The release of this Policy is a milestone for all of us within the Department of Planning, Industry and Environment (the Department). It is important for me and the leadership team to provide a safe, supportive and protective environment in which to report wrongdoing.

I am committed to high standards of ethical and accountable conduct. This policy emphasises the importance of providing support to internal reporters in accordance with the requirements of the Public Interest Disclosure Act 1994 (PID Act).

We have a strong commitment to:

- creating a climate of trust, where staff are comfortable and feel supported to report wrongdoing
- keeping the identity of the staff member disclosing wrongdoing confidential, where this is possible and appropriate
- protecting staff from any adverse action resulting from making a report of wrongdoing
- dealing with reports of wrongdoing in a prompt, thorough and impartial way and if some form of wrongdoing has been found, take appropriate action
- keeping staff who make reports of wrongdoing informed of their progress and the outcome
- encouraging staff to report wrongdoing within the Department, but respect any decision to disclose wrongdoing outside the Department in accordance with the provisions of the PID Act
- ensuring managers and supervisors at all levels understand the benefits of reporting wrongdoing, are familiar with this policy, and are aware of the needs and concerns of those who report wrongdoing
- to review the policy and internal reporting framework periodically to ensure it is relevant and effective.

Under the PID Act, I have the responsibility for ensuring that:

- there is an internal reporting policy
- staff are aware of the contents of the policy and the protections under the PID Act for people who make a disclosure
- the Department complies with the policy and the authority’s obligations under the PID Act
- the policy delegates at least one staff member as being responsible for receiving public interest disclosures.

With that, you have my assurance that I am committed to my obligations. I look to every one of you to embrace the importance of ethical conduct and compliance, and to perform work to the highest standards. If you do encounter behaviour you feel requires reporting look to the information within this policy or you can contact me directly.
**Purpose**

The purpose of this policy is to establish an internal reporting system for staff to report wrongdoing without fear of reprisal.

This policy sets out:

- who can report wrongdoing in the Department
- what should be reported and
- how reports of wrongdoing will be dealt with.

This policy is designed to complement normal communication channels between Managers / Supervisors (Managers) and staff. You are encouraged to raise matters of concern at any time with your Manager, but also have the option of making a report about a public interest issue in accordance with this policy.

This policy is just one in the suite of the Department’s complaint handling policies. It is not intended to be used for staff grievances, which should be raised with your Manager or Human Resources.

**Applicability**

The PID Act requires that a report must be made by a public official. A public official (without limitation) includes:

- ongoing, whether full-time or part-time
- temporary or casual employees
- consultants
- contingent labour
- employees of contractors providing services to the Department
- other people who perform public official functions whose conduct and activities could be investigated by an investigating authority, including volunteers.

The policy also applies to public officials of another public authority who report wrongdoing relating to the Department.

Compliance with this Policy is mandatory. Failure to comply with this Policy may lead to actions being taken in accordance with the Governance Sector Employment Act 2013.

**Roles and responsibilities**

**The Secretary**

The Secretary has ultimate responsibility for ensuring that the Department complies with the PID Act and maintaining the internal reporting system and workplace reporting culture. The Secretary can receive reports from staff and has a responsibility to:

- keep the identity of reporters confidential where practical and appropriate, and taking steps to protect reports from reprisal and managing workplace conflict
- assess reports received by or referred to them to determine whether the report should be treated as a public interest disclosure, and to decide how the report will be dealt with
- 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
- make decisions following any investigation or appoint an appropriate decision-maker
- take appropriate remedial action where wrongdoing is substantiated, or systemic problems are identified
- refer actual or suspected corrupt conduct to the Independent Commission Against Corruption (ICAC)
- refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC
- create and maintain accurate records relevant to the report and retain in the corporate records system.
Disclosures Coordinator

The Disclosures Coordinator has a central role in the internal reporting system to receive and assess reports and their team are the primary point of contact for the reporter. The Disclosures Coordinator has a responsibility to:

