessary, outside the work environment;
- f) Impartially assessing a Public Interest Disclosure and determining whether it is a disclosure made in accordance with the procedures set out in this PID Procedure and in accordance with the PID Act;
- g) Taking all steps appropriate to ensure that identifying information of a person who has made a Public Interest Disclosure and the identity of any person subject to a Public Interest Disclosure remain confidential and are only used or disclosed in accordance with this PID Procedure, the PID Act, the Corporations Act and other relevant law;
- h) Allocating the handling of a Public Interest Disclosure to ARTC or one or more other relevant Agencies in accordance with this PID Procedure and the PID Act;
- i) Liaising with the appropriate Agencies (both internal and external) carrying out an investigation resulting from a Public Interest Disclosure;
- j) Establishing and maintaining a confidential filing system for Public Interest Disclosures and related investigations; and
- k) Taking all reasonable steps to ensure the Public Interest Disclosure process is fair, just and in accordance with the law.

***Investigator:***

- a) The Investigator will be responsible for:
  - i. carrying out an internal investigation into any Public Interest Disclosure for which ARTC is the handling Agency (including a disclosure that has been referred to ARTC by another Agency);
  - ii. notifying the person who has made that Public Interest Disclosure as to the progress of the investigation; and
  - iii. preparing and providing a report of the investigation to the person who made that Public Interest Disclosure.
- b) Like the PID Officer, the Investigator has direct access to the CEO, the Company Secretary and the Chairman of the Audit and Compliance Committee of the Board.

## 1.5 Reference Documents

The following documents support this procedure:

- HR06-006 Discipline Policy
- ARTC Code of Conduct

## 1.6 Definitions

The following terms and acronyms are used within this document:

Term or acronym	Description
Agency	Has the meaning it has in the PID Act, and includes: <ol style="list-style-type: none"> <li>a) a Commonwealth department or executive agency;</li> <li>b) a statutory agency, Commonwealth authority or Commonwealth company.</li> </ol>
ARTC	Australian Rail Track Corporation Ltd and ARTC Services Company Pty Ltd.
ASIC	Australian Securities and Investments Commission.
ASIC Act	<i>Australian Securities and Investments Commission Act 2001</i> (Cth) as in force from time to time.
Authorised Internal Recipient	Has the meaning it has in the PID Act, and in relation to ARTC includes: <ol style="list-style-type: none"> <li>a) the CEO or a member of ARTC staff appointed as an authorised officer by the CEO (or by a delegate of the CEO);</li> <li>b) an authorised officer of the Ombudsman, if the person making the disclosure believes on reasonable ground that it would be appropriate for the disclosure to be investigated by the Ombudsman; and</li> <li>c) an authorised officer of an investigative agency that has the power to investigate the relevant disclosure, otherwise than under the PID Act.</li> </ol> <p>The CEO has appointed the Company Secretary to be an Authorised Internal Recipient.</p>
Authorised Officer	Has the meaning it has in the PID Act and, in relation to ARTC means: <ol style="list-style-type: none"> <li>a) the CEO; or</li> <li>b) a member of ARTC staff appointed as an authorised officer by the CEO (or by a delegate of the CEO).</li> </ol>
CEO	The Chief Executive Officer (however described) of ARTC.
Corporations Act	The <i>Corporations Act 2001</i> (Cth) as in force from time to time.
Corporations Legislation	Has the meaning it has in the Corporations Act, which at the date of preparation of this Procedure includes the Corporations Act and the ASIC Act.
Detriment	Has the meaning it has in the PID Act, and includes a disadvantage,

