

Internal Public Interest Disclosure Policy

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1. Policy statement

The *Public Interest Disclosures Act 2022* (PID Act) provides a framework that facilitates public interest reporting of wrongdoing by protecting those who speak up from detrimental action and imposing duties on agencies who receive reports of wrongdoing to take appropriate action to investigate or otherwise deal with them.

The Audit Office is required under section 42 of the PID Act to have a Public Interest Disclosure (PID) Policy for receiving, assessing and dealing with public interest disclosures (PIDs). This policy reflects the legislation and aligns with the model policy and guidance issued by the [NSW Ombudsman](#), available on its [website](#).

Staff are encouraged to raise matters of concern at any time with their managers, but also have the option of making a report about a public interest issue in accordance with this policy and the PID Act.

The integrity of the Audit Office relies upon our staff, contractors and subcontractors speaking up when they become aware of wrongdoing.

2. Purpose

The purpose of this policy is to establish an internal reporting system to encourage staff (and other public officials) to report serious wrongdoing in the Audit Office without fear of detrimental action being taken against them.

This policy should be read in conjunction with the [Code of Conduct](#) and other related policies and procedures including those forming part of the Ethical and Lawful Framework and Employee Conduct and Obligations pages of our intranet.

This policy will provide you with information on the following:

- ways you can make a voluntary PID to the Audit Office under the PID Act
- the names and contact details for the nominated disclosure officers in the Audit Office
- the roles and responsibilities of people who hold particular roles under the PID Act and who are employees of the Audit Office
- what information you will receive once you have made a voluntary PID
- Audit Office procedures for dealing with disclosures
- protections available to people who make a report (Reporter/s) of serious wrongdoing under the PID Act and what we will do to protect you
- the Audit Office procedures for managing the risk of detrimental action and reporting detrimental action.

3. Scope

3.1 Who does this policy apply to?

This policy applies to, and for the benefit of, all public officials in NSW. You are a public official if you are:

- an employee of the Audit Office: permanent (full-time or part-time), temporary or casual
- a statutory officer (the Auditor-General)
- a person providing services or exercising functions on behalf of the Audit Office, including a contractor, subcontractor or volunteer
- an employee, partner or officer of an entity that provides services, under contract, subcontract or other arrangement, on behalf of the Audit Office or exercises functions of the Audit Office, and are involved in providing those services or exercising those functions.

The Auditor-General, the Disclosures Coordinator, other nominated disclosure officers and managers within the Audit Office have specific responsibilities under the PID Act. This policy also provides information on how people in these roles will fulfil their responsibilities.

Other public officials who work in and for the public sector, but do not work for the Audit Office may use this policy if they want information on who they can report wrongdoing to within the Audit Office. For a full list of who is considered a public official under the PID Act, see the Ombudsman guideline 'Core concepts of the PID Act'.

3.2 Who does this policy not apply to?

This policy does not apply to:

- people who have received services from the Audit Office and want to make a complaint about those services
- people, such as contractors, who provide services to the Audit Office, for example, employees of a company that sold computer software to the Audit Office
- consultants.

Note: If the Audit Office engages consultants to assist the Audit Office with our work, it should be noted that these consultants are not considered public officials under the PID Act.

If you are not a public official, this policy does not apply to your complaint.¹ However, you can still make a complaint to us. This policy is just one in the suite of the Audit Office's [complaints handling policies](#), which are available on the Audit Office website and the intranet, and should be read in conjunction with these policies.

The internal reporting system established under this policy is not intended to be used for staff grievances – unless that grievance also has features of serious wrongdoing (see [section 6](#) of this policy). If a staff member makes a report under this policy which is substantially a grievance and does not have features of serious wrongdoing, the matter will be referred to People & Culture team and dealt with in accordance with the [Grievance Policy](#), which is available on the intranet.

4. Organisational commitment

The Audit Office is committed to the highest standards of ethical and accountable behaviour and will not tolerate any form of wrongdoing. Our [Code of Conduct](#) requires staff to come forward and report wrongdoing to promote integrity, accountability and good management within the office.

To help promote a culture of openness and integrity, the Audit Office is committed to creating a climate of trust, where staff are comfortable and confident about reporting wrongdoing. Staff are actively encouraged to come forward if they have witnessed what they consider to be wrongdoing within the office.

Although you are encouraged to report wrongdoing directly within the office, the Audit Office will respect any decision to disclose wrongdoing outside the office.

5. When will a report be a PID?

There are three types of PIDs in the PID Act. These are:

1. *Voluntary PID:* This is a PID where a report has been made by the public official because they decided, of their own accord, to come forward and disclose what they know.
2. *Mandatory PID:* This is a PID where the public official has made a report about serious wrongdoing because they have a legal obligation to make that report, or because making that report is an ordinary aspect of their role or function in an agency.

¹ There are some circumstances where a complaint can be deemed to be a voluntary PID, [see section 7.8](#) of this policy for more information).

3. **Witness PID:** This is a PID where a person discloses information during an investigation of serious wrongdoing following a request or requirement of the investigator.

This policy mostly relates to making a voluntary PID and how we will deal with voluntary PIDs. Managers who receive a voluntary PID are required to communicate that PID to a disclosure officer (see [section 8.4](#) of this policy) and in doing so will be making a mandatory PID. People who make a mandatory PID or a witness PID are still entitled to protections. More information about protections is available in [section 10](#) of this policy.