- assess reports to determine whether a report should be treated as a public interest disclosure, and how the report will be dealt with
- ensure that the rights of any officer the subject of a report will be respected
- coordinate the Department’s response to a report
- acknowledge reports and ensure their team provide updates and feedback to the reporter
- assess whether it is possible and appropriate to keep the reporter’s identity confidential
- assess the risk of reprisal and workplace conflict related to or likely to arise out of a report, and develop strategies with relevant Managers from the business area to manage any risk identified
- provide or coordinate support to staff involved in the reporting or investigation process, including protecting the interests of any officer the subject of a report
- ensure that managers and supervisors at all levels understand the benefits of reporting wrongdoing, are familiar with this policy, and aware of the needs of those who make a report
- provide training for key staff
- ensure the Department complies with the PID Act
- report on our obligations under the PID Act to the NSW Ombudsman every six months and include statistical information in our Annual Report
- create and maintain accurate records relevant to the report and retain in the corporate records system.

Disclosures officers

Disclosures officers are additional points of contact within the internal reporting system. They can provide advice about the system and the internal reporting policy, receive reports of wrongdoing and assist staff to make reports.

Disclosures officers have a responsibility to:

- document in writing any reports received verbally, and have the document signed and dated by the reporter
- make arrangements to ensure staff can make reports privately and discreetly, if necessary away from the workplace
- discuss with the reporter any concerns they may have about reprisal or workplace conflict
- forward reports to the Disclosures Coordinator for assessment
- create and maintain accurate records relevant to the report and retain in the corporate records system.

Managers

Managers play an important role in managing the immediate workplace of those involved in or affected by the internal reporting process. Supervisors and Managers should be aware of the internal reporting policy and are responsible for creating a work environment where staff are comfortable and confident about reporting wrongdoing.

Managers have a responsibility to:

- encourage staff to report known or suspected wrongdoing within the organisation and support staff when they do
- identify reports made to them during their work which could be public interest disclosures, and assist the staff member to make the report to a disclosures officer
- implement management strategies, in consultation with the Disclosures Coordinator, to minimise the risk of reprisal or workplace conflict in relation to a report
- notify the Disclosures Coordinator immediately if they believe a staff member is being subjected to reprisal as a result of reporting wrongdoing
- create and maintain accurate records relevant to the report and retain in the corporate records system.

All staff

We all play an important role in contributing to a workplace where known or suspected wrongdoing is reported and dealt with appropriately.

We all have an obligation to:

- report all known or suspected wrongdoing and support those who have made reports of wrongdoing
- 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 officers the subject of reports
- create and maintain accurate records relevant to the report and retain in the corporate records system.

We must not:

- victimise or harass anyone who has made a report
- victimise or harass anyone who is subject of a report
- make false or misleading reports of wrongdoing.

All staff are also obliged to adhere to the Code of Ethics and Conduct (the Code).
What should be reported

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

Your report will be treated as a public interest disclosure if it meets the criteria under the PID Act and is about:

- 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 be a public official and honestly believe on reasonable grounds that the information shows or tends to show wrongdoing.

The report is to be made to either the Secretary, the Disclosures Coordinator or a disclosures officer, an investigating authority or in limited circumstances to a Member of Parliament or journalist. Disclosures officers and further information can be found at [https://intranet.dpie.nsw.gov.au/ethics-conduct](https://intranet.dpie.nsw.gov.au/ethics-conduct).

Reports by staff are not public interest disclosures if they:

- mostly question the merits of government policy
- are made with the sole or substantial motive of avoiding dismissal or other disciplinary action

Information about the five categories of wrongdoing is detailed here:

1. Corrupt conduct

Corrupt conduct is the dishonest or partial exercise of official functions by a public official.

For example, this could include:

- the improper use of knowledge, power or position for personal gain or the advantage of others
- acting dishonestly or unfairly, or breaching public trust
- being influenced by a member of the public to use their position in a way that is dishonest, biased or breaches public trust.

2. Maladministration

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. It is more serious than a technical breach of policy or procedures.

For example, this could include:

- taking action that is unlawful
- inaction or failing to make a decision in accordance with official policy for no apparent reason or an improper motive
- refusing to grant a licence for reasons that are not related to the merits of the application.