Term or acronym	Description
	<p>including (without limitation) any of the following:</p> <ul style="list-style-type: none"> <li>a) dismissal of an employee;</li> <li>b) injury of an employee in his or her employment;</li> <li>c) alteration of an employee's position to his or her detriment;</li> <li>d) discrimination against an employee and other employees of the same employer.</li> </ul>
<p>Disclosable Conduct</p>	<p>Has the meaning it has in the PID Act, and includes any of the following conduct engaged in by ARTC, an ARTC Public Official, or a contracted service provider to ARTC:</p> <ul style="list-style-type: none"> <li>a) conduct that contravenes a law of the Commonwealth, a State or a Territory;</li> <li>b) conduct in a foreign country that contravenes applicable law in force in that country that corresponds to a law in the ACT;</li> <li>c) conduct that perverts, or is engaged in for the purpose of perverting or attempting to pervert, the course of justice; or that involves, or is engaged in for the purpose of, corruption of any other kind;</li> <li>d) conduct that constitutes maladministration, including conduct that: <ul style="list-style-type: none"> <li>i. is based, in whole or in part, on improper motives; or</li> <li>ii. is unreasonable, unjust or oppressive; or</li> <li>iii. is negligent;</li> </ul> </li> <li>e) conduct that is an abuse of public trust;</li> <li>f) conduct that is: <ul style="list-style-type: none"> <li>i. a fabrication, falsification, plagiarism or deception, in relation to scientific research; or</li> <li>ii. misconduct relating to scientific analysis, scientific evaluation or the giving of scientific advice;</li> </ul> </li> <li>g) conduct that results in the wastage of: <ul style="list-style-type: none"> <li>i. public money or public property (each as defined in the Financial Management and Accountability Act 1997 (Cth); or</li> <li>ii. money or property of a prescribed authority (such as ARTC);</li> </ul> </li> <li>h) conduct that unreasonably: <ul style="list-style-type: none"> <li>i. results in danger to; or</li> <li>ii. results in, or increases, a risk of danger to the health or safety of one or more persons or the environment;</li> </ul> </li> <li>i) conduct engaged in by a Public Official that: <ul style="list-style-type: none"> <li>i. involves, or is engaged in for the purpose of, an abuse of position of the Public Official; or</li> </ul> </li> </ul>

Term or acronym	Description
	j) conduct that could, if proved, give reasonable grounds for disciplinary action against the Public Official.
IGIS	Inspector-General of Intelligence and Security.
Internal Disclosure	<p>Is defined in the PID Act, and means a disclosure of information:</p> <p>a) made by an ARTC Public Official to that person’s supervisor or an Authorised Internal Recipient; and</p> <p>b) that tends to show, or the discloser believes on reasonable grounds that the information tends to show, one or more instances of a Disclosable Conduct.</p>
Investigation Plan	The plan developed by the Investigator under this PID Procedure.
Investigator	<p>The ARTC Public Official to whom the CEO has delegated the investigative functions described in this PID Procedure for which the CEO is responsible under the PID Act.</p> <p>The CEO has delegated the Company Secretary to be the Investigator.</p>
PID Act	The <i>Public Interest Disclosure Act 2013</i> (Cth) as in force from time to time.
PID Officer	The ARTC Public Official appointed as an authorised officer of ARTC by the CEO (or by a delegate of the CEO) for the purposes of the PID Act.
PID Procedure	Refers to this procedure and any subsequent amendment as in force from time to time.
Principal Officer	Has the meaning it has in the PID Act and, in relation to ARTC, means the CEO.
Public Interest Disclosure	Has the meaning it has in the PID Act.
Public Official	<p>Has the meaning it has in the PID Act, and in relation to ARTC, includes:</p> <p>a) the CEO;</p> <p>b) a member of staff of ARTC;</p> <p>c) an individual who is, or is an officer or employee of, a contracted service provider for a services contract with ARTC.</p> <p>This includes individuals taken to be Public Officials within the meaning of the PID Act.</p>
Reprisal	<p>“Taking a Reprisal” has the meaning it has in the PID Act. A person (the <b>first person</b>) takes a reprisal against another person (the <b>second person</b>) if:</p> <p>a) the first person causes (by act or omission) any Detriment to the second person; and</p> <p>b) when the act or omission occurs, the first person believes or suspects that the second person or any other person made, may have made or proposes to make a Public Interest Disclosure; and</p>

Term or acronym	Description
	c) the belief or suspicion is the reason, or part of the reason, for the act or omission,  however a person does not take a Reprisal against another person to the extent that the person takes administrative action that is reasonable to protect the other person from Detriment.
Workplace Agreement	Refers to all relevant Enterprise, Collective and Workplace Agreements.

