

Public Interest Disclosures Procedure



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1. Summary

This procedure outlines the responsibilities of the Principal Officer, Disclosure Coordinator and Disclosure Officer under the *Public Interest Disclosures Act 1994 (PID Act)* and should be read in conjunction with the Library's Public Interest Disclosures (PID) Policy.

The purpose of this procedure is to:

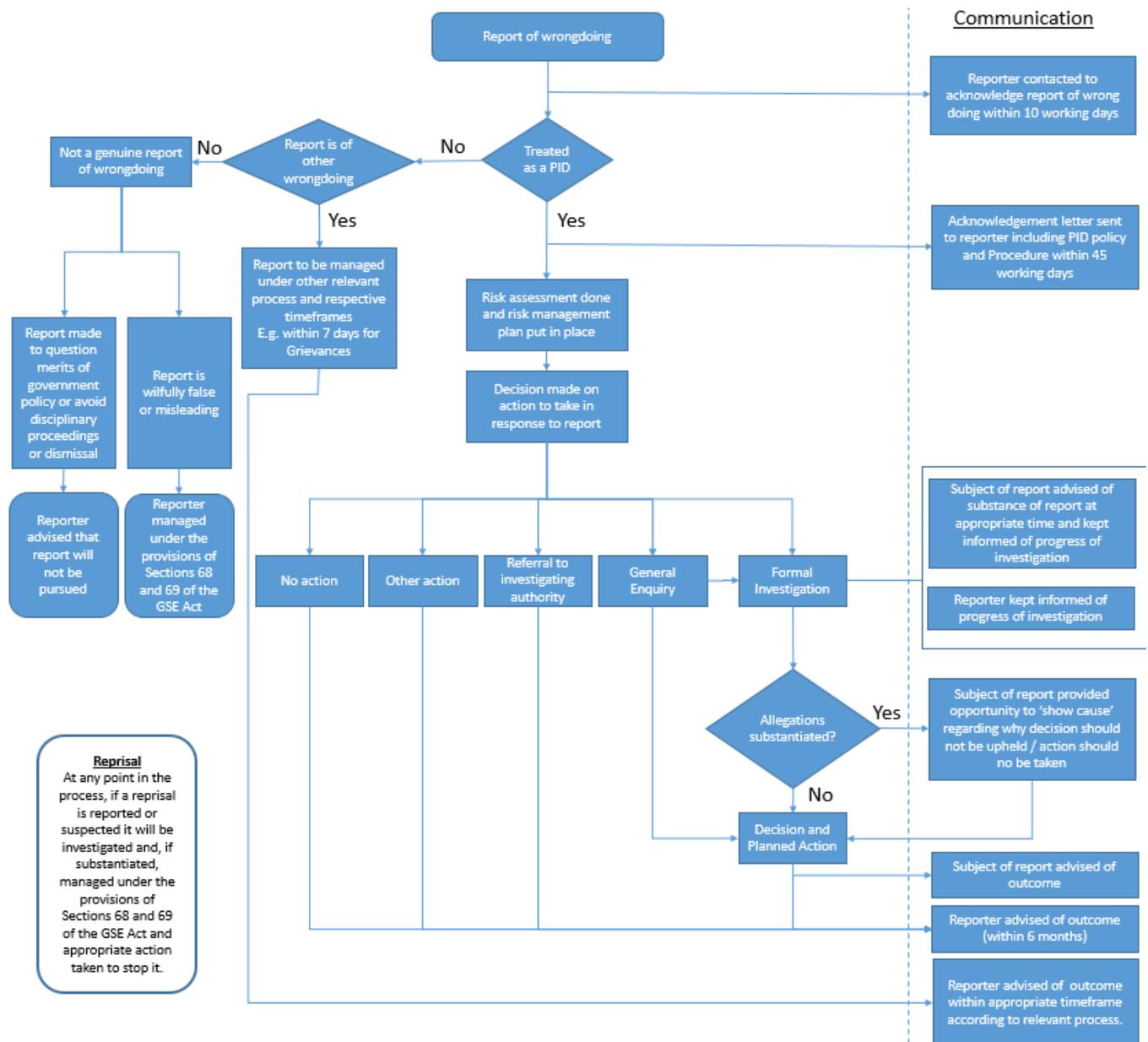
- ensure reports of wrongdoing are managed in a timely, thorough, consistent, fair and impartial manner;
- provide support and protection from reprisal for staff that have made a report of wrongdoing (referred to in this procedure as a 'reporter');
- uphold the rights and responsibilities of all parties involved in a report;
- ensure all actions undertaken during management of a report adhere to the principles of natural justice (procedural fairness).

