



Protected Disclosures Policy and Procedure

ASSOCIATED DOCUMENTS AND REFERENCES

EEA Constitution
Financial Delegations Policy
Cash Management Policy
Fraud Policy and Procedure
Reserves Policy

DOCUMENT MANAGEMENT AND CONTROL

Approved by: EEA Executive Committee

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PURPOSE

The purpose of this policy and procedure is to ensure that the Electricity Engineers Association (EEA) operates an appropriate internal procedure for receiving and dealing with information about serious wrongdoing in or by the EEA in accordance with the provisions of the Protected Disclosures (Protection of Whistleblowers) Act 2022.

The purpose of the Protected Disclosures (Protection of Whistleblowers) Act is to promote the public interest:

1. By facilitating the disclosure and investigation of matters of serious wrongdoing in or by an organisation; and
2. By protecting disclosers who, in accordance with the Act, make disclosures of information about serious wrongdoing in or by an organisation.

SCOPE

This policy and procedure apply to **all disclosers** including:

- current employees
- former employees
- Officers of the EEA
- Volunteers and members of EEA groups and committees
- individuals seconded to the EEA
- individuals contracted to the EEA under contracts for services
- members of the EEA's management

DEFINITIONS

Serious wrongdoing includes any act, omission, or course of conduct in (or by) any organisation that is 1 or more of the following:

- An offence.
- A serious risk to:
 - public health; or
 - public safety; or
 - the health or safety of any individual; or
 - the environment:

- a serious risk to the maintenance of law, including
 - the prevention, investigation, and detection of offences; or
 - the right to a fair trial:
- an unlawful, a corrupt, or an irregular use of public funds or public resources:
- oppressive, unlawfully discriminatory, or grossly negligent, or that is gross mismanagement, and is done (or is an omission) by:
 - an employee (if the organisation is a public sector organisation):
 - a person performing (or purporting to perform) a function or duty or exercising (or purporting to exercise) a power on behalf of a public sector organisation or the Government.

POLICY CONTENT

1. Disclosure Officer

The person nominated by the EEA for the receipt and investigation of protected disclosures is the EEA Executive Director, or his appropriately delegated nominee.

2. When information may be disclosed

A discloser may disclose information in accordance with the procedure described in the following section if:

- i. The discloser believes on reasonable grounds that there is, or has been, serious wrongdoing in or by the discloser's organisation; and
- ii. the discloser believes on reasonable grounds that the information is true or likely to be true; and
- iii. the discloser wishes to disclose the information so that the serious wrongdoing can be investigated; and
- iv. the discloser wishes the disclosure to be protected.

3. Personal Grievance

Where an employee who makes a protected disclosure of information claims to have suffered retaliatory action from the EEA, that employee may have a personal grievance in accordance with the provisions of the Protected Disclosures (Protection of Whistleblowers) Act.

4. No victimization

Under the provisions of the Protected Disclosures (Protection of Whistleblowers) Act, a person who is not an employee may not be treated less favourably or threatened to be treated less favourably because that person:

- i. intends to make, or has made, a protected disclosure under the Protected Disclosures (Protection of Whistleblowers) Act; or
- ii. has encouraged another person to make a protected disclosure; or
- iii. has given information in support of, or relating to, a protected disclosure.

For example, and without any exclusion of other scenarios:

- i. A contractor may not have their contract for services to do work threatened with cancellation.
- ii. An Officer or volunteer may not be threatened with a complaint under the disciplinary procedures in the EEA's constitution.

5. Immunity from civil and criminal proceedings

No discloser who –

- i. Makes a protected disclosure of information; or
- ii. Refers a protected disclosure of information to an appropriate authority for investigation
 - a. is liable to any civil or criminal proceeding or to a disciplinary proceeding by reason of having made or referred that disclosure of information.
- iii. Clauses 5 (i) and (ii) of this Policy apply despite any prohibition of or restriction on the disclosure of information under any enactment, rule of law, contract, oath, or practice.

6. Confidentiality

- i. Every person to whom a protected disclosure is made or referred must use his or her best endeavours not to disclose information that might identify the discloser who made the protected disclosure unless –
 - a. the discloser consents in writing to the disclosure of that information; or
 - b. the person who has acquired knowledge of the protected disclosure reasonably believes that disclosure of identifying information -
 1. is essential to the effective investigation of the allegations in the protected disclosure; or
 2. is essential to prevent serious risk to public health or public safety or the environment; or
 3. is essential having regard to the principles of natural justice.
- ii. A request for information under the Official Information Act 1982 (other than one made by a member of the police for the purpose of investigating an offence) may be refused, as contrary to the Protected Disclosures (Protection of Whistleblowers) Act, if it might identify the discloser.