## 2 Reporting System

### 2.1 Persons to whom a Public Interest Disclosure may be made

Pursuant to this PID Procedure, a Public Interest Disclosure, or a report of suspected Detriment, may be made by an ARTC Public Official to:

- a) the PID Officer; or
- b) a supervisor of the ARTC Public Official.

If a Public Interest Disclosure is made by an ARTC Public Official to a supervisor that is not a PID Officer, the supervisor must, as soon as reasonably practicable, give the information to the PID Officer if the supervisor has reasonable grounds to believe that the information concerns, or could concern, one or more instances of Disclosable Conduct.

Subject to the PID Act, if a disclosure relates to conduct of the CEO or the ARTC Company Secretary, that disclosure should be made or given to the Chair of ARTC's board of directors, provided that the Chair is a PID Officer.

If a person discloses, or proposes to disclose, information to the PID Officer and the PID Officer has reasonable grounds to believe:

- a) the information concerns Disclosable Conduct, the PID Officer must inform the person that the disclosure could be treated as an Internal Disclosure for the purposes of the PID Act; and
- b) the person may be unaware of what the PID Act requires in order for the disclosure to be an Internal Disclosure,

The PID Officer must also explain what the PID Act requires in order for the disclosure to be an Internal Disclosure and advise the individual of any orders or directions of which the PID Officer is aware that may affect disclosure of the information.

### 2.2 How a Public Interest Disclosure may be made

A Public Interest Disclosure may be made:

- a) orally or in writing; and
- b) anonymously.

However, a disclosure concerning a contravention, or suspected contravention, of the Corporations Legislation is not protected by the Corporations Act if the person making the disclosure does not inform the person to whom the disclosure is made of the discloser's name before making the disclosure.

### 2.3 Confidentiality

It is an offence under the PID Act for any person to disclose or use information:

- a) obtained by that person in their capacity as an ARTC Public Official; and
- b) that is likely to enable the identification of a person who has made a Public Interest Disclosure, otherwise than as permitted under the PID Act.

An offence may also be committed under the Corporations Act if ARTC or any of its directors, secretaries, senior managers, officers, or employees discloses information concerning a disclosure that relates to a contravention of the Corporations Legislation or identifying information relating to the discloser of that information, unless the disclosure is permitted under the Corporations Act.

If a Public Interest Disclosure is made, ARTC will protect the identity of the person who made the Public Interest Disclosure by:

- a) the matter being kept confidential and only discussed as is considered appropriate, on a “need to know” basis and as required or permitted by the PID Act and other relevant law; and
- b) the identity of the person making the Public Interest Disclosure being kept confidential and only discussed as is appropriate, on a “need to know” basis and as required or permitted by the PID Act and other relevant law.

## 2.4 Allocating the handling of disclosures

If a disclosure of information is made to the PID Officer or given to the PID Officer by a supervisor, the PID Officer must allocate the handling of the disclosure to one or more Agencies (which may be, or include, ARTC), unless the PID Officer is satisfied, on reasonable grounds, that there is no reasonable basis on which the disclosure could be considered to be an Internal Disclosure.

In deciding the allocation of the disclosure, the PID Officer:

- a) must have regard to:
  - i. the principles in the PID Act concerning allocation of disclosures, including the principle that an Agency (including ARTC) should not handle a disclosure unless some or all of the Disclosable Conduct with which the information may be concerned relates to the Agency; and
  - ii. such other matters (if any) as the PID Officer considers relevant; and
- b) may obtain information from such persons, and make such inquiries, as the PID Officer thinks fit.