You can find more information about mandatory and witness PIDs in the Ombudsman's guidelines 'Dealing with mandatory PIDs' and 'Dealing with witness PIDs' which are available on its website.

6. What is serious wrongdoing?

You should report any suspected serious wrongdoing or any activities or incidents you see within the Audit Office that you believe are wrong. Reports about the following categories of serious wrongdoing which also meet the other criteria of a voluntary PID, will be dealt with under the PID Act and according to this policy.

Corrupt conduct involves deliberate or intentional wrongdoing involving (or affecting) a public official or agency in NSW. For example, this could include:

- a public official accepting a bribe
- the improper use of knowledge, power or position for personal gain or taking advantage of others
- acting dishonestly or unfairly, or breaching public trust
- 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.

Serious maladministration is conduct, other than conduct of a trivial nature, of an agency or a public official relating to a matter of administration that is:

- unlawful
- unreasonable, unjust, oppressive or improperly discriminatory, or
- based wholly or partly on improper motives.

For example, this could include making a decision and/or taking action that is unlawful or where an agency is systemically failing to comply with proper recruitment processes when hiring staff.

A government information contravention is a failure to properly fulfil functions under that [Government Information Public Access Act 1995](#), [Government Information \(Information Commissioner\) Act 2009](#) or the [State Records Act 1998](#). 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.

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, such as a senior council staff member recommending a family member for a council contract and not declaring the relationship.

A privacy contravention is a failure, other than a trivial failure, of an agency or a public official to exercise functions in accordance with [Privacy and Personal Information Protection Act 1988](#) and [Health Records and Information Privacy Act 2002](#), such as unlawfully accessing a person's personal information on an agency's database.

Serious and substantial waste of public money involves the uneconomical, inefficient or ineffective use of resources, whether authorised or unauthorised, and which could result in a serious and substantial loss of public funds or resources.

When you make your report, you do not need to state to us what category of serious wrongdoing you are reporting or that you are reporting serious wrongdoing.

7. How to make a report of serious wrongdoing in relation to the Audit Office

7.1 Reports, complaints and grievances

When a public official reports suspected or possible wrongdoing in the public sector, their report will be a PID if it has certain features which are set out in the PID Act.

Some internal complaints or internal grievances may also be PIDs, as long as they have the features of a PID. If an internal complaint or grievance is a report of serious wrongdoing, we will consider whether it is a PID. If it is a PID, we will deal with it as set out in this policy, but we will also make sure we follow other related policies and procedures including those forming part of the Ethical and Lawful Framework and Employee Conduct and Obligations pages of our intranet.

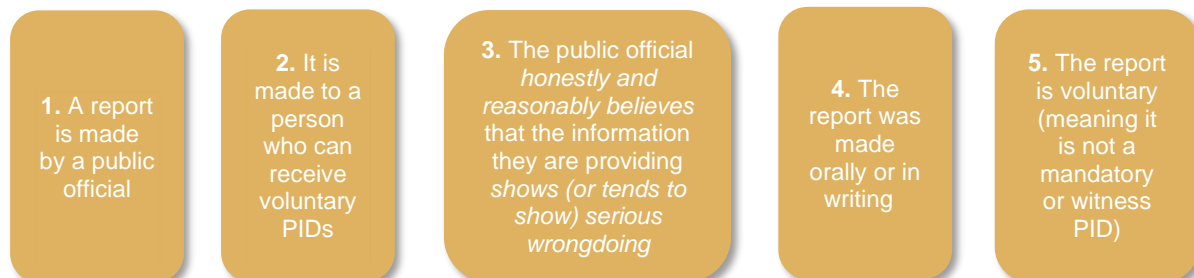
It is important that we quickly recognise that we have received a PID. This is because once a PID is received, the Reporter is entitled to certain protections and we have certain decisions that we have to make on how we will deal with the PID and how we will protect and support the Reporter.

7.2 When will a report be a voluntary PID?

Voluntary PIDs are the kind of PIDs most people have in mind when they think about public interest reporting and ‘whistleblowing’.

They involve a public official making a report because they have information that they believe shows (or tends to show) serious wrongdoing, where they are not under a legal obligation to make that report and where it is not an ordinary part of their role to report such wrongdoing.

A report is a voluntary PID if it has the following five features, which are set out in sections 24 to 27 of the PID Act:



- 1. A report is made by a public official
- 2. It is made to a person who can receive voluntary PIDs
- 3. The public official *honestly and reasonably believes* that the information they are providing *shows (or tends to show) serious wrongdoing*
- 4. The report was made orally or in writing
- 5. The report is voluntary (meaning it is not a mandatory or witness PID)

If the report has all five features, it is a voluntary PID.

You will not be expected to prove that what you reported actually happened or is serious wrongdoing. You do have to honestly believe, on reasonable grounds, that the information you are reporting shows or tends to show serious wrongdoing.

Even though you do not have to prove the serious wrongdoing happened or provide evidence, a mere allegation with no supporting information is unlikely to meet this test.

If we make an error and do not identify that you have made a voluntary PID, you will still be entitled to the protections under the PID Act.

If you make a report and believe we have made an error by not identifying that you have made a voluntary PID, you should raise this with a nominated disclosure officer or your contact officer for the report. If you are still not satisfied with this outcome, you can seek an internal review or we may seek to conciliate the matter. You may also contact the NSW Ombudsman. Further information on rights to internal review and conciliation is found in [section 13](#) of this policy.