2. Target audience

This procedure applies primarily to the Principal Officer, Disclosure Coordinator and Disclosure Officer (collectively referred to in this procedure only as 'the Library') and compliance is mandatory.

3. Overview of PID Procedure

The following flowchart outlines the step by step procedure and timeline for the management and investigation of all PIDs.



4. Procedures for Managing Reports of Wrongdoing and PIDs

4.1 Management of Reports of Wrongdoing

On receipt of a report of wrong doing the Library will:

- contact the reporter within 10 working days to:
 - acknowledge the report
 - provide a timeframe within which further updates will be received
 - advise who the reporter can speak to regarding progress of the report
- if report is made verbally, create a written statement for reporter to sign (see Appendix 2)
- assess if the report is to be treated as a PID. Reports will only be treated as a PID if they adhere to the Library's PID Policy and this procedure. The Library will utilise the [Initial Assessment of Internal Report](#).
- determine if the report is of another type of wrongdoing and, if so, refer the report to the reporting process relevant to the type of wrongdoing (e.g. reportable under another Act or internal policy / procedure) (see section 3)
- advise the reporter, in writing, of the action that will be taken in response to the report

On receipt of a report of wrongdoing the Disclosure Officer will:

- if report is made verbally, create a written statement for reporter to sign (see Appendix 2) and forward to the Disclosure Coordinator or Principal Officer

The Library will utilise the [Checklist for Recipient of Internal Report](#) to ensure all relevant information is collected.

Reports found to be baseless, made primarily to question the merits of government policy or made substantially with the motive of avoiding dismissal or disciplinary action, will not be pursued.

If a reporter is found to have made a wilfully false or misleading report, this will be considered a breach of the Code of Ethics and Conduct and the Library will make appropriate arrangements to manage this breach under the provisions of Sections 68 and 69 of the *Government Sector Employment (GSE) Act 2013*. It is important all staff are aware that it is a criminal offence under the *PID Act* to wilfully make a false or misleading statement when reporting wrongdoing. The Library will not support staff who wilfully make false or misleading reports.

Reports determined to be a PID will be managed according to the section below.

4.2 Management of PIDs

Where a report is determined to be a PID, the Library will:

- [acknowledge the PID](#) and maintain communication and feedback with the reporter
- maintain the confidentiality of the reporter, where possible and appropriate
- conduct a risk assessment in consultation with the reporter, create a risk management plan and make necessary arrangements with the reporter, their people leader (where appropriate) and any other required persons to ensure risk of reprisal towards the reporter is minimised and that any other concerns are addressed
- respond to any suspected or actual reprisal activities
- arrange support for the reporter, where appropriate
- determine what course of action will be taken in response to the PID, which can include:
 - no action
 - referral to an investigating authority
 - informal inquiry
 - formal investigation
 - combination of the above
- make appropriate arrangements for investigation to be carried out according to the principles of natural justice, where a decision is made to conduct one
- make decisions following any investigation
- maintain the rights of the subject of a report
- where required, notify the relevant investigating authority of the report
- keep records of reports of wrongdoing, as well as all communications and activities relating to the assessment, management and outcomes of PIDs.

4.3 Feedback and Communication with the Reporter

Staff who report wrongdoing will be told what is happening in response to their report.

a. Acknowledgement

When staff make a report, the Library [will contact them](#) (within 10 working days) to confirm the report has been received and to advise:

- the timeframe within which the reporter will receive further updates

- the name and contact details of the people who can tell the reporter what is happening or handle any concerns they may have.

After a decision is made about how your report will be dealt with, the Library will send an acknowledgment letter (within 45 working days), providing:

- information about the action that will be taken in response to the report
- the likely timeframes for any investigation or other action
- information about the internal and external support resources or services available to the reporter
- [confirmation of whether the report will be treated as a PID](#)
- where report is to be treated as a PID, copies of the Library's PID Policy and PID Procedure, as required by the PID Act.