3. Serious and substantial waste of public money

Serious and substantial waste 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
- having ineffective or no processes in place for a system involving large amounts of public funds.

4. Breach of the provisions of the GIPA Act


For example, this could include:

- destroying, concealing or altering records to prevent them from being released
- knowingly making decisions that are contrary to the legislation
- directing another person to make a decision that is contrary to the legislation.

5. Local Government

Disclosures about local government require that you honestly believe, on reasonable grounds that information shows or tends to show corrupt conduct, maladministration, serious and substantial waste of local government money, government information contravention or local government pecuniary interest contravention by any one or more of the following:

- a local government authority
- a delegate of a local government authority
- a member of a county council (within the meaning of Local Government Act 1993)
- a member of staff of a local government authority
- a representative on the board of a joint organisation (within the meaning of the Local Government Act 1993).
### Other conduct issues

All other conduct issues should be reported to a Manager or Human Resources, to be dealt with in line with the relevant policy. This might include:

- personal grievances, employment matters and workplace disputes
- bullying, harassment or unlawful discrimination
- workplace health or safety practices.

Matters like these will not be dealt with as public interest disclosures, however the Department recognises such reports may raise important issues. We will respond to all reports and make every attempt to protect the staff member making the report from reprisal.

### Who are our PID officials

The PID Act requires that, for a report to be a public interest disclosure, it must be made to certain public officials.

The list of officials within the Department who are authorised to receive a public interest disclosure can be found at [https://intranet.dpie.nsw.gov.au/ethics-conduct](https://intranet.dpie.nsw.gov.au/ethics-conduct). Any Manager who receives a report that they believe may be a public interest disclosure is obliged to assist the staff member to make the report to an official.

### Can a report be anonymous

There will be some situations where you may not want to identify yourself when you make a report. These reports will still be dealt with by the Disclosures Coordinator. Identifying yourself allows us to provide you with any necessary protection and support, as well as feedback about what action is to be taken or has been taken to deal with the issues raised in the report, or the outcome of any investigation.

It is important to realise that an anonymous report may not prevent you from being identified. If we do not know who made the report, it is very difficult to prevent any reprisal action.

You are able to make an anonymous report using the [Internal Reporting Form](#).

### Making a report outside of the Department

You can also make a public interest disclosure to:

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

#### a. Investigating authorities

The PID Act lists several investigating authorities in NSW to which wrongdoing can be reported. Each authority can deal with a particular type of wrongdoing.

In certain circumstances it may be preferable to make a report of wrongdoing to an investigating authority, for example a report about the Secretary.

The relevant investigating authorities are:

- the Independent Commission Against Corruption (ICAC) — for reports about corrupt conduct
- the NSW Ombudsman — for reports about maladministration
- the Auditor-General Audit Office of New South Wales — for reports about serious and substantial waste
- the Information Commissioner — for reports about a breach of the GIPA Act
- the Department of Planning, Industry and Environment — for reports about local councils.

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

You should be aware that the investigating authority may refer information and/or discuss any such reports with the Department. We will make every effort to assist and cooperate with the investigating authority to ensure the matter is dealt with appropriately. We will also provide appropriate support and assistance to staff who report wrongdoing to an investigating authority, if we are made aware that this has occurred.
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 Secretary
- the Disclosures Coordinator or a Disclosures Officer
- an investigating authority.

the Department or the investigating authority that received your initial report must have:

- 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 you report wrongdoing to an MP or a journalist you will need to be able to prove that you have reasonable grounds for believing that the disclosure is substantially true.

c. When you are not protected

If you report wrongdoing to a person or authority that is not listed above or make a report to an MP or journalist without following the steps outlined above, you may not be protected under the PID Act. This may mean you will be in breach of legal obligations and/or our Code for disclosing confidential information.

For more information about reporting wrongdoing outside the Department, contact the Disclosures Coordinator or the NSW Ombudsman’s Public Interest Disclosures Unit. Their contact details are provided at the end of this policy.