7.3 Who can make a voluntary PID?

Any public official can make a voluntary PID. See [section 3.1](#) of this policy titled 'Who does this policy apply to' for a list of public officials who can make a PID under this policy.

A public official can make a PID about serious wrongdoing relating to any agency, not just the agency they are working for. This means that we may receive PIDs from public officials outside the Audit Office. It also means that you can make a PID to any agency, including an integrity agency.

7.4 Who can I make a voluntary PID to?

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

7.4.1 Making a report to a public official who works for the Audit Office

You can make a report inside the Audit Office to:

- the Auditor-General
- the Disclosures Coordinator (the Director, Governance (Legal))
- nominated disclosure officers:
 - Deputy Auditor-General
 - Executive Director, Professional Services
 - Director, Governance (Risk and Ethics)
 - Governance Managers
 - Executive Director, Corporate, Experience and Strategy
 - Executive Director, Finance and Performance
 - Assistant Auditors-General, Financial Audit, Performance Audit, Systems Assurance, Cyber & Data

- your manager

This is the person who directly, or indirectly, supervises you. It can also be the person who you directly, or indirectly, report to. You may have more than one manager. Your manager will make sure that the report is communicated to a disclosure officer on your behalf or may accompany you while you make the report to a disclosure officer.

For a public official who is a person providing services or exercising functions on behalf of an agency (including a contractor, subcontractor or volunteer) or an employee, partner or officer of an entity that provides services on behalf of an agency or exercises functions of an agency — their manager is taken to be the public official in that agency who oversees those services or functions, or who manages the relevant contract or volunteering arrangement.

7.4.2 Making a report to a recipient outside of the Audit Office

You can also make your report to a public official in another agency (meaning an agency you do not work for) or an integrity agency. These include:

- the head of another agency — this means the head of any public service agency
- an integrity agency
 - The PID Act lists a number of integrity agencies in NSW that public officials can report serious wrongdoing to and the type of serious wrongdoing each authority can deal with. In certain circumstances, it may be preferable to report wrongdoing to an integrity agency in the first instance, for example any report about the head of an agency.
 - You should contact the relevant agency for advice about how to make a report to them. Contact details for each integrity agency are provided in [Appendix 1](#) of this policy.
- a disclosure officer for another agency — ways to contact disclosure officers for other agencies is located in an agency's PID policy which can be found on their public website
- a Minister or a member of a Minister's staff but the report must be made in writing.

If you choose to make a disclosure outside of the Audit Office, it is possible that your disclosure will be referred back to us so that appropriate action can be taken.

7.4.3 Making a report to a Member of Parliament or journalist

Disclosures to MPs or journalists are different to other reports. You can only disclose a report of wrongdoing as a voluntary PID to an MP or journalist in the following circumstances.

- You must have first made substantially the same disclosure (described here as a ‘previous disclosure’) to someone who can receive disclosures.
- The previous disclosure must be substantially true.
- You did not make the previous disclosure anonymously.
- You did not give a written waiver of your right to receive information relating to your previous disclosure.
- You did not receive the following from the Audit Office:
 - a) notification that the Audit Office will not investigate the serious wrongdoing and will also not refer the previous disclosure to another agency, or
 - b) the following information at the end of the investigation period:
 - i) notice of the Audit Office’s decision to investigate the serious wrongdoing
 - ii) a description of the results of an investigation into the serious wrongdoing
 - iii) details of proposed or recommended corrective action as a result of the previous disclosure or investigation.

Investigation period means:

 - after six months from the previous disclosure being made, or
 - after 12 months if you applied for an internal review of the agency’s decision within six months of making the disclosure.

If all the above requirements are met, your disclosure to an MP or journalist may be a voluntary PID.

7.5 What form should a voluntary PID take?

You can make a voluntary PID:

- in writing:
 - by email: governance@audit.nsw.gov.au or to a specific nominated disclosure officer, including the Disclosures Coordinator
 - by post: The Audit Office of NSW, GPO Box 12, SYDNEY NSW 2001 addressed to the Auditor-General of NSW, the Disclosures Coordinator, or other disclosure officers listed in this policy.

You are encouraged to make a report in writing as this can help to avoid any confusion or misinterpretation. The Audit Office’s internal report form is available at [Appendix 2](#).

- **orally:** Have a private discussion, this can be face-to-face, via telephone (02 9275 7100) or virtually.

If a report is made verbally, the officer receiving the report must make a comprehensive record of the report and ask you to sign the record where possible. You should keep a copy of this record.

- **anonymously:** Write an email or letter or call to make a report without providing your name or anything that might identify you as a Reporter. A report will only be considered anonymous if there is no reasonable or practical way of communicating with the Reporter.

Even if you choose to remain anonymous, you will still be protected under the PID Act (see [section 10](#) of this policy). It may be difficult, however, for us to investigate the matter(s) you have disclosed if we cannot contact you for further information, as well as to provide you with any necessary protection and support or the feedback about the outcome of any investigation.

It is important to realise that an anonymous report may not prevent you from being identified by your colleagues. If the Audit Office does not know who made the report, it will be very difficult to prevent any detrimental action.

