



**GUIDELINE**

**Public Interest Disclosure (PID)**

<b>Scope (Staff):</b>	All Staff (including Contractors and Volunteers), members of the public
<b>Scope (Area):</b>	CAHS (Neonatology, Community Health, CAMHS, PCH)

**Child Safe Organisation Statement of Commitment**

CAHS commits to being a child safe organisation by applying the National Principles for Child Safe Organisations. This is a commitment to a strong culture supported by robust policies and procedures to reduce the likelihood of harm to children and young people.

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## CAHS Commitment

CAHS is committed to the aims and objective of the [Public Interest Disclosure Act 2003 \(PID Act\)](#) and to supporting disclosures by staff members, contractors or members of the public, about corrupt or other improper conduct.

CAHS is committed to ensuring appropriate and transparent integrity governance arrangements which includes the identification and management of integrity risks and providing clear mechanisms for reporting matters of public interest under the PID Act.

CAHS does not tolerate reprisal action against anyone who makes or proposes to make a public interest disclosure (**PID**) and will take all reasonable steps to protect disclosers from any detrimental action in reprisal or victimisation for making a public interest disclosure.

This Procedure should be read in conjunction with:

- [CAHS PID Policy](#)
- PID Act
- [Public Interest Disclosure Regulations 2003](#)

## Aim

- To facilitate disclosures of public interest information under the PID Act.
- To provide information, support and guidance to staff and members or the public reporting in accordance with the PID Act, and to the management of Public Interest Disclosures.

## Risk

- Non-compliance with the PID Act and a consequent lack of openness and accountability across CAHS.
- Failure to be informed of matters in the public interest.

## Definitions

**Detrimental action:** As defined under s. 3(1) of the PID Act:

*includes action causing, comprising, or involving —*

- injury, damage, or loss; or*
- intimidation or harassment; or*
- adverse discrimination, disadvantage, or adverse treatment in relation to a person's career, profession, employment, trade, or business; or*

(d) *a reprisal;*

**Discloser:** A person who makes a public interest disclosure.

**Principal Executive Officer (PEO):** The CAHS Chief Executive is the designated PEO and carries out the functions of s. 23 of the PID Act.

**Public interest disclosure (PID):** A disclosure of public interest information, made in accordance with the PID Act.

A disclosure is more than a general complaint about dissatisfaction with a product or service or the merits of government policy. It is more than a personal grievance that can be resolved by agreement between parties.

**Public interest information:** The PID Act only applies to disclosures of public interest information as defined in s. 3(1) of the PID Act. Public interest information must:

- relate to a public authority, public officer or public sector contractor;
- relate to the performance of a public function of the public body;
- tend to show that the public body is, has been, or proposes to be, involved in improper conduct;
- relate to an act or omission that constitutes an offence under a written law;
- relate to a substantial unauthorised or irregular use of, or substantial mismanagement of, public resources; or
- relate to an act done or omission that involves a substantial and specific risk of:
  - injury to public health;
  - prejudice to public safety; or
  - harm to the environment.

**PID Officer:** The proper authority as designated by s. 5(3) of the PID Act who receives and manages PIDs in accordance with the PID Act.

**Principal PID Officer (PPIDO):** A central co-ordinating role within CAHS for Public Interest Disclosures. The position of CAHS Manager, Integrity and Ethics is the appointed role of the Principal PID Officer (PPIDO) within CAHS and has a central coordinating role within CAHS for all PIDs.

**Proper Authority:** As defined under s. 7 of the PID Act, means:

*proper authority means a person to whom an appropriate disclosure of public interest information has been made in accordance with section 5(3), except that it does not include the Chief Justice or the Presiding Officer of a House of Parliament.*

**Reprisal Action:** Any act or omission which causes detriment to a person where that actor omission is a result of someone else's belief that the person made a PID.