The PID Officer must use his or her best endeavours to decide the allocation within 14 days after the disclosure is made to the PID Officer, and must not allocate a disclosure to an Agency (other than the ARTC) without the consent of the Authorised Officer of that Agency.

## 2.5 Giving Notice of the allocation decision

If the PID Officer allocates the handling of a disclosure to an Agency, the PID Officer must inform the person who made the disclosure of that allocation.

The PID Officer must also notify:

- a) the Principal Officer of each Agency to which the handling of the disclosure is allocated; and
- b) the Ombudsman and the IGIS if required under the PID Act,

of the allocation to the Agency, the information that was disclosed, the suspected Disclosable Conduct and, if the person making the disclosure has consented, their name and contact details.

If the PID Officer does not allocate the disclosure, the PID Officer must inform the person making the disclosure of the reason why the disclosure has not been allocated to an Agency, and any other courses of action that might be available to the person under other Commonwealth laws.

## 3 Investigations

### 3.1 Introduction

If the handling of a Public Interest Disclosure has been allocated to ARTC, the Investigator must investigate the disclosure unless the Investigator has the discretion not to investigate the disclosure under the PID Act.

Circumstances in which the Investigator will have the discretion not to investigate a Public Interest Disclosure include:

- a) where the person making the Public Interest Disclosure is not, and has not been, a Public Official;
- b) where the information does not, to any extent, concern serious Disclosable Conduct;
- c) where the disclosure is frivolous or vexatious;
- d) where the information concerns Disclosable Conduct that is the same, or substantially the same, as Disclosable Conduct that is being investigated under a law of the Commonwealth other than the PID Act or the executive power of the Commonwealth, and
  - i. it would be inappropriate to conduct another investigation at the same time; and
  - ii. the Investigator is reasonably satisfied that there are no further matters concerning the disclosure that warrants investigation;
- e) where the discloser has informed the Investigator that they do not want the investigation to be pursued and the Investigator is reasonably satisfied that there are no matters concerning the disclosure that warrant investigation; or
- f) where it is impractical for the disclosure to be investigated:
  - i. because the discloser's name and contact details have not been disclosed; or
  - ii. because the discloser refuses, fails or is unable to give, for the purposes of the investigation, such information or assistance as the Investigator needs to conduct the investigation; or
  - iii. because of the age of the information.

### 3.2 Notifications

The Investigator must, as soon as reasonably practicable, inform the person making a Public Interest Disclosure of the following (whichever is applicable):

- a) that the Investigator is required to investigate the disclosure and the estimated length of the investigation; or
- b) that the Investigator has decided not to investigate the disclosure, the reasons for that decision, and other courses of action that might be available to the person under Commonwealth laws.

If the Investigator has decided not to investigate a Public Interest Disclosure in accordance with the PID Act, the Investigator must inform the Ombudsman of the decision.

### **3.3 Time frame for investigation**

Investigations by the Investigator are to be carried out:

- a) as promptly as practicable in the circumstances, taking into account the requirements to preserve confidentiality and, as far as is reasonable, avoid disruption to ARTC's activities; and
- b) in any event within 90 days after the disclosure is allocated to ARTC, if it is a disclosure to which the PID Act applies (unless an extension to the time frame has been granted by the Ombudsman under the PID Act).

### **3.4 Terms of reference and risk assessment / management**

If the Investigator proceeds to investigate a disclosure, the Investigator must:

- a) discuss the disclosure with the PID Officer and, if requested by the PID Officer, prepare a Terms of Reference for the investigation which will set out:
  - i. the scope of the investigation;
  - ii. the witnesses and resources to be involved in the investigation; and
  - iii. the proposed timing of the investigation.

The PID Officer will review the Terms of Reference and make any changes necessary to ensure they fulfil the requirements of this PID Procedure.