Advice to staff who report wrongdoing

When a report of wrongdoing is made the following process will occur:

a. Acknowledgement

When you make a report, you will be contacted by the Disclosures Coordinator to acknowledge receipt of the report and to advise the name and contact details of the people who can tell you what is happening or handle any concerns you may have.

After the Disclosures Coordinator determines whether the report meets the PID criteria you will be sent an acknowledgment letter, within 10 working days, which sets out:

- whether your report will be treated as a public interest disclosure
- the initial actions that will be taken in response to your report
- the likely timeframes for any investigation or other action
- information about the internal and external resources or services available that you can access for support including the link to the Policy.

If you make a report 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 your day to day functions, you will not receive an acknowledgement letter or a copy of this policy. For example, if you notice financial irregularities as part of your role and report these accordingly or notice incorrect credit card use, when as a Manager you must review credit card statements as part of your role.

b. Progress updates

While your report is being dealt with you will be:

- provided information about the progress of the investigation or other enquiries and reasons for any delay
- provided with the contact details of the individual managing any actions, who you can contact with any questions or concerns
- advised of any decision not to proceed with the matter
- consulted if your identity needs to be disclosed for the purposes of investigating the matter.

c. Outcome Notification

Once the matter has been finalised you will be advised about:

- the proposed action to be taken or that has already been taken
- whether you may be a witness in any future proceedings.
Maintaining confidentiality

Where possible and appropriate we will take steps to keep your identity confidential. We will discuss with you whether it is possible to keep your identity confidential. If confidentiality cannot be maintained, we will develop a plan to support and protect you from reprisal in consultation with you.

If you report wrongdoing, it is important that you only discuss your report with those responsible for dealing with it. This will include the Disclosures Coordinator or a member of staff managing the matter. The fewer people who know about your report, before and after you make it, the more likely it will be that we can protect you from any reprisal.

Any staff involved in the investigation or handling of a report, including witnesses, are also required to maintain confidentiality and not disclose information about the process or allegations to any person except for those people responsible for handling the report.

Managing the risk of reprisal and workplace conflict

When reports of wrongdoing are made a risk assessment will be undertaken by the Disclosures Coordinator, to assess the risk of reprisal and any support needed by the reporter. Persons subject of a report are referred to as the relevant employee in accordance with the GSE Rules.

Depending on the circumstances, the following steps may be taken, and the reporter will be advised:

- relocation of the relevant employee who is the subject of the allegation
- transfer of the relevant employee who is the subject of the allegation
- place the relevant employee upon a leave of absence during the investigation
- or in consultation with the reporter, relocation within the current workplace or transfer to another position for which they are qualified can be considered.

Protection against reprisals

Any reprisal against staff who report wrongdoing or are believed to have reported wrongdoing will not be tolerated.

The PID Act provides protections against reprisal:

- for the reporter of the public interest disclosure
- where a person takes action against another because they believe or suspect the other person has made or may have made a public interest disclosure, even if they did not.

Detrimental action means action causing, comprising or involving any of the following:

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

A person who is found to have committed a reprisal offence may face criminal penalties such as imprisonment and/or fines and may be required to pay the victim damages for any loss suffered because of the detrimental action. Taking detrimental action in reprisal is also misconduct which may result in disciplinary action.

It is important to understand the nature and limitations of the protection provided by the PID Act. It does not protect the reporter from management action where there are reasonable grounds to take such action.

a. Responding to allegations of reprisal

If you believe that detrimental action has been or is being taken against you or someone else in reprisal for reporting wrongdoing, you should tell your Manager, the Disclosures Coordinator or the Secretary immediately.

If the Secretary or the Disclosures Coordinator is made aware of or suspects that reprisal is being or has been taken against a person who has made a disclosure, the following steps will be taken:

- assess the report of reprisal to decide whether it should be treated as a public interest disclosure 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 member of staff
• if it is established that reprisal is occurring against someone who has made a report, take all steps possible to stop that activity and protect the reporter
• take appropriate disciplinary action against anyone proven to have taken or threatened any action in reprisal for making a disclosure
• refer any evidence of an offence under section 20 of the PID Act to the ICAC or NSW Police.