**Staff:** For the purposes of this procedure, the definition contained in the [WA Health Code of Conduct](#) is applicable:

- i. Staff members of CAHS, as a Health Service Provider, as defined by the [Health Services Act 2016](#):
  - a) an employee in the Health Service Provider;
  - b) a person engaged under a contract for services by the Health Service Provider.
- ii. Trainees, students, volunteers, researchers, contractors for service (including all visiting health professionals and agency staff) and persons delivering training or education within a Health Service Provider.

## Key points

- CAHS does not tolerate corrupt or other improper conduct by staff members in the exercise of its public functions.
- CAHS, in accordance with the PID Act recognises the value and importance of reporting as a means to identify and address wrongdoing.
- CAHS strongly supports public interest disclosures being made by staff regarding corrupt or other improper conduct.
- CAHS does not tolerate any of its staff taking reprisal action against anyone who makes or proposes to make a public interest disclosure.
- CAHS will take all reasonable steps to protect disclosers from any detrimental action in reprisal or victimisation for making a public interest disclosure.
- CAHS is committed to responding to the PID thoroughly and impartially and will treat all involved fairly, including those who may be the subject of a disclosure, in accordance with the principles of natural justice.
- CAHS will provide as much information as possible to people considering making a public interest disclosure and this will be available on the [Public Interest Disclosure page](#) on HealthPoint.
- The behaviour of all staff involved in the public interest disclosure process must be in accordance with the WA Health Code of Conduct. A breach of the Code of Conduct may result in disciplinary action.

## Roles and Responsibilities

Role	Responsibility
<b>Principal Executive Officer (PEO)</b>	<ul style="list-style-type: none"> <li>• Designates the occupant of a specified position (a PID Officer) to receive public interest disclosures related to CAHS.</li> <li>• Provides protection from detrimental action or the threat of detrimental action for any staff member of CAHS who makes a public interest disclosure.</li> <li>• Ensures CAHS complies with the PID Act and the code of conduct and integrity established by the Public Sector Commissioner.</li> <li>• Prepares and publishes internal guidelines detailing how CAHS will meet its obligations under the PID Act.</li> <li>• Provides information to the Public Sector Commissioner on the:               <ul style="list-style-type: none"> <li>○ number of disclosures received by CAHS;</li> <li>○ results of any investigations conducted as a result of the disclosures;</li> <li>○ action, if any taken, as a result of each disclosure;</li> <li>○ any matters as prescribed.</li> </ul> </li> <li>• May have a role in enabling an investigation to be undertaken or taking disciplinary action against individuals under functions and powers separate to the PID Act.</li> </ul>
<u><b>PID Officer</b></u>	<ul style="list-style-type: none"> <li>• Receives disclosures related to the CAHS under s.23(1)(a) of the PID Act.</li> <li>• Provides information to potential disclosers about their rights and responsibilities consistent with the <a href="#">PID Officers Code of Conduct and Integrity</a>.</li> <li>• Receives and manages public interest disclosures in accordance with the PID Act.</li> <li>• Notifies the discloser within three months of the disclosure being made about what action is planned in dealing with the disclosure.</li> <li>• Where appropriate, investigates, or initiates an investigation of the matters in the disclosures.</li> <li>• Where appropriate, provides information to subjects of a disclosure about their rights, responsibilities, duties and potential offences.</li> </ul>

