

# Public Interest Disclosures Policy



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## 1. Summary

The State Library of NSW (the Library) is committed to the aims and objectives of the *Public Interest Disclosures Act 1994 (PID Act)* which provides protections for staff members reporting genuine concerns regarding corruption, maladministration, serious and substantial waste of public money; breach of the *Government Information (Public Access) Act 2009 (GIPA)* or local government pecuniary interest contravention.

This policy states the Library requirements for the reporting of public interest disclosures (PIDs) and seeks to provide staff with an understanding of their responsibilities, to encourage reporting of wrongdoing. Details of requirements, procedures, roles and responsibilities related to the management of PIDs are outlined in the Library's Public Interest Disclosures Procedure.

## 2. Target Audience

This policy applies to all staff members, contractors, employees of contractors, consultants and volunteers at the Library (collectively referred to in this policy only as 'staff') and compliance is mandatory.

## 3. Policy Statement

Underpinned by the Library Values of Trust, Accountability, Integrity, Service, Equity of Access and Innovation and Engagement, the Library recognises the importance of transparency and accountability in its management and administrative practices.

To this end the Library has developed this policy, and related procedure, which aim to:

- Encourage a culture of trust wherein staff feel comfortable and confident to report wrongdoing
- Provide an avenue for reporting wrongdoing
- Support and protect staff who report wrongdoing (referred to in this policy as a 'reporter')
- Keep the identity of the staff member disclosing wrongdoing confidential, where this is possible and appropriate
- Protect staff from any adverse action resulting from making a report
- Keep staff who make reports informed of their progress and outcome
- Establish thorough, fair and impartial practices in the management of reports

- Ensure staff and people leaders at all levels in the Library understand the benefit of reporting wrongdoing, are familiar with this policy and are aware of the needs of reporters.

#### 4. Roles and Responsibilities

##### All Staff

Staff play an important role in contributing to a workplace where known or suspected wrongdoing is reported and dealt with appropriately. All staff are obliged to:

- report all known or suspected wrongdoing and support those who have made reports of wrongdoing
- if requested, assist those dealing with the report, including supplying information on request, cooperating with any investigation and maintaining confidentiality
- treat any staff member or person dealing with a report of wrongdoing with courtesy and respect
- respect the rights of staff who are the subject of a report
- report to the Principal officer or Disclosure Coordinator any suspected or actual reprisal activity.

Staff must not:

- victimise or harass anyone who has made a report
- make false or misleading reports of wrongdoing
- Additionally, the behaviour of all staff involved in the internal reporting process are obliged to adhere to the Library's Code of Ethics and Conduct (the Code). A breach of the Code will be managed under the provisions of Sections 68 and 69 of the *Government Sector Employment (GSE) Act 2013*.

##### People Leaders

- must be aware of the internal reporting policy and should encourage staff to report known or suspected wrongdoing within the Library and support them when they do
- must keep the identity of the reporter and anyone who is the subject of a report confidential, where this is practical and appropriate
- should provide support to the reporter, connecting them with necessary professional support services
- are to implement local management strategies to minimise the risk of reprisals
- must notify a Disclosure Officer, Disclosure Coordinator or the Principal Officer immediately if they believe a staff member is being subjected to reprisal as a result of a PID
- are to advise the staff member reporting wrongdoing that it may be a PID under the *PID Act* and that they are to raise the matter with a Disclosure Officer, Disclosure Coordinator or Principal Officer.

##### Principal Officer

The NSW State Librarian and Chief Executive has ultimate responsibility for maintaining the internal reporting system and workplace reporting culture, ensuring the Library complies with the *PID Act* and can receive reports from staff.

The Principal Officer is responsible for:

- assessing reports received by or referred to them, to determine whether or not the report should be treated as a public interest disclosure, and to decide how the report will be dealt with
- ensuring there are strategies in place to support reporters, protect reporters from reprisal and manage workplace conflict that may arise in relation to a report

- making decisions following any investigation or appoint an appropriate decision-maker
- taking appropriate remedial action where wrongdoing is substantiated or systemic problems are identified
- referring actual or suspected corrupt conduct to the Independent Commission Against Corruption (ICAC)
- referring any evidence of a reprisal offence under section 20 of the *PID Act* to the Commissioner of Police or the ICAC.