7.6 What should I include in my report?

You should provide as much information as possible so we can deal with the report effectively. The type of information you should include is:

- date, time and location of key events
- names of person(s) involved in the suspected wrongdoing, their role, title and how they are involved
- your relationship with the person(s) involved, such as whether you work closely with them
- your explanation of the matter you are reporting
- how you became aware of the matter you are reporting
- possible witnesses
- other information you have that supports your report.

See the internal report form in [Appendix 2](#) which you are encouraged to use.

7.7 What if I am not sure if my report is a PID?

You should report all wrongdoing you become aware of regardless of whether you think it is serious wrongdoing. This might include:

- harassment or unlawful discrimination
- practices that endanger the health or safety of staff or the public.

It is important for us to understand what is or may be occurring so that it can be dealt with in line with the relevant policies. Relevant People & Culture policies are located on the Employee Conduct and Obligations pages of our intranet.

We are responsible for making sure your report is handled appropriately under the PID Act, or if it is not a PID, in line with our other procedures. Even if your report is not a PID, the Audit Office recognises such reports may raise important issues, and may fall within another one of the Audit Office's policies for dealing with reports, allegations or complaints.

7.8 Deeming that a report is a voluntary PID

The Auditor-General can, in certain circumstances, determine that a report is a voluntary PID even if the report does not otherwise have all the features of a voluntary PID. This is known as the 'deeming power'.

By deeming that a report is a voluntary PID, it ensures that Reporters are provided with protections under the PID Act.

If you make a report that has not met all the requirements of a voluntary PID, you can refer your matter to the Auditor-General to request that they consider deeming your report to be a voluntary PID.

A decision to deem a report to be a voluntary PID is at the discretion of the Auditor-General (or their delegate). For more information about the deeming power, see the Ombudsman's guideline 'Deeming that a disclosure is a voluntary PID'.

8. Roles and responsibilities

8.1 The Auditor-General

As head of the agency, the Auditor-General has responsibility for fostering a workplace culture where reporting is encouraged and ensuring the Audit Office complies with this policy and the PID Act. The Auditor-General can receive disclosures from public officials and is responsible for:

- ensuring there is a system in place for assessing disclosures
- ensuring that the Audit Office has appropriate systems for:
 - overseeing internal compliance with the PID Act
 - supporting public officials who make voluntary PIDs, including by minimising the risk of detrimental action
 - implementing corrective action if serious wrongdoing is found to have occurred
 - complying with reporting obligations regarding allegations or findings of detrimental action
 - complying with yearly reporting obligations to the NSW Ombudsman
- referring reports to the Disclosures Coordinator for action
- referring actual or suspected corrupt conduct to the [Independent Commission Against Corruption \(ICAC\)](#)
- referring any evidence of a detrimental action offence under section 34 of the PID Act to the Commissioner of Police, ICAC or, if the evidence relates to a member of the NSW Police Force or NSW Crime Commission, the Law Enforcement Conduct Commission
- notifying the NSW Ombudsman about the allegation of a detrimental action offence.

8.2 The Disclosures Coordinator

The Disclosures Coordinator has a central role in the Audit Office's internal reporting system. The Disclosures Coordinator should be notified of all reports received under this policy.

In addition to being a disclosure officer for the purposes of the PID Act, the Disclosures Coordinator has a responsibility to:

- provide advice to disclosure officers on the assessment of reports to determine whether or not a report should be treated as a PID, and to decide how each report will be dealt with
- in reviewing and confirming the assessment of a report, may decide that the report should be referred elsewhere or that no action should be taken on the report
- coordinate the Audit Office's response to a report
- acknowledge reports and 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 detrimental action related to or likely to arise out of a report, and develop strategies to manage any risk identified
- where required, provide or coordinate support to the Reporter and other staff or public officials involved
- receive and coordinate the response to a Reporter's request for internal review, or a request for dispute resolution
- provide an annual return containing information prescribed in section 78 of the PID Act to the Ombudsman in relation to each period of 12 months ending on 30 June.

8.3 Disclosure officers

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

The disclosure officers are responsible for:

- receiving reports from public officials
- receiving reports when they are passed on to them by managers
- preparing and providing input to the assessments of reports
- in consultation with the Disclosures Coordinator, ensuring reports are dealt with appropriately, including by referring the matter to the appropriate branch or unit

- ensuring that any oral reports that have been received are recorded in writing
- make arrangements to ensure Reporters can make reports privately and discreetly when requested, if necessary away from the workplace
- discuss with the Reporter any concerns they may have about detrimental action
- refer the report to the Disclosures Coordinator for action.

Nominated disclosure officers are listed at [section 7.4.1](#) of this policy.

8.4 Managers

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

The responsibilities of managers include:

- receiving reports from persons that report to them or that they supervise
- as soon as reasonably practical, passing on reports they receive to the Disclosures Coordinator or a nominated disclosure officer
- encouraging staff to report known or suspected wrongdoing within the office and support staff when they do
- implementing local management strategies, in consultation with the Disclosures Coordinator, to minimise the risk of detrimental action in relation to a report
- notifying the Disclosures Coordinator or Auditor-General immediately if they believe a Reporter is being subjected to detrimental action as a result of reporting wrongdoing.

8.5 All employees

Everyone within the scope of this policy plays an important role in contributing to a workplace where known or suspected wrongdoing is reported and dealt with appropriately.

All employees must:

- report suspected serious wrongdoing or other misconduct
- use their best endeavours to assist in an investigation of serious wrongdoing if asked to do so by a person dealing with a voluntary PID on behalf of the Audit Office
- treat any person dealing with or investigating reports of serious wrongdoing with respect.