Role	Responsibility
	<ul style="list-style-type: none"> <li>• Where appropriate, takes such action as is necessary and reasonable, within their functions and powers in accordance with s. 9 of the PID Act.</li> <li>• Maintains confidentiality of the identity of the discloser and subject(s) of disclosures, in accordance with the requirements of the PID Act.</li> <li>• Provides progress reports (where requested) and a final report to the discloser.</li> <li>• Creates and maintains proper and secure records in relation to the disclosures in accordance with PID Officers Code of Conduct and Integrity and the <a href="#">State Records Act 2000</a>.</li> <li>• Completes a PID Register for each disclosure lodged.</li> <li>• Acts in accordance with the principles of natural justice.</li> </ul>
<b>The Discloser</b>	<ul style="list-style-type: none"> <li>• Makes a public interest disclosure to the PID Officer if the matter relates to CAHS as the Proper Authority.</li> <li>• Believes on reasonable grounds that the information in their disclosure is, or may be, true.</li> <li>• Does not disclose information that is subject to legal, professional privilege.</li> <li>• Does not knowingly and / or recklessly make a false or misleading disclosure.</li> <li>• Maintains confidentiality of the information disclosed and the identity of the person(s) to whom the information relates, in accordance with the requirements of the PID Act.</li> <li>• Assists any person investigating the matter to which the disclosure relates by supplying the person with any information requested.</li> </ul>
<b>The subject of the disclosure (person about whom the disclosure is made)</b>	<ul style="list-style-type: none"> <li>• Is afforded the opportunity to make a submission, either orally or in writing, in relation to the matter before preventative or disciplinary action is taken.</li> <li>• Maintains confidentiality of the identity of the discloser, in accordance with the requirements of the PID Act.</li> <li>• Does not take or threaten to take detrimental action (defined in s.3 of the PID Act) against a person because they have made or intend to make a disclosure.</li> <li>• Does not incite another person to take detrimental action against another because they have made or intend to make</li> </ul>

Role	Responsibility
	a disclosure.
<b>An investigating officer</b>	<ul style="list-style-type: none"> <li>• May investigate matters of public interest information on behalf of a proper authority of CAHS in accordance with the terms of reference given to them.</li> <li>• Maintains confidentiality of the identity of the discloser and any persons subject to the disclosure.</li> <li>• Makes, and keeps secure, comprehensive records of any investigation undertaken.</li> </ul>

## Before making a disclosure

- Any person who is considering making a public interest disclosure is encouraged to seek advice from a PID Officer before taking any action.
- A number of other requirements apply to the disclosure process and it is important to understand the rights and responsibilities associated with these.
- Initial discussions between the discloser and the PID Officer should be general in nature. The specific details of the disclosure should not be discussed until the discloser understands their rights and responsibilities under the PID Act.
- The PID Officer will inform the discloser that the disclosure must be made voluntarily and consciously, and that they cannot withdraw the disclosure once it is made.
- Once the disclosure is received the PID Officer is obliged to take action and may continue to look into the matters within the disclosure irrespective of the discloser's continued approval.
- Initial discussions with the PID Officer may help the person decide whether to make a public interest disclosure and also enable the PID Officer to ascertain if the information would be covered by the PID Act.
- If it appears that the information is not covered by the PID Act, the PID Officer will discuss other mechanisms through which issues may be raised, (for example, the CAHS Grievance Resolution process).

## Procedure

### **Step 1: Making and receiving a PID (see Appendix 1)**

- The disclosure must be made to an authorised PID Officer.

- When making a disclosure, the discloser must:
  - believe on reasonable grounds the information is or may be true;
  - consider the disclosure to be public interest information; and
  - ensure that the disclosure is made to an authorised PID Officer.
- The PID Officer must advise any person who chooses to make a disclosure that:
  - they can choose to remain anonymous;
  - if they choose to reveal their identity when making a disclosure, their identity will not be disclosed, except if an exemption applies in accordance with the PID Act. (Note: disclosure of their identity may be required in the course of the investigation or in taking action in some circumstances);
  - their disclosure will not result in civil or criminal liability; liability for any disciplinary action; or dismissal;
  - they will have the right to be informed at regular intervals of the progress and outcome of the investigation and any subsequent action that may be taken;
  - they cannot withdraw the disclosure once it is made and they must agree to assist in the investigation of the disclosure once it has been assessed and accepted as a PID;
  - they are only protected by the PID Act if they believe, on reasonable grounds, that the information being disclosed is or may be true. If they do not believe that the information is true, the information cannot be assessed as a PID;
  - if they proceed with a disclosure despite knowing that the information is false or misleading, they are committing an offence and may lose some protections under the PID Act;
  - protections under the PID Act will also be forfeited if they breach confidentiality and / or disclose information about the disclosure to any other person who, under the PID Act, is not authorised to receive information about the disclosure;
  - they must continue to assist with the investigation to which the disclosure relates. If they fail to assist without a reasonable excuse, the protections afforded under the PID Act will be forfeited; and
  - they commit an offence if they disclose information that might identify any person about whom a disclosure has been made.