7. False allegations

The protections conferred by the Protected Disclosures (Protection of Whistleblowers) Act and by section 66(1)(a) of the Human Rights Act 1993 do not apply where the discloser makes an allegation known to the discloser to be false or otherwise acts in bad faith.

8. Internal procedure

The procedure described in the following section must be followed when disclosers wish to disclose information about a serious wrongdoing. This is in accordance with the recommendation of the Ombudsman that organisations operate appropriate internal procedures.

9. Publication of procedure

Information about the procedure described in the following section will be made available to EEA employees, secondees, Officers, volunteers, and contractors.

10. Twenty working days

The EEA's response to any disclosure of serious wrongdoing must occur within 20 working days after the date on which the disclosure was made.

PROCEDURE

The following procedure must be used whenever a discloser wishes to disclose a serious wrongdoing in terms of the Protected Disclosures (Protection of Whistleblowers) Act:

1. A disclosure of a serious wrongdoing should be made in writing to the EEA Disclosure Officer except in certain circumstances (see items (5) to (7) below).
2. The disclosure statement should include all relevant details and should be signed and dated by the discloser. A returning address should also be provided.
3. Upon receipt of the disclosure statement, the EEA Disclosure Officer will acknowledge receipt, in writing, of the statement, and take whatever action they deem appropriate to investigate and resolve the particular serious wrongdoing.
4. The EEA Disclosure Officer will, within 20 working days after the date on which the disclosure was made, report in writing to the discloser what action they have taken or recommended to be taken.
5. A disclosure may be made directly to the EEA President if:
 - i. the discloser believes on reasonable grounds that EEA Disclosure Officer is or may be involved in the serious wrongdoing alleged in the disclosure; or
 - ii. the discloser believes on reasonable grounds that the EEA Disclosure Officer is, by reason of any relationship or association with a person who is or may be involved in the serious wrongdoing alleged in the disclosure, not a person to whom it is appropriate to make the disclosure.
6. A disclosure may be made to an appropriate authority if the discloser believes on reasonable grounds:
 - i. that the EEA President is or may be involved in the serious wrongdoing alleged in the disclosure; or
 - ii. that immediate reference to an appropriate authority is justified by reason of the urgency of the matter to which the disclosure relates, or some other exceptional circumstances; or that there has been no action or recommended action on the matter to which the disclosure relates within 20 working days after the date on which the disclosure was made.

- iii. ("Appropriate authority", without limiting the meaning of that term, includes –
 - a) the Commissioner of Police; the Controller and Auditor-General; the Director of the Serious Fraud Office; the Inspector-General of Intelligence and Security; an Ombudsman; the Parliamentary Commissioner for the Environment; the Police Complaints Authority; the Solicitor-General; the State Services Commissioner; the Health and Disability Commissioner; and
 - b) includes the head of every public sector organisation, whether or not mentioned in paragraph 1.; and
 - c) includes a private sector body which comprises members of a particular profession or calling and which has power to discipline its members; but
 - d) does not include a Minister of the Crown; or a Member of Parliament).
- 7. A disclosure may be made to a Minister of the Crown or Ombudsman if the discloser:
 - i. has already made substantially the same disclosure in accordance with items (1) to (6) above, and believes on reasonable grounds that the person or appropriate authority to whom the disclosure was made –
 - a) has decided not to investigate the matter; or
 - b) has decided to investigate the matter but has not made progress with the investigation within a reasonable time after the date on which the disclosure was made to the person or appropriate authority; or
 - c) has investigated the matter but has not taken any action in respect of the matter nor recommended the taking of action in respect of the matter, as the case may require; and
 - ii. continues to believe on reasonable grounds that the information disclosed is true or likely to be true.
 - iii. (A disclosure may be made to an Ombudsman only if it has not already been made to an Ombudsman in terms of item (7) above)

RELATED ACTS

[Protected Disclosures \(Protection of Whistleblowers\) Act 2022](#)

[Official Information Act 1982](#)

[Human Rights Act 1993](#)

[Privacy Act 1993](#)