All employees must not take detrimental action against any person who has made, may in the future make, or is suspected of having made, a PID. It is contrary to this policy to:

- victimise or harass the Reporters
- make false or misleading reports of wrongdoing.

Additionally, anyone involved in the internal reporting process is obliged to adhere to the Audit Office's [Code of Conduct](#). A breach of the Code could result in disciplinary action.

9. How we will deal with reports which relate to the Audit Office that are PIDs

All reports will be promptly and thoroughly assessed to determine what action will be taken to deal with the report. Once a report is received, we will look at the information contained in the report to see if it has the features of a voluntary PID. See the internal report form in [Appendix 2](#).

The assessment by a disclosure officer, reviewed by the Disclosure Coordinator, is undertaken to identify whether the report is a voluntary PID or another type of disclosure, and to make sure that the right steps are followed.

If it is a voluntary PID, we will ensure that we comply with the requirements in the PID Act.

9.1 Where the report is a voluntary PID

If the report is a voluntary PID:

- In most cases we will conduct an investigation to make findings about whether the serious wrongdoing disclosed in the report occurred, who was involved, who was responsible, and whether the people involved, or the agency engaged, in serious wrongdoing. There may be circumstances where we believe an investigation is not warranted — for example, if the conduct has previously been investigated.
- There may also be circumstances where we decide that the report should be referred to another agency, including a different integrity agency. For example, reports concerning possible corrupt conduct may be required to be reported to the ICAC in accordance with section 11 of the *Independent Commission Against Corruption Act 1988*.
 Before referring a matter, we will discuss the referral with the other agency, and we will provide you with details of the referral and a contact person within the other agency.
- If we decide not to investigate a report and to not refer the matter to another agency, we must let you know the reasons for this and notify the NSW Ombudsman.

9.1.1 How we will acknowledge that we have received a report and keep the person who made it informed

When a disclosure officer in the Audit Office receives a report which is a voluntary PID, or looks like it may be a voluntary PID, the person who made the report will receive:

- An acknowledgment that the report has been received that
 - states that the report will be assessed to identify whether it is a PID
 - states that the PID Act applies to how we will deal with the report
 - provides clear information on how to access this policy
 - provides details of a contact person and available support.
- If the report is a voluntary PID, we will inform the Reporter as soon as possible how we intend to deal with the report. This may include:
 - that we are investigating the allegations of serious wrongdoing
 - that we will refer the report to a different agency (if appropriate) to deal with the voluntary PID. If we do this, we will provide you with details of this referral.
 - that we have decided not to investigate and to refer it.
- If we decide to not investigate the report and to not refer it to another agency for it to be investigated, we will tell you the reasons for this decision. We will also notify the NSW Ombudsman of this decision.
- If we decide to investigate the allegation of serious wrongdoing, we will provide you with updates on the investigation at least every three months. During this time, if you would like more frequent updates, you should contact the contact person who was nominated when you made the report.

If we complete an investigation of the allegation of serious wrongdoing, we will provide you with the following information once the investigation is complete:

- a description of the results of the investigation
- information about any corrective action as a result of the investigation — this means that, if serious wrongdoing was found to have taken place, we will tell you what action we took in relation to the person who engaged in the serious wrongdoing or if the serious wrongdoing was by the Audit Office, what we have put in place to address that serious wrongdoing.

Corrective action could include taking disciplinary action against someone or changing the practices, policies and procedures that we have in place which led to the serious wrongdoing (see [section 9.1.3](#) below).

- There may be some details about both the findings made as a result of the investigation and the corrective action taken that cannot be revealed to you. We will always balance the right of a Reporter to know the outcome of that report, with other legal obligations we have.
- If you have made an anonymous report, in many cases we may not be able to provide this information to you.

9.1.2 How we will protect the confidentiality of the maker of a voluntary PID

We understand that people who make voluntary PIDs may want their identity and the fact that they have made a report to be confidential.

Under the PID Act, information tending to identify a person as the maker of a voluntary PID (known as identifying information) is not to be disclosed by a public official or an agency.

There are certain circumstances under the PID Act that allow for the disclosure of identifying information. These include:

- where the person consents in writing to the disclosure
- where it is generally known that the person is the maker of the voluntary PID because of their voluntary self-identification as the maker
- when the public official or the Audit Office reasonably considers it necessary to disclose the information to protect a person from detriment
- where it is necessary the information be disclosed to a person whose interests are affected by the disclosure
- where the information has previously been lawfully published
- when the information is disclosed to a medical practitioner or psychologist for the purposes of providing medical or psychiatric care, treatment or counselling to the individual disclosing the information
- when the information is disclosed for the purposes of proceedings before a court or tribunal
- when the disclosure of the information is necessary to deal with the disclosure effectively
- if it is otherwise in the public interest to disclose the identifying information.