Please note, if a report is made which meets the requirements of the *PID Act* but the report was made under a statutory or legal obligation, or incidental to the performance of the reporter's day to day functions, they will not receive an acknowledgement letter or a copy of the PID policy or procedure.

b. Progress updates

While the report is being dealt with, such as by investigation or making other enquiries, reporters will be supplied with:

- information about the progress of the investigation or other enquiries and reasons for any delay
- advice of any decision by the Library not to proceed with the matter
- advice if the reporter's identity needs to be disclosed for the purposes of investigating the matter or making enquiries, and an opportunity to talk about this beforehand.

c. Feedback

Once the matter has been finalised the reporter will be given:

- within 6 months of initial report, enough information to show that adequate and appropriate action was taken and/or is proposed to be taken in response to the PID and any problem that was identified
- advice about whether the reporter is likely to be called as a witness in any further matters, such as disciplinary or criminal proceedings.

4.4 Confidentiality

The Library will take all reasonable measures to ensure the confidentiality of the reporter is maintained including, but not limited to:

- discuss confidentiality issues with the reporter, assess and manage potential risks
- minimise the number of people aware of the reporter's identity
- emphasise confidentiality requirements in communications with anyone involved in the PID
- establish secure communication channels
- use investigative measures that are less likely to reveal the identity of the reporter

While confidentiality of the reporter is a primary concern of the Library (see section 11 of the PID Policy) the *PID Act* recognises that there are circumstances where it may be necessary for information to be disclosed that may identify the person who has reported wrongdoing.

This information may be disclosed by the Library or an investigating authority if:

- the person consents in writing to the disclosure of the information, or
- it is 'generally known' that the person has made the PID as they have voluntarily identified themselves as the person who made the PID; or

- it is essential for the identifying information to be disclosed to a person to satisfy the principles of natural justice; or
- it is necessary for the information to be disclosed for the effective investigation of the matter; or
- it is otherwise in the public interest to do so.

4.5 Protection from Reprisal

The Library will not tolerate any reprisal against staff that report wrongdoing or are believed to have reported wrongdoing.

The Principle Officer and Disclosure Coordinator must ensure there are strategies in place to support reporters, protect reporters from reprisal and manage workplace conflict that may arise in relation to a report

a) Managing Risk of Reprisal

When a report of wrongdoing is made, the Library will undertake a thorough risk assessment to identify the risk to the staff member of detrimental action in reprisal for reporting, as well as indirect but related risks of workplace conflict or difficulties. The risk assessment will also identify strategies to deal with those risks and determine the level of protection and support that is appropriate.

Depending on the circumstances, the Library may:

- relocate the reporter or the staff member who is the subject of the allegation within the current workplace
- transfer the reporter or the staff member who is the subject of the allegation to another position for which they are qualified
- grant the reporter or the staff member who is the subject of the allegation leave of absence during the investigation of the disclosure.

These courses of action are not punishment and will only be taken in consultation with the reporter.

b) Responding to Allegations of Reprisal

If the Library becomes aware of, or suspects that reprisal is being, or has been taken against a staff member, the Library will:

- assess the report of reprisal to decide whether it falls under the provisions of the *PID Act* and whether the matter warrants investigation or if other action should be taken to resolve the issue
- if the reprisal allegation warrants investigation, ensure this is conducted by a senior and experienced staff member
- where it is established that reprisal is occurring, take all steps possible to stop that activity and protect the staff member / reporter
- where it is established that reprisal is occurring, manage the staff member taking reprisal action under the provisions of Sections 68 and 69 of the *Government Sector Employment (GSE) Act 2013*
- refer any evidence of reprisal activity to the Independent Commission Against Corruption (ICAC) NSW or NSW Police Force as required by the PID Act

If you allege reprisal, you will be kept informed of the progress and outcome of any investigation or other action taken in response to the allegation.

4.6 Support for Staff that Report Wrongdoing

The Library will make sure that staff who have reported wrongdoing, regardless of whether their report is treated as a PID, are provided with access to support services they may need as a result of the reporting process, such as EAP.

Access to support may also be available for other staff involved in the internal reporting process where appropriate. Reporters and other staff involved in the process can discuss their support options with the Principal Officer, Disclosure Coordinator or Disclosure Officer.