### **Step 2: Assessing a Public Interest Disclosure (see Appendix 1)**

- The PID Officer must, on receiving a disclosure, consider whether:
  - the information disclosed relates to CAHS, a CAHS public officer or a public sector contractor;
  - the information disclosed relates to the performance of a public function by CAHS;
  - the information is of public interest, relates to improper conduct, and has been disclosed to a proper authority;
  - the information is not protected by legal professional privilege;
  - the discloser believes, on reasonable grounds, that the information is or may be true;
  - the discloser, after receiving advice regarding the PID process, wishes to formally make a public interest disclosure under the PID Act.
- If all of the above apply, then the disclosure is a public interest disclosure to which the PID Act will apply.
- The PID Officer completes a [PID Assessment Form](#).
- The PID Officer should immediately report this matter to the CAHS Manager Integrity & Ethics.

### **Step 3: Lodging a PID**

- If a disclosure is assessed as a PID, the discloser and the PID Officer should complete a [PID Lodgement Form](#).
- On completion of this form, the PID Officer should create a separate confidential file for the PID in RM8.
- Following advice from the PID Officer, the CAHS Manager Integrity & Ethics will be responsible for recording the PID on the CAHS Public Interest Disclosure Register.

### **Step 4: Determining whether the matter must be investigated**

- After receiving the disclosure, the PID Officer must consider whether;
  - the disclosure relates to CAHS, its officers or contractors; or
  - the disclosure relates to a matter or person that CAHS has a function or power to investigate.

- If one or both of the above DO NOT apply, the PID Officer is not required by the PID Act to investigate the matter.
- The PID Officer must also consider whether:
  - the matter is trivial;
  - the disclosure is vexatious or frivolous;
  - there is no reasonable prospect of obtaining sufficient evidence due to the time that has elapsed since the occurrence of the matter; and
  - the matter is being or has been properly investigated by another proper authority.
- If any of the above applies, the PID Officer is not required to investigate the matter.
- Where the PID Officer determines that the matter should be investigated, the PID Officer must either investigate the matter themselves, or arrange for another person or appropriate investigative body to carry out the investigation.
- To assist the PID Officer, a [PID Investigation Form](#) is completed.
- Where the PID Officer considers they lack sufficient power to effectively investigate the matter, but the information received causes an opinion to be formed that a public authority, public officer or public sector contractor may have engaged in improper conduct, the PID Officer should refer the matter to another appropriate investigative body.
- Decisions relating to how the investigation is to be conducted are to be taken in consultation with the CAHS Manager Integrity & Ethics.
- If the disclosure is identified as one of potential misconduct committed by a public officer, the PID Officer should refer the matter to the CAHS Manager Integrity and Ethics as soon as practicable, for assessment as to whether it is to be reported to the [Corruption and Crime Commission](#) or the [Public Sector Commission](#) (subject to the confidentiality requirements of Section 16 of the PID Act).

### **Step 5: Investigating a Disclosure (see Appendix 2)**

- When conducting an investigation, the PID Officer should:
  - Draw up terms of reference, which should clarify the key issues identified by the disclosure.
  - Specify a date by which the investigation should be completed.

- Ensure that the objectives of the investigation include collecting and collating information relating to the disclosure, considering the information collected, and drawing conclusions objectively and impartially.
- Maintain the principles of natural justice for the person who is the subject of the disclosure.
- Provide information to the person who is the subject of a disclosure about their rights and obligations under the PID Act, WA Health Code of Conduct and any other relevant legislation.
- Make contemporaneous notes of discussions and interviews, and if necessary (and with appropriate approvals), record discussions or interviews.
- Ensure strict security in order to maintain the confidentiality requirements of the PID Act.
- The CAHS Manager Integrity & Ethics should be contacted for advice and assistance in relation to any investigation undertaken.