We will put in place steps to keep the identifying information of the maker and the fact that a report has been made confidential. It may not be possible for us to maintain complete confidentiality while we make preliminary inquiries or progress the investigation, but we will do all that we practically can to not unnecessarily disclose information from which the maker of the report can be identified. This will include:

- limiting the number of people who are aware of the maker's identity or information that could identify them
- if we must disclose information that may identify the maker of the PID, still not disclosing the actual identity of the maker of the PID, unless we have their consent to do so.
- ensuring that any person who does know the identity of the maker of a PID is reminded that they have a legal obligation to keep their identity confidential
- ensuring that only authorised persons have access to emails, files or other documentation that contain information about the identity of the maker
- undertaking an assessment to determine if anyone is aware of the maker's identity and if those persons have a motive to cause detrimental action to be taken against the maker or impede the progress of the investigation
- providing information to the maker of the PID about the importance of maintaining confidentiality and advising them how best to protect their identity, for example, by telling them not to discuss their report with other staff.

If confidentiality cannot be maintained or is unlikely to be maintained, we will:

- advise the person whose identity may become known
- update the agency's risk assessment and risk management plan
- implement strategies to minimise the risk of detrimental action
- provide additional support to the person who has made the PID
- remind persons who become aware of the identifying information of the consequences for failing to maintain confidentiality and that engaging in detrimental action is a criminal offence and may also be a disciplinary matter.

See [section 14.1](#) for information on our record keeping requirements and data protection.

9.1.3 What we will do if an investigation finds that serious wrongdoing has occurred

If, after an investigation, it is found that serious wrongdoing or other misconduct has occurred, we will take the most appropriate action to address that wrongdoing or misconduct. This is also known as corrective action.

Corrective action can include:

- a formal apology
- improving internal policies to adequately prevent and respond to similar instances of wrongdoing
- providing additional education and training to staff where required
- taking employment action against persons involved in the wrongdoing (such as termination of employment, relocation, a caution or reprimand)
- payment of compensation to people who have been affected by serious wrongdoing or other misconduct.

If at any stage the Auditor-General suspects, on reasonable grounds, the matter concerns or may concern corrupt conduct, the matter will be reported to the ICAC.

9.1.4 Cease dealing with report as voluntary PID

The Audit Office may stop dealing with a voluntary PID because it is not actually a voluntary PID (meaning it does not have all the features of a PID).

A purported PID is one that is made to one of the recipients of voluntary PIDs set out in the PID Act, and it is not a witness or mandatory PID and the maker has stated it is a voluntary PID. We will provide reasons to the maker of a purported PID if we have ceased dealing with the report as a voluntary PID.

9.2 A report that is not a voluntary PID

Even if the report is not a voluntary PID, it will still need to be dealt with in a manner consistent with our [complaints handling policies](#) which are available on the Audit Office website or through an alternate process, such as grievance handling process.

If the report is not a voluntary PID, we will let you know that the PID Act does not apply to the report and how we will deal with the concerns raised in the report.

If you are not happy with this assessment or otherwise disagree with it, you can raise it with the person who has communicated the outcome with you or a disclosure officer, request an internal review or request that the matter be conciliated. The Audit Office can, but does not have to, request the NSW Ombudsman to conciliate the matter.

10. Protections

10.2 How is the maker of a voluntary PID protected?

When you make a voluntary PID you receive special protections under the PID Act.

We are committed to taking all reasonable steps to protect you from detriment as a result of having made a PID. We are also committed to maintaining your confidentiality as much as possible while the PID is being dealt with.

We will not tolerate any type of detrimental action being taken against you because you have made a report, might make a report or are believed to have made a report. The Audit Office has a duty to take proactive steps to protect the maker of voluntary PID from the risk of detrimental action.

The maker of a voluntary PID is protected in the following ways:

- *Protection from detrimental action*
 - A person cannot take detrimental action against another person because they have made a voluntary PID or are considering making a PID. Detrimental action includes bullying, harassment, intimidation or dismissal.
 - Once we become aware that a voluntary PID by a person employed or otherwise associated with the Audit Office that concerns serious wrongdoing relating to the Audit Office has been made, we will undertake a risk assessment and take steps to mitigate the risk of detrimental action occurring against the person who made the voluntary PID.
 - It is a criminal offence for someone to take detrimental action against a person because they have made or may make a voluntary PID. It is punishable by a maximum penalty of 200 penalty units or imprisonment for five years or both.
 - A person may seek compensation where unlawful detrimental action has been taken against them.
 - A person can apply for a court order (injunction) where detrimental action is threatened or has occurred (for example, an order to prevent dismissal or to require reinstatement).

Note: A person who makes a PID can still be subject to reasonable management action (such as ordinary performance reviews and performance management). Provided such action is not taken because of the PID, it is not detrimental action under the PID Act.

- *Immunity from civil and criminal liability*

Some public officials are often subject to a duty of confidentiality that prevents them disclosing certain information that they obtain or become aware of at work. Sometimes, in order to make a PID, public officials will need to breach or disregard such confidentiality duties. If that happens, a public official cannot be disciplined, sued or criminally charged for breaching confidentiality.
- *Protection from liability for own past conduct*

The Attorney General can give the maker an undertaking that a disclosure of their own past conduct will not be used against them if a person discloses their own wrongdoing or misconduct while making a report. This undertaking can only be given on application by an integrity agency to the Attorney General.
- *Confidentiality*

Public officials and agencies must not disclose information tending to identify a person as the maker of a voluntary PID unless doing so is permitted by the PID Act.

10.3 Protections for people who make mandatory and witness PIDs

Apart from PIDs that are made voluntarily by public officials, there are other types of reports that are recognised as PIDs under the PID Act: a mandatory PID and a witness PID – see [section 5](#) of this policy.