### **Disclosure Coordinator**

The Disclosure Coordinator can receive reports from staff and is responsible for:

- assessing reports to determine whether or not a report should be treated as a PID and to decide how each report will be dealt with
- coordinating the Library's response to a report
- acknowledging reports and provide updates and feedback to the reporter
- assessing whether it is possible and appropriate to keep the reporter's identity confidential
- assessing the risk of reprisal and workplace conflict related to or likely to arise out of a report, and develop strategies to manage any risk identified
- where required, providing or coordinating support to staff involved in the reporting or investigation process, including protecting the interests of any officer the subject of a report
- ensuring the Library complies with the *PID Act*
- providing six-monthly reports to the NSW Ombudsman in accordance with section 6CA of the *PID Act*.

### **Disclosure Officer**

The Disclosure Officer is an additional point of contact for staff that can provide information regarding the reporting policy and procedure, assist staff to make reports to a Disclosure Coordinator, or receive reports from staff. A Disclosure Officer is responsible for:

- supporting staff to make reports privately and discreetly
- discussing with the reporter any concerns they may have about reprisal or workplace conflict
- documenting in writing any reports received verbally, having the document signed and dated by the reporter and forwarding the document to the Disclosure Coordinator or Principal Officer

## **5. What Should Be Reported?**

You should report any suspected wrongdoing within the Library, or any activities or incidents you see within the Library that you believe are wrong.

Reports about the following five categories of serious misconduct: corrupt conduct; maladministration; serious and substantial waste of public money; breach of the *GIPA Act*; and local government pecuniary interest contravention, which otherwise meet the criteria of a public interest disclosure, will be dealt with under the *PID Act* and according to this policy. See below for details about these types of conduct.

**Corrupt Conduct** is the dishonest or partial exercise of official functions by a public official. For example, this could include accepting or offering a bribe or a public official being influenced by a member of the public to use their position in a way that is dishonest biased or breaches public trust.

**Maladministration** is conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives.

For example, this could include making decisions without authority or failing to make a decision in accordance with official policy for no apparent reason.

**Serious and Substantial Waste of Public Money** is the uneconomical, inefficient or ineffective use of resources that could result in losing or wasting public money.

For example, this could include not following a competitive tendering process for a large scale contract or continuing to engage a vendor which has been found to be consistently under-performing.

**A Breach of the GIPA Act** is a failure to properly fulfil functions under that Act.

For example, this could include destroying, concealing or altering government records to prevent them being released or knowingly making decisions that are contrary to the legislation.

**A Local Government Pecuniary Interest Contravention** is a failure to comply with requirements under the *Local Government Act 1993* relating to the management of pecuniary interests. (Library staff are not part of local government but may make reports regarding persons from local government if they suspect wrongdoing during interactions with them.)

For example, this could include an individual acting as a decision maker in a vendor selection process where the individual has financial interests in one of the vendors being considered.

## 6. Reporting Other Wrongdoing

While certain activities will fall into the above categories and be reportable under the *PID Act*, staff should report any activity that is seen to be in breach of legislative, policy or regulatory requirements through the relevant internal reporting system.

For example, discrimination, harassment or bullying behaviours can be reported via the 'State Library Grievance Handling Process'.

## 7. How to Make a Report?

Reports can be made verbally, or [in writing](#) to a Disclosure Officer, Disclosure Coordinator or the Principal Officer. It is recommended that reports are made in writing as this can help to avoid confusion or misinterpretation. If making a report verbally, the Disclosure Coordinator will need to create a written statement from staff comments and have it signed.

The officers you can make reports to within the Library are listed below:

- Manager, Human Resources (Disclosure Coordinator)
- Director, Operations and Infrastructure & CFO (Disclosure Coordinator)
- NSW State Librarian and Chief Executive (Principal Officer)
- Chair, Audit and Risk Committee (Disclosure Officer)

Reports can be made anonymously if the situation calls for it, however, it is recommended staff identify themselves so that the Library officer can:

- Contact them for clarification or further information
- Provide necessary support
- Provide feedback and updates about the status / outcomes of the report and any further actions being taken (where officer is the Disclosure Coordinator or Principal Officer)

At any time a report can be made to an 'investigating authority', however it is encouraged that reports are made to a Library officer in the first instance.

For a list of investigating authorities and the type of reports they manage, please refer to the PID Procedure. The relevant investigating authority will provide advice about how to make a disclosure to them.