- b) in conjunction with the PID Officer, perform an assessment of the risk that reprisals may be taken against the ARTC Public Officials who made the Public Interest Disclosure

### **3.5 Investigation plan**

The Investigator must consult with the PID Officer in the Investigator's preparation for an investigation and, if requested by the PID Officer, must prepare an Investigation Plan in relation to the disclosure, which is consistent with the approved Terms of Reference and sets out:

- a) the investigation processes to be followed;
- b) resources to be involved;
- c) records to be obtained and retained; and
- d) steps to be taken to:
  - i. manage the risk that Reprisals may be taken against the person who made the disclosure; and
  - ii. preserve confidentiality in accordance with this PID Procedure, the PID Act and other relevant law.

The PID Officer will review the Investigation Plan and liaise with the Investigator to make any changes necessary to the plan to ensure compliance with this PID Procedure and any applicable law (including the PID Act).

### **3.6 Conduct of the investigation**

Subject to this PID Procedure and the PID Act, an investigation may be conducted as the Investigator thinks fit, and should be conducted in a manner that is consistent with any:

- a) approved Investigation Plan for the investigation; and
- b) processes to preserve confidentiality or to manage the risk that Reprisals may be taken against the person who made the disclosure.

The Investigator will make notes, as appropriate, during all discussions, phone calls and interviews. With the permission of the interviewee, interviews may be taped. Interviews will be conducted in private. All information gathered in an investigation will be stored securely and confidentially as appropriate. The Investigator will protect the identity of the person making the Public Interest Disclosure in accordance with the PID Act. The investigation will ensure a fair process for those involved in the matter.

The Investigator must conduct an investigation relating to a Public Interest Disclosure in accordance with the requirements of the PID Act (including any applicable standards in force under this PID Act).

The Investigator may, for the purposes of the investigation, adopt a finding set out in the report of:

- a) an investigation or inquiry under a law of the Commonwealth or the executive power of the Commonwealth; or
- b) another investigation under the PID Act.

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## **4 Commitment to persons making a Public Interest Disclosure**

ARTC is committed to a workplace culture that:

- a) is supportive of Public Interest Disclosures being made; and
- b) refrains from, and prevents, Reprisals being taken against persons for the making of Public Interest Disclosures.

## **5 Conclusion of Investigation**

### **5.1 Draft report**

The Investigator must prepare a draft report of the investigation in writing for review by the PID Officer.

The draft report must include:

- a) the information required to be included in the Investigator's final report (see clause 5.2 below); and
- b) sufficient information for the PID Officer to assess compliance with the requirements for the conduct of the investigation in this PID Procedure, the PID Act and any other relevant law (including principles of confidentiality and fairness described above).

The Investigator will then, in consultation with the PID Officer as appropriate, prepare a final report on the Investigator's findings.

### **5.2 Investigator's final report**

At the conclusion of the investigation, the Investigator will prepare and submit a written report of the findings to the PID Officer.

The report must contain:

- a) the allegation/s;
- b) an account of all relevant information received and, if the Investigator has rejected the evidence as being unreliable, the reasons for this opinion being formed;
- c) the matters considered in the course of the investigation
- d) the duration of the investigation;
- e) the Investigator's findings (if any) and the basis for them;
- f) any action that has been, or is being, or is recommended to be taken.
- g) any claims made about, and any evidence of, Detrimental action taken against the person making the Public Interest Disclosure and ARTC's response to those claims and that evidence.

The Investigator must, within a reasonable time after preparing the report, give a copy of the report to the person who made the disclosure. However, the Investigator may delete from that copy of the report any material that:

- a) is likely to enable the identification of the person making the disclosure or another person; or
- b) would, by its inclusion in that copy, result in the copy being required to have a security classification, containing intelligence information, contravening a designated publication restriction, or being exempt for Part IV of the Freedom of Information Act 1982 (Cth).