Protections for makers of mandatory and witness PIDs include:

- Protection from detrimental action

- Immunity from civil and criminal liability
- Protection from liability for own past conduct

11. Minimising the risk of and dealing with detrimental action

11.1 How we will assess and minimise the risk of detrimental action

We will not tolerate any detrimental action being taken by any person against a Reporter, investigators, witnesses or the person the report is about.

Detrimental action against a person is an act or omission that causes, comprises, involves or encourages detriment to a person or a threat of detriment to a person (whether express or implied).

Detriment to a person includes:

- injury, damage or loss
- property damage
- reputational damage
- intimidation, bullying or harassment
- unfavourable treatment in relation to another person's job
- discrimination, prejudice or adverse treatment
- disciplinary proceedings or disciplinary action, or
- any other type of disadvantage.

Detrimental action does not include:

- lawful action taken by a person or body to investigate serious wrongdoing or other misconduct
- the lawful reporting or publication of a finding of serious wrongdoing or other misconduct
- the lawful making of adverse comment, resulting from investigative action
- the prosecution of a person for a criminal offence
- reasonable management action taken by someone in relation to a person who made or may make a PID. For example, a reasonable appraisal of a PID maker's work performance.

The Disclosures Coordinator will take steps to assess and minimise the risk of detrimental action by undertaking a risk assessment and developing a risk management plan (including reassessing the risk throughout the entirety of the matter).

The Disclosures Coordinator will consult with the Reporter in this process, including discussing protection options with the maker which may include remote working or approved leave for the duration of the investigation. The risk management plan is to be approved by the Deputy Auditor-General.

Should the allegation involve the Disclosures Coordinator or Deputy Auditor-General directly or by implication, the Auditor-General will nominate an alternative officer to develop and approve the risk management plan for the approval of the Auditor-General.

11.2 How we will deal with allegations of a detrimental action offence

If we become aware of an allegation that a detrimental action offence has occurred or may occur, we will:

- take all steps possible to stop the action and protect the person(s)
- take appropriate disciplinary action against anyone that has taken detrimental action
- refer any evidence of a detrimental action offence to the Commissioner of Police and the ICAC
- notify the NSW Ombudsman about the allegation of a detrimental action offence being committed.

11.3 Reporting detrimental action

If you experience adverse treatment or detrimental action, such as bullying or harassment, you should report this:

- directly to us: your manager, the Disclosures Coordinator or the Auditor-General immediately.
Note: All managers must notify the Disclosures Coordinator or the Auditor-General – or another integrity agency – if they suspect that a detrimental action against a Reporter is occurring or has occurred, or if any such allegations are made to them.
- A list of integrity agencies is located at [Appendix 1](#) of this policy.

Adverse treatment or detrimental action can be reported in the same way as a voluntary PID. See [section 7.5](#) of this policy for ways of reporting a voluntary PID.

12. General support for Reporters

The Audit Office will make sure that Reporters, regardless of whether their report is treated as a PID, are provided with:

- a person who will be their key contact person and who will take steps to protect their interests, for example, if they are at risk of detrimental action
- access to any professional support they may need as a result of the reporting process, for example the [Employee Assistance Program](#).

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 Disclosures Coordinator.

Reporters can contact the NSW Ombudsman if they have questions about the PID Act and reporting generally.

13. Review and dispute resolution

13.1 Internal review

People who make voluntary PIDs can seek internal review of the following decisions made by the Audit Office:

- that we are not required to deal with the report as a voluntary PID
- to stop dealing with the report because we decided it was not a voluntary PID
- to not investigate the serious wrongdoing and not refer the report to another agency
- to cease investigating the serious wrongdoing without either completing the investigation or referring the report to another agency for investigation.

We will ensure internal reviews are conducted in compliance with the PID Act. This includes that the person conducting the internal review was not substantially involved in making the decision or dealing with the disclosure.

If you would like to make an application for an internal review, you must apply in writing within 28 days of being informed of our decision. The application should be made to the Disclosures Coordinator and state the reasons why you consider our decision should not have been made. You may also submit any other relevant material with your application.

13.2 Voluntary dispute resolution

If a dispute arises between us and a person who has made a report which is, or may be, a voluntary PID, we may request the NSW Ombudsman to conciliate the dispute. Conciliation is a voluntary process and will only be suitable for disputes where the Audit Office and the Reporter are willing to resolve the dispute.

14. Other Audit Office obligations

14.1 Record-keeping requirements and data protection

The Audit Office will keep full and accurate records with respect to all information received in connection with the PID Act. This ensures that we comply with our obligations under the *State Records Act 1998*.

At the Audit Office, data protection is one of our highest priorities. Your report and any associated information will be subject to a high level of data protection. You can read more about our approach to protecting your data on our [website](#) and, particularly, in our publication – [Our Approach to Protecting Your Data](#) (NSW Audit Office).

14.2 Reporting of voluntary PIDs and our annual return to the Ombudsman

Each year we provide an annual return to the NSW Ombudsman which includes:

- information about voluntary PIDs received by the Audit Office during each return period (yearly with the start date being 1 July)
- action taken by the Audit Office to deal with voluntary PIDs during the return period
- how the Audit Office promoted a culture in the workplace where PIDs are encouraged.