Where appropriate, a support person, such as a colleague or people leader, may be appointed for the reporter. This support person is responsible for organising additional support, particularly when a reporter is experiencing reprisal. The support person will be nominated by the Library.

4.7 Formal Investigations

Investigations will be conducted in a timely manner, having regard to the principles of [natural justice](#) and have the purpose to:

- establish and document relevant facts
- reach appropriate conclusions based on available evidence
- develop options for response

The Library is responsible for:

- the decision to investigate
- the terms of reference for the investigation
- the appointment of an internal or external investigator

a) Terms of Reference

The Library will set the [terms of reference](#) for the investigation, including which issues will be investigated, in order to ensure appropriate focus and limits of scope of the investigation.

The reporter will be consulted during this process. Any decision to not examine some of the issues raised by the reporter in the investigation will be communicated to them by the Library along with the reasons for the decision.

The terms of reference will be reviewed throughout the investigation and updated by the Library as required to ensure the focus and scope remains appropriate.

4.8 Rights of the Subject of a Report

The Library is committed to ensuring staff who are the subject of a report of wrongdoing are treated fairly and reasonably.

Where the reported allegations against the subject officer are clearly wrong, or have been investigated and found to be unsubstantiated, the subject of the report will be supported by the Library. In this case information regarding the allegations and any investigation will be kept confidential unless otherwise agreed to by the subject of the report.

4.9 Reporting and Record Keeping Requirements of the Library

Under the *PID Act* the following [reporting activities](#) must occur:

The Library (Planning and Program Officer) must:

- provide the NSW Ombudsman with statistical information pertaining to PIDs once every six months
- report information about our obligations under the *PID Act* in their annual report.

The Principal Officer must:

- refer evidence of corrupt conduct to the Independent Commission Against Corruption (ICAC) NSW
- refer evidence of reprisal activity to the ICAC NSW or Police Commissioner

Under the *Ombudsman Act 1974* the Principal Officer must:

- refer evidence of inappropriate or abusive behaviour towards children to the NSW Ombudsman

Records relating to initial reports of wrongdoing and the assessment, management and outcome of PIDs will be stored in a TRIM file managed by the Disclosure Coordinator in accordance with the provisions of privacy and records management legislation.

Where a PID is substantiated, a record of the PID, including the outcome and resultant actions taken, will be placed on the personnel file of the subject of the report.

5. Who Can Receive a Report Outside of the Library?

Staff are encouraged to report wrongdoing within the Library, but can also report to the following:

- an investigating authority
- a Member of Parliament or a journalist, but only in the limited circumstances outlined below.

a) Investigating authorities

The *PID Act* lists a number of investigating authorities in NSW that staff can report wrongdoing to and the type of wrongdoing each authority can deal with. In certain circumstances it may be preferable to make a report of wrongdoing to an investigating authority, for example if the report of wrongdoing is about the Principal Officer.

The relevant investigating authorities for the Library are:

- *the Independent Commission Against Corruption (ICAC) — for disclosures about corrupt conduct*
- *the Ombudsman — for disclosures about maladministration*
- *the Auditor-General — for disclosures about serious and substantial waste*
- *the Information Commissioner — for disclosures about a breach of the GIPA Act*
- *the Office of Local Government— for disclosures about local government pecuniary interest contravention*
- *the Police Integrity Commission (PIC) — for disclosures about police misconduct*
- *the Inspector of the Police Integrity Commission— for disclosures about the PIC or its staff*
- *the Inspector of the Independent Commission Against Corruption — for disclosures about the ICAC or its staff*
- *the Inspector of the Crime Commission – for disclosures about the NSW Crime Commission or its staff.*

Staff should contact the relevant investigation authority for advice about how to make a disclosure to them. Contact details for each investigating authority are provided at the end of this procedure.

[Staff should be aware that the investigating authority may well discuss any such reports with the Library.](#) The Library will make every effort to assist and cooperate with the investigating authority to ensure the matter is dealt with appropriately and there is a satisfactory outcome.

b) Members of Parliament or journalists

To have the protections of the *PID Act*, staff reporting wrongdoing to a Member of Parliament (MP) or a journalist must have already made substantially the same report to one of the following:

- the Library (Principal Officer, Disclosure Coordinator or Disclosure Officer)
- an investigating authority.