If the Investigator determines that Disclosable Conduct has been substantiated, recommendations made by the Investigator may include:

- a) the steps that need to be taken by ARTC to prevent the conduct from continuing or occurring in the future; and
- b) any action that should be taken by ARTC to remedy any harm or loss arising from the conduct (see clause 5.3 below).

The report must be accompanied by copies of all documents, statements, tape recordings or other exhibits received by the Investigator and accepted as evidence during the course of the investigation.

Subject to applicable requirements of secrecy and confidentiality under the PID Act and the Corporations Act, where the Principal Officer's report is to include an adverse comment against any person, that person will be given the opportunity to respond and his or her evidence will be fairly included in the report.

Subject to the provisions of the PID Act relating to protection of the identity of disclosers, the final report will be given to the PID Officer and, if the allegations are substantiated, the PID Officer will refer the report to:

- a) the CEO; or
- b) if the disclosure relates to conduct of the CEO, the Chair of ARTC's board of directors, and the CEO or the Chair (as the case may be) will then determine any appropriate action to be taken according to clause 5.3 of this PID Procedure.

### **5.3 Action to be taken**

The CEO (or the Chair of ARTC's board of directors, if the report has been referred to the Chair according to clause 5.2), must ensure that appropriate action is taken in response to recommendations in a report produced by the Investigator under clause 5.2 including, if required by law, that the matter be referred to another Agency, external authority or law enforcement office.

Under the PID Act, a Public Interest Disclosure must be notified to a member of the Australian police force if, in the course of an investigation relating to that disclosure, the Investigator suspects on reasonable grounds that some or all of the information disclosed or obtained in the course of the investigation is evidence of the commission of an offence against a Commonwealth, State or Territory law and the offence is punishable by imprisonment for life or for a period of at least 2 years.

Without limiting the action that the CEO (or the Chair) may take in response to a recommendation in such a report, a number of outcomes and actions are possible. These include:

- a) No action taken. For example, this may be appropriate where any allegations made in a Public Interest Disclosure were found not to be substantiated.
- b) Disciplinary proceedings against various persons involved. Refer ARTC's Discipline Policy for more information.
- c) External reporting. For example, this may be necessary under the PID Act (see above) or otherwise appropriate if an investigation substantiates allegations of criminal conduct. Any external reporting will be at the discretion of and must be approved by the CEO (or the Chair), or their delegate, and may be subject to requirements under the PID Act.
- d) Preventative action. For example, a range of actions may be appropriate in an attempt to prevent further conduct of a type found to be substantiated by an investigation. Any preventative action will be at the discretion of and must be approved by the CEO (or the Chair), or their delegate.

## **6 Management of accused persons**

ARTC recognises that persons against whom Public Interest Disclosures are made must also be supported during any subsequent investigation. ARTC will take all reasonable steps to ensure that the confidentiality of such persons is maintained during any investigation and will not use or disclose any information obtained in the course of an investigation or in connection with the performance of a function or power under the PID Act except to the extent permitted under the PID Act.

In the event that an investigation does not result in particular allegations arising from a Public Interest Disclosure being substantiated, the fact that the investigation has been conducted, the results of the investigation and the identity of the person who is the subject of the Public Interest Disclosure will remain confidential to the extent reasonable under the circumstances and as required by law.

Subject to the PID Act, the Corporations Act and any other applicable law, any person who is the subject of a Public Interest Disclosure that is investigated by or on behalf of ARTC is to:

- a) be informed as to the substance of the allegation/s;
- b) be given the opportunity to answer the allegation/s before a final decision is made; and
- c) have their defence set out fairly in any final report prepared in connection with the investigation.

## **7 Review**

This PID Procedure must be periodically reviewed to ensure it:

- a) Satisfies the requirements of the PID Act, the Corporations Act and any other relevant legislation from time to time;
- b) Complies with any standards made for the purposes of the PID Act; and
- c) remains effective for ARTC.

This PID Procedure may be changed at any time at the discretion of the Chief Executive Officer and in accordance with the PID Act.