14.3 How we will ensure compliance with the PID Act and this policy

The Director, Governance (Legal) will have oversight of compliance with the PID Act. This will involve:

- ensuring this policy and related procedures are appropriate and remain in line with the PID Act
- ensuring there is an effective staff awareness and training program
- monitoring the application of this policy and determining any improvement opportunities as required.

Compliance will be biannually assessed internally and reported on as part of the governance reports to the Office Executive and the Audit and Risk Committee. Any complaint raised or grievance lodged in relation to non-compliance of this policy will be reviewed in a timely, appropriate, and impartial manner.

Non-compliance with the policy may be subject to remedial or disciplinary actions. For further details refer to the Disciplinary Policy.

15. Contact points and further information

Disclosures can be made to managers, disclosure officers, the Disclosures Coordinator and/or the Auditor-General. See [section 7.4.1](#) of this policy for a list of nominated disclosure officers.

If you require further information about this policy, how public interest disclosures will be handled and the PID Act, you can:

- contact a disclosure officer in the Governance team by sending an email to governance@audit.nsw.gov.au or phoning 9275 7100
- contact the Disclosures Coordinator or a specific nominated disclosure officer within the Audit Office
- contact the PID Advice Team within the NSW Ombudsman by phone: (02) 9286 1000 or email: pidadvice@ombo.nsw.gov.au, or
- access the NSW Ombudsman's [PID guidelines](#) which are available on its website.

If you require legal advice with respect to the PID Act or your obligations under the PID Act, you may need to seek independent legal advice.

16. Accessibility of this policy

This policy is available on our website and intranet. A hard copy of the policy can be requested from the Disclosures coordinator by sending an email to governance@audit.nsw.gov.au or phoning the Audit Office on 02 9275 7100.

17. Policy review

A review of this policy will be undertaken by the Disclosures Coordinator. The Disclosures coordinator will monitor this policy, consider whether it is meeting its purpose and can be contacted if an error or issue is found in the policy.

The first review of this policy will take place within 12 months of the policy coming into force. Subsequent reviews will be at least every two years in the absence of any significant changes or more frequently where required taking into account legislative or organisational changes, risk factors and consistency with other policies.

Appendix 1 – List of integrity agencies

Integrity agency	What they investigate	Contact information
The NSW Ombudsman	Most kinds of serious maladministration by most agencies and public officials (but not NSW Police, judicial officers or MPs)	Telephone: 1800 451 524 between 9am to 3pm Monday to Friday Writing: Level 24, 580 George Street, SYDNEY NSW 2000 Email: info@ombo.nsw.gov.au
The Auditor-General	Serious and substantial waste of public money by an auditable entity or an officer or employee of an auditable entity	Telephone: 02 9275 7100 Writing: GPO Box 12, SYDNEY NSW 2001 Email: governance@audit.nsw.gov.au
Independent Commission Against Corruption	Corrupt conduct	Telephone: 02 8281 5999 or toll free on 1800 463 909 (callers outside Sydney) between 9am and 3pm, Monday to Friday Writing: GPO Box 500, SYDNEY NSW 2001 or faxing 02 9264 5364 Email: icac@icac.nsw.gov.au
The Inspector of the Independent Commission Against Corruption	Serious maladministration by the ICAC or the ICAC officers	Telephone: 02 9228 3023 Writing: PO Box 5341, SYDNEY NSW 2001 Email: oiicac_executive@oiicac.nsw.gov.au
The Law Enforcement Conduct Commission	Serious maladministration by the NSW Police Force or the NSW Crime Commission	Telephone: 02 9321 6700 or 1800 657 079 Writing: GPO Box 3880, SYDNEY NSW 2001 Email: contactus@lecc.nsw.gov.au
The Inspector of the Law Enforcement Conduct Commission	Serious maladministration by the LECC and LECC officers	Telephone: 02 9228 3023 Writing: GPO Box 5341, SYDNEY NSW 2001 Email: oiiecc_executive@oiiecc.nsw.gov.au
Office of the Local Government	Local government pecuniary interest contraventions	Email: olg@olg.nsw.gov.au
The Privacy Commissioner	Privacy contraventions	Telephone: 1800 472 679 Writing: GPO Box 7011, SYDNEY NSW 2001 Email: ipcinfo@ipc.nsw.gov.au
The Information Commissioner	Government information contraventions	Telephone: 1800 472 679 Writing: GPO Box 7011, SYDNEY NSW 2001 Email: ipcinfo@ipc.nsw.gov.au

Appendix 2 – Internal report form

Internal report form

Reporters are encouraged to use this form and submit it to their managers, a nominated disclosure officer, or the Auditor-General. This form may also be completed by a manager or disclosure officer if the Reporter prefers, or if they make the report verbally, but still must be signed by the Reporter. *(Refer to Internal Public Interest Disclosure Policy for further details)*

Details of Reporter (You can make an anonymous report by leaving this section blank)

Name:

Position:

Team:

Preferred method of contact

Telephone:

Telephone

Email:

Email

Details of serious wrongdoing being reported

Description:

- What happened?
- Where did this happen?
- When did this happen?
- Is it still happening?

[Attach an additional page if required]

How did you become aware of this?

Name and position of people involved in the wrongdoing:

Name	Position
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Attach any additional relevant information or indicate where supporting evidence may be found:

Supporting evidence	Attached
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Statement

I honestly believe that the above information shows or tends to show serious wrongdoing.

Signature of Reporter
(Do not sign if you want to make an anonymous report)

Date report submitted
(Essential information)