## Confidentiality

- Maintaining confidentiality is an important part of managing a disclosure. The confidentiality requirements of the PID Act not only protect the discloser, but also any other individuals who may be affected by the disclosure.
- The confidentiality requirements do not apply to all of the information in a disclosure. CAHS is only committed to maintaining confidentiality around:
  - any information that may identify the discloser or any person who may be the subject of a disclosure, including the fact that a disclosure has been made; and
  - information relating to a disclosure that, if known, may cause detriment.
- Throughout the disclosure process and after its completion, the PID Act provides for the discloser's identity and the identity of any persons that are the subject of a disclosure, to be kept confidential, except in certain circumstances. Disclosing information which might identify the disclosers, or any person that is the subject(s) of the disclosure, except in accordance with the PID Act, is an offence punishable with a penalty of a \$24 000 fine or imprisonment for two years.

### *Confidentiality regarding the discloser*

- Maintaining confidentiality is an important part of protecting the discloser from any detrimental action that may arise as a result of their decision or intention to make a disclosure.

- If the discloser consents to having their identity revealed to assist CAHS in dealing with the disclosure, the PID Officer will record this using the [Consent to Disclose of Identifying Information Form](#).
- Sometimes the discloser's identity may need to be revealed without the discloser's consent but only where:
  - it is necessary to do so having regard to the principles of natural justice;
  - it is necessary to do so to enable the matter to be investigated effectively;
  - it is ordered by a court or any other person or body having authority to hear, receive or examine evidence;
  - it is required under s.152 or s. 153 of the [Corruption, Crime and Misconduct Act 2003](#).
- Before CAHS identifies the discloser for any of the reasons outlined above, the PID Officer will take all reasonable steps to inform the discloser that this will happen and the reasons why.
- If CAHS needs to provide information about the identity of the discloser to another person for any of the reasons outlined above, the PID Officer will inform the other person that further disclosure to a third person may put them at risk of committing an offence.
- The PID Officer will also consider whether it is necessary to inform any external investigator about the identity of the discloser. Where it is necessary to provide this identifying information, the PID Officer will notify the discloser.

## Protections

- Part 3 of the PID Act provides a range of protections for disclosers. It also requires that the PEO provides protection for any employees who make disclosures.
- CAHS is committed to ensuring that no detrimental action, including workplace reprisals by managers or other employees, occurs as a result of a person making a disclosure.
- The PID Act also specifies that the discloser may lose the protections provided in s.13 in some circumstances, including where they do not disclose information or fail, without reasonable excuse, to assist any person investigating the matters of the disclosure.

## Taking action following an investigation (see Appendix 3)

- The PID Officer must take action when an opinion is formed that a person may

been involved in, have previously been involved in, or may in the future be involved in improper conduct.

- Action that may be taken includes:
  - preventing the matter to which the disclosure relates from continuing or occurring;
  - referring the matter to the WA Police or other appropriate body, including the Corruption and Crime Commission.
  - disciplinary action against a person responsible for the matter ensuring that any disciplinary action initiated must be undertaken in accordance with the [WA Health Discipline Policy](#) and relevant industrial agreement or instrument. Advice must be sought from the CAHS Manager Integrity & Ethics prior to taking or commencing disciplinary action.
- Before taking any action, the person against whom the action is to be taken is to be given the opportunity to make written or oral submissions (unless it prejudices any Corruption and Crime Commission or criminal investigation).
- In taking any action, the PID Officer remains limited by the powers and functions that are conferred by the legislation under which the PID Officer operates. The PID Act does not give the PID Officer any additional power to take action.
- In addition to keeping other records, the PID Officer shall complete a [PID Action Form](#) and forward this to the CAHS Manager Integrity & Ethics who will record a summary of the action taken in the Public Interest Disclosure Register. All reporting to the Public Sector Commission (as required by the PID Act) will be based on extracts from this Register.

