



ACT
Government

**Canberra Health
Services**

Attachment A

Canberra Health Services (CHS) has reviewed the *Public Interest Disclosure Act 2012* (the Act) in response to the call for submissions to the Review. CHS has the following comments:

Section 11 (2) – To address potential conflict of interest where a Public Interest Disclosure (PID) may relate to a disclosure officer or the area they are directly responsible for, consider that at least two people must be declared to be disclosure officers for Public Interest Disclosures (PID) for the entity.

Section 27 – Recommend this section be reviewed thoroughly and noting:

- disclosures may be very complex and take some time to appropriately assess
- if the spirit of the Act is to protect individuals who are disclosing, it may leave them open if they approach the media before something is deemed to be disclosable and if that is the case, there may be a question as to whether they may have breached confidentiality in relation to their employment obligations in certain circumstances
- if a person makes a disclosure public, the entity to which it relates should be able to make public comment (for example to media enquiries) and correct any untruths
- when disclosures are made public, there needs to be consideration for the potential effect on other employees who may be inadvertently caught up in these disclosures, for example, from the area that is mentioned in the media.

Section 27 (1) a – consideration on if the section and example still apply under Section 16 (1) c.? For example, if a disclosure is made to a supervisor/manager without the discloser asserting that the disclosure is made under the Act?

Section 27 (1) b and c – consider whether an addendum is appropriate to include that the discloser should have reasonably tried to follow up and/or there may be other time frames agreed between the discloser and the entity.

Section 27 (3) b – in order for a PID to be appropriately assessed and investigated, and to allow the principles of natural justice to apply, preference to escalate the disclosure to the Commissioner, Ombudsman or Legislative Assembly, rather than to a journalist in the first instance should be considered.

The review of the Public Interest Disclosure (PID) legislation should consider unintended use of the Act. For example, in compensation or unfair dismissal cases, there is the potential to complicate those matters with a PID action. While this may occasionally be coincidental and within the spirit of the Act, it can also be used tactically. The Act should be tightened to reduce its tactical use in such matters.