Also, the Library or the investigating authority that received the initial report must have either:

- decided not to investigate the matter
- decided to investigate the matter, but not completed the investigation within six months of the original report
- investigated the matter but not recommended any action as a result
- not told the person who made the report, within six months of the report being made, whether the matter will be investigated.

Most importantly – to be protected under the *PID Act* – if reporting wrongdoing to an MP or a journalist the reporter will need to have reasonable evidence to prove that the disclosure is substantially true.

c) Non-compliant external reporting

If a staff member reports wrongdoing to a person or authority that is not listed above, or makes a report to an MP or journalist without following the steps outlined above, they will not be protected under the *PID Act*. This may mean they are in breach of legal obligations or the Code of Ethics and Conduct by, for example, disclosing confidential information.

For more information about reporting wrongdoing outside the Library, contact the Principal Officer, Disclosure Coordinator, Disclosure Officer or the NSW Ombudsman's Public Interest Disclosures Unit. NSW Ombudsman contact details are provided at the end of this procedure.

History

This procedure replaces the Public Interest Disclosures – Internal Reporting Policy, 2011, TI-A-123.

Attachments

1. Appendix 1: Written Statement of Verbally Received Report of Wrongdoing Form
2. Appendix 2: Investigating Authorities Contact Details

Document history and version control

Version	Date approved	Approved by	Brief description
1.0	09/08/2016	Executive Committee	Approved at Executive Committee meeting.
1.1	28/03/2017	Executive Committee	Approved at Executive Committee meeting.

Appendix 1:

Written Statement of Verbally Received Report of Wrongdoing Form	
<p>I _____ confirms written report is an accurate reflection of the verbal report. (reporter name)</p>	
<p>_____ Reporter signature</p>	<p>Date:</p>
<p>Reporter confirmation signed in presence of _____, Principal Officer / Disclosure Coordinator / Disclosure Officer. (circle/highlight relevant)</p>	
<p>_____ Signature</p>	
<p>Date:</p>	

Appendix 2 - Investigating Authorities Contact Details

The contact details for external investigating authorities that staff can make a public interest disclosure to or seek advice from are listed below.

For disclosures about corrupt conduct:
Independent Commission Against
Corruption (ICAC)
Phone: 02 8281 5999
Toll free: 1800 463 909
Tel. typewriter (TTY): 02 8281 5773
Facsimile: 02 9264 5364
Email: icac@icac.nsw.gov.au
Web: www.icac.nsw.gov.au
Address: Level 7, 255 Elizabeth Street,
Sydney NSW 2000

For disclosures about serious and
substantial waste:
Auditor-General of the NSW Audit Office
Phone: 02 9275 7100
Facsimile: 02 9275 7200
Email: mail@audit.nsw.gov.au
Web: www.audit.nsw.gov.au
Address: Level 15, 1 Margaret Street,
Sydney NSW 2000

For disclosures about police misconduct:
Police Integrity Commission (PIC)
Phone: 02 9321 6700
Toll free: 1800 657 079
Facsimile: 02 9321 6799
Email: contactus@pic.nsw.gov.au
Web: www.pic.nsw.gov.au
Address: Level 3, 111 Elizabeth Street,
Sydney NSW 2000

For disclosures about maladministration:
NSW Ombudsman
Phone: 02 9286 1000
Toll free (outside Sydney metro): 1800 451
524
Tel. typewriter (TTY): 02 9264 8050
Facsimile: 02 9283 2911
Email: nswombo@ombo.nsw.gov.au
Web: www.ombo.nsw.gov.au
Address: Level 24, 580 George Street,
Sydney NSW 2000

For disclosures about local councils:
Office of Local Government
Phone: 02 4428 4100
Tel. typewriter (TTY): 02 4428 4209
Facsimile: 02 4428 4199
Email: dlg@dlg.nsw.gov.au
Web: www.dlg.nsw.gov.au
Address: 5 O'Keefe Avenue, Nowra, NSW
2541

For disclosures about breaches of the GIPA
Act:
Information Commissioner
Toll free: 1800 472 679
Facsimile: 02 8114 3756
Email: ipcinfo@ipc.nsw.gov.au
Web: www.ipc.nsw.gov.au
Address: Level 11, 1 Castlereagh Street,
Sydney NSW 2000