## Reporting to a Discloser on the progress and outcome of an investigation (not applicable to anonymous disclosures)

- Within three months of the disclosure being made, the PID Officer must notify the discloser of the action taken or proposed to be taken in relation to the disclosure.
- Where the PID Officer decides not to investigate information disclosed under the PID Act, or discontinues an investigation, the PID Officer must provide the discloser with the reason/s for doing so.
- At any time prior to the completion of the investigation, the PID Officer can provide a progress report to the discloser. Equally, the discloser may also request a progress report.
- If an investigation is complete, the PID Officer must provide a final report to

the discloser, advising the outcome of the investigation and the reason for taking action following the investigation.

- In providing information and reports to the discloser, the PID Officer must not give information that, in the PID Officer's opinion, would be likely to adversely affect:
  - any person's safety;
  - the investigation of an offence or possible offence; and/or
  - confidentiality requirements relating to the existence or identity of any person who has made a disclosure of public interest information under the PID Act.

## Record keeping

- During the investigation the PID Officer may make comprehensive and contemporaneous records of any discussions and interviews.
- These records, along with any other documentation or files relating to the disclosure, whether paper or electronic, will be stored securely in RM8 and only accessed by authorised persons.
- The outcome of an investigation should be clearly and comprehensively recorded.
- The result of the investigation should also be recorded in the CAHS PID Register. This recording is to be undertaken by CAHS Manager Integrity & Ethics, based on advice from the PID Officer or the investigating officer tasked with the carrying out of the investigation (should this be the case).
- In addition to any investigation report, the person conducting the investigation should complete the PID Investigation Form.
- Once the process has been finalised, all related documents are to be forwarded to the CAHS Manager Integrity & Ethics.

## Making a disclosure to a journalist

- The PID Act provides for certain circumstances where a discloser may be able to make a protected disclosure to a journalist.
- These circumstances apply where the discloser has first made a disclosure to the PID Officer or another proper authority named in the PID Act.
- Importantly, the PID Act states that to attract the privileges and protections of the PID Act when disclosing to a journalist, the discloser must disclose information that is substantially the same as what was disclosed in the original disclosure. In addition, there must be evidence that the PID Officer who received the original disclosure:
  - did not notify the discloser within three months of making the disclosure

- about actions they propose to take or have already taken;
  - refused to investigate, or discontinued the investigation of, a matter raised in the disclosure;
  - did not complete an investigation within six months of the discloser making the disclosure;
  - completed an investigation but did not recommend that action be taken; or
  - did not provide the discloser with a report stating the outcome of any investigation or any action proposed or taken and the reasons for those actions.
- CAHS is committed to ensuring that it provides the notifications required under the PID Act and that the discloser understands the reasons for the decisions and actions. If a discloser is considering making a disclosure to a journalist because they believe their circumstances meet one or more of the requirements outlined above, CAHS encourages the discloser to discuss this with the PID Officer prior to making a disclosure to a journalist.

## Reporting Requirements

- Under the PID Act, CAHS is required to report to the Public Sector Commission each year. This report is to include:
  - the number of public interest disclosures received over the reporting period;
  - the results of any investigations conducted as a result of the disclosures; and
  - the action, if any, taken as a result of each investigation.

### Related CAHS internal policies, procedures and guidelines

[CAHS Public Interest Disclosure \(PID\) Policy](#)

[Public Interest Disclosure on HealthPoint](#)

### References and related external legislation, policies, and guidelines

[Public Interest Disclosure Act 2003](#)

[WA Health Code of Conduct](#)

<a href="#">State Records Act 2000</a>
<a href="#">PID Officers Code of Conduct and Integrity</a>
<a href="#"><i>Don't be afraid to speak up</i></a>
<a href="#">Public Sector Commission</a>
<a href="#">Procedural fairness (natural justice) Guidelines Ombudsman WA</a>

<b>Useful resources (including related forms)</b>
<a href="#">PID Frequently Asked Questions (FAQ's)</a>
1. <a href="#">PID Assessment Form</a>
2. <a href="#">PID Investigation Form</a>
3. <a href="#">PID Action Form</a>
4. <a href="#">PID Lodgement Form</a>
5. <a href="#">PID Consent to Disclose Identifying Information Form</a>

This document can be made available in alternative formats on request.