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 of reprisal.

If you have reported wrongdoing and are experiencing reprisal which you believe is not being dealt with effectively, contact the NSW Ombudsman or the ICAC (depending on the type of wrongdoing you reported). Contact details for these investigating authorities are included at the end of this policy.

b. Protection against legal action
If you make a public interest disclosure, you will not be subject to any legal liability for having made the public interest disclosure, and no action, claim or demand can be taken against you for having made the public interest disclosure. You will not have breached any confidentiality or secrecy obligations and you will have the defence of absolute privilege in defamation.

Support for those reporting wrongdoing
Regardless of whether their report is treated as a public interest disclosure, reporters are provided with access to any support they may need. In consultation with you, we may develop a personalised support plan or appoint a person within the Department to provide you with support.

Access to support is available for other staff involved in the internal reporting process.

The Employee Assistance Program is a confidential and free support service. Details of service providers can be found at https://intranet.dpie.nsw.gov.au/ethics-conduct.

Sanctions for making false or misleading statements
It is important to be aware that it is a criminal offence under the PID Act to wilfully make a false or misleading statement when reporting wrongdoing. You will not be supported if you wilfully make false or misleading reports. This may also be a breach of the Code and result in management and/or disciplinary action.

The rights of the employees subject of an allegation
If it is determined an investigation is to be undertaken as a result of a report, we are committed to ensuring that the relevant employee subject to any wrongdoing allegations is treated fairly and reasonably. This includes keeping the identity of the relevant employee confidential, where practical and appropriate.

If you are the relevant employee, you will be:
• advised of the details of the report
• advised of your rights and obligations under our policies and procedures
• treated fairly and impartially
• provided with contact details of the person managing the report so you can contact them with any questions or concerns
• kept informed about the progress of any investigation
• given a reasonable opportunity to respond to any allegation made against you
• told the outcome of any investigation, including any decision made about whether or not further action will be taken against you
• given a reasonable opportunity to respond to the proposed action.

Where the reported allegations have been investigated and unsubstantiated, support will be provided to the relevant employee. Where possible and practical, steps to keep the details of the allegations and any investigation will be kept confidential.

The relevant employee will have access to the Employee Assistance Program which is a confidential and free support service. Details of service providers can be found at https://intranet.dpie.nsw.gov.au/ethics-conduct.

Review
This policy and its effectiveness will be reviewed by the Disclosures Coordinator annually.

More information
More information about public interest disclosures is available on our intranet. Staff can also seek advice and guidance from the Disclosures Coordinator and the NSW Ombudsman's website at www.ombo.nsw.gov.au.
Flow chart of internal reporting process

Resources

The contact details for external investigating authorities that staff can make a public interest disclosure to or seek advice from are listed below. All contact details were correct when this policy was published.

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
Email: icac@icac.nsw.gov.au
Web: www.icac.nsw.gov.au

For disclosures about maladministration:
NSW Ombudsman
Phone: 02 9286 1000
Toll free (outside Sydney metro): 1800 451 524
Tel. typewriter (TTY): 02 9264 8050
Email: pid@ombo.nsw.gov.au
Web: www.ombo.nsw.gov.au

For disclosures about serious and substantial waste:
NSW Auditor-General, NSW Audit Office
Phone: 02 9275 7100
Email: governance@audit.nsw.gov.au
Web: www.audit.nsw.gov.au

For disclosures about local councils:
Deputy Secretary Local Government and Planning
Phone: 02 4428 4100
Tel. typewriter (TTY): 02 4428 4209
Email: olg@olg.nsw.gov.au
Web: www.olg.nsw.gov.au

For disclosures about police:
Law Enforcement Conduct Commission (LECC)
Phone: 02 9321 6700
Toll free: 1800 657 079
Email: contactus@lecc.nsw.gov.au
Web: www.lecc.nsw.gov.au

For disclosures about breaches of the GIPA Act:
New South Wales Information Commissioner Information and Privacy Commission
Toll free: 1800 472 679
Email: ipcinfo@ipc.nsw.gov.au
Web: www.ipc.nsw.gov.au

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