Please note that the investigating authority may need to 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. The Library will also provide appropriate support and assistance to the reporter.

In limited circumstances, reports may also be made to a Member of Parliament (MP) or journalist. Please refer to the PID Procedure for a description of the requirements that must be met before a report can be made to an MP or journalist and for the staff member to be protected under the *PID Act*.

### **8. Protected vs. Non-Protected Reports**

The Library will treat a report as a PID (i.e. the report is 'protected') if it meets the criteria of a public interest disclosure under the *PID Act* and is made in adherence to this policy. A staff member that has made a PID has access to the protections outlined in this policy. These requirements are:

- The report must be about one of the following five categories of serious wrongdoing – corrupt conduct, maladministration, serious and substantial waste of public money, breach of the GIPA Act, or local government pecuniary interest contravention.
- The person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing.
- The report has to be made to a Library officer, an investigating authority or in limited circumstances to an MP or journalist.

Reports by staff are not public interest disclosures if they:

- mostly question the merits of government policy
- are made in a way that contravenes this policy
- are made with the sole or substantial motive of avoiding dismissal or other disciplinary action.

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. Such actions are classed as a breach of the Code and will be managed under the provisions of Sections 68 and 69 of the *Government Sector Employment (GSE) Act 2013*.

### **9. Support and Protection Against Reprisals**

The Library will provide staff reporting a PID with all necessary support and protection against reprisal.

Reprisals are any detrimental action taken towards a staff member, primarily in response to the staff member making a PID. These are actions comprising or involving:

- injury, damage or loss
- intimidation or harassment
- discrimination, disadvantage or adverse treatment in relation to employment
- dismissal from or prejudice in employment
- disciplinary proceedings.

It is important for staff to understand the nature and limitations of the protection provided by the *PID Act*. The *PID Act* protects staff from detrimental action being taken against them because they have made, or are believed to have made, a PID. It does not protect staff from disciplinary or other management action where the Library has reasonable grounds to take such action.

### **10. Protection Against Legal Action**

Reporters, in accordance with the *PID Act*, will not be subject to any liability and no action, claim or demand can be taken against them for making the disclosure. They will not have breached any confidentiality or secrecy obligations and they will have the defence of absolute privilege in defamation.

### **11. Confidentiality**

The Library appreciates that most staff making a report will want their report to remain confidential. This can help to prevent any action being taken against them for reporting wrongdoing.

The Library is committed to keeping the identity, and the fact that a staff member has reported wrongdoing, confidential.

If confidentiality cannot be maintained, the Library will develop a plan to support and protect the reporter from reprisal in consultation with the staff member.

The reporter must only discuss the PID with those dealing with it. The fewer people who know, the greater the chance that the report will remain confidential and less chance of an investigation being compromised.

### **12. Subjects of a Report**

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

If a staff member is the subject of a report, they will:

- be treated fairly and impartially
- be told their rights and obligations under the *PID Act* and relevant Library policy or procedure
- be kept informed during any investigation process
- be given a reasonable opportunity to respond to any allegation made against them
- be told the outcome of any investigation, including any decision made about whether or not further action will be taken against them
- as far as practicable, have their confidentiality maintained.

### **13. Further Information**

For further information or guidance please contact the Disclosure Coordinator or consult the NSW Ombudsman's website: [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au).

### **Related Legislation and Policy**

The following documents list the legislative and policy framework within which the PID Policy operates and provides further guidance for the specific areas addressed in it.

- *Public Interest Disclosures Act 1994*
- *Independent Commission Against Corruption Act 1998*
- *Ombudsman Act 1974*
- *Public Finance and Audit Act 1983*
- *Government Information (Public Access) Act 2009*

- *Government Sector Employment Act 2013*
- *NSW Anti-Discrimination Act 1977*
- *Local Government Act 1993*
- *Police Integrity Commission Act 1996*
- State Library of NSW Public Interest Disclosure Procedure
- State Library of NSW Code of Ethics and Conduct (PD/49)
- State Library of NSW Equal Employment Opportunity (EEO) Policy (PD/7538)
- State Library of NSW Fraud and Corruption Prevention Policy (PD/31)
- State Library of NSW Gifts and Benefits Policy and Procedure (PD/11)

### History

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

### Document history and version control

Version	Date approved	Approved by	Brief description
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