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Healthy kids, healthy communities

Compassion

Excellence

Collaboration

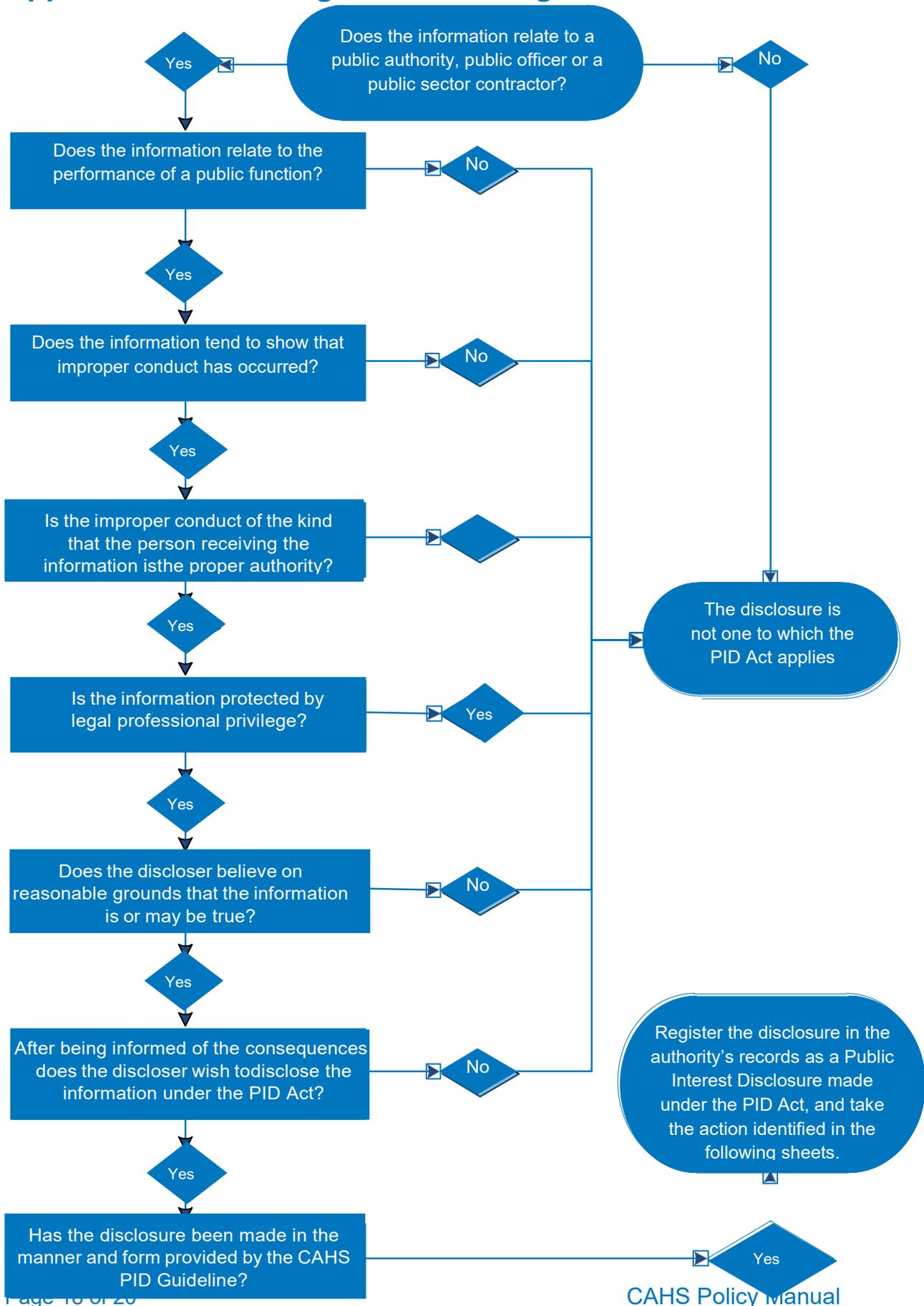
Accountability

Equity

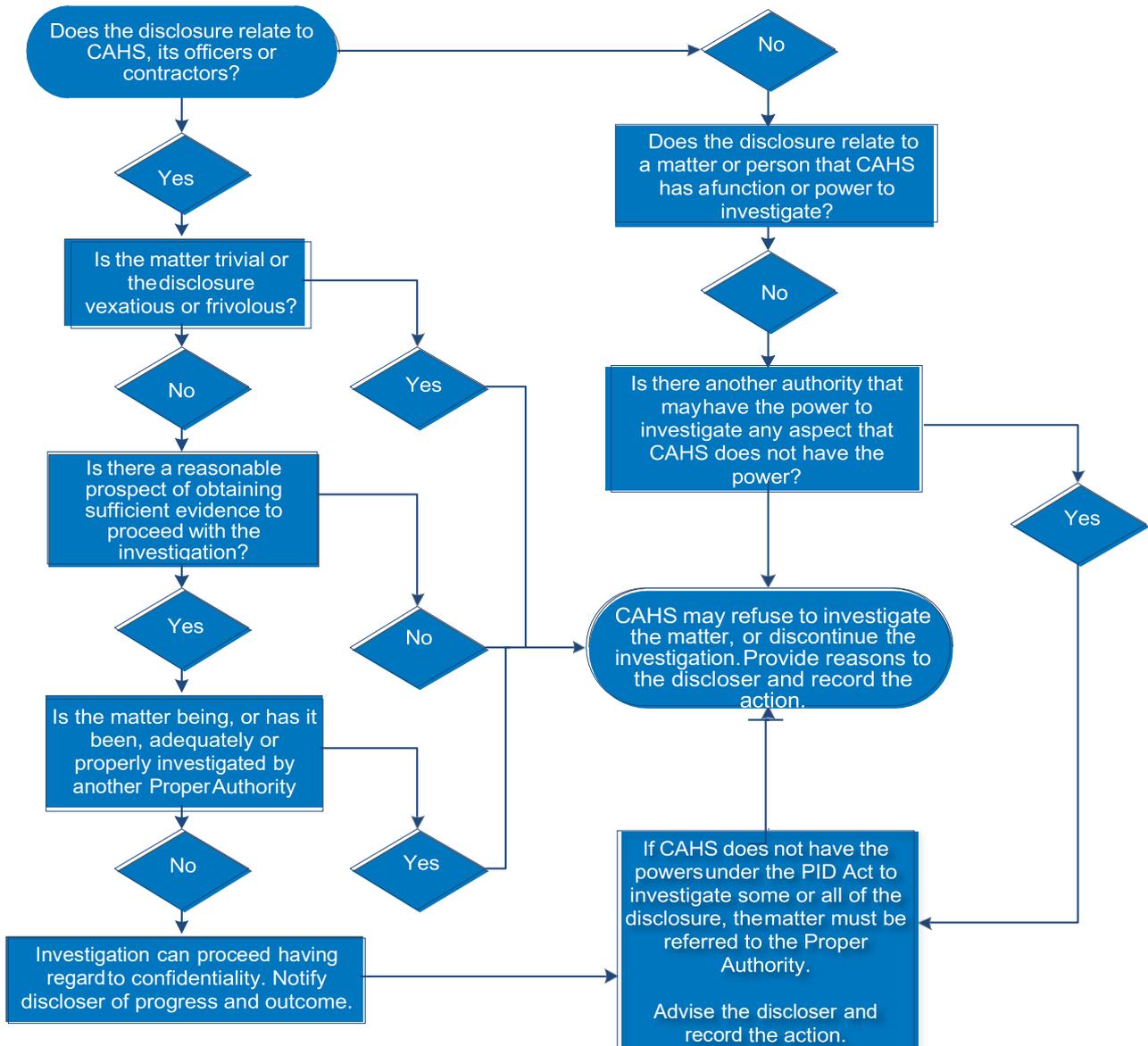
Respect

Neonatology | Community Health | Mental Health | Perth Children's Hospital

## Appendix 1: Receiving and assessing disclosures.



## Appendix 2: Investigating information disclosed



### Appendix 3: Taking action.

