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# Public Interest Disclosure Policy and Procedure

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# Contents

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1	Definitions.....	3
2	Policy Statement .....	5
3	Responsibilities .....	6
4	How to make a report of serious wrongdoing.....	8
5	Procedure for dealing with voluntary PIDs .....	13
6	Other INSW obligations and information.....	17

# 1 Definitions

<b>Corrupt conduct</b>	As defined in section 8 of the <i>Independent Commission Against Corruption Act 1988</i> (NSW), such as a public official accepting a bribe.
<b>Detrimental action</b>	An act or omission against a person causing, comprising, involving or encouraging detriment (disadvantage) to a person. Detriment is further defined in section 32 of the <i>Public Interest Disclosures Act 2022</i> (NSW) (the <b>PID Act</b> ).
<b>Government information contravention</b>	A failure, other than a trivial failure to properly fulfil functions under the <i>Government Information (Public Access) Act 2009</i> (NSW) (the <b>GIPA Act</b> ) or <i>State Records Act 1998</i> (NSW).
<b>Local government pecuniary interest contravention</b>	Any failure to properly fulfil functions under the <i>Local Government Act 1993</i> (NSW) relating to a mandatory disclosure of pecuniary interests under a local government's adopted code of conduct.
<b>Manager</b>	A manager is defined in section 15 of the PID Act and for most INSW staff, will be a person who directly or indirectly supervises them. In the case of individual contractors and subcontractors providing services or exercising functions on behalf of an agency, this is the public official within INSW who oversees those services or functions or manages the relevant contract.
<b>Mandatory PID</b>	A disclosure about serious wrongdoing made by a public official as a result of a statutory obligation to report wrongdoing or in the course of the public official's regular duties. A disclosure made because of an obligation imposed by a code of conduct (for example INSW's Code of Ethics and Conduct) is not considered to be a mandatory PID.
<b>Privacy contravention</b>	A failure, other than a trivial failure to exercise functions in accordance with: <ul style="list-style-type: none"> <li>• the <i>Privacy and Personal Information Protection Act 1998</i>, or</li> <li>• the <i>Health Records and Information Privacy Act 2002</i>.</li> </ul>
<b>Public interest disclosure</b>	In this policy, public interest disclosure means a voluntary public interest disclosure, a mandatory public interest disclosure or a witness public interest disclosure.
<b>Public Interest Disclosure Coordinator</b>	A staff member nominated to manage and report on public interest disclosures on behalf of Infrastructure NSW.
<b>Public Interest Disclosure Officer (Disclosure Officer)</b>	A person responsible for receiving voluntary public interest disclosures on behalf of INSW in line with section 18(1) of the PID Act.
<b>Public official</b>	A public official is defined in section 14 of the PID Act. You are a public official if you are: <ul style="list-style-type: none"> <li>• a person employed in or by an agency or otherwise in the service of an agency</li> <li>• a person having public official functions or acting in a public official capacity whose conduct or activities an integrity agency is authorised by another Act or law to investigate</li> <li>• an individual in the service of the Crown</li> </ul>

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	<ul style="list-style-type: none"> <li>• a statutory officer</li> <li>• a person providing services or exercising functions on behalf of an agency, including a contractor, subcontractor or volunteer</li> <li>• an employee, partner or officer of an entity that provides services, under contract, subcontract or other arrangement, on behalf of an agency or exercises functions of an agency, and are involved in providing those services or exercising those functions</li> <li>• a judicial officer</li> <li>• a Member of Parliament (MP), including a Minister</li> <li>• a person employed under the <i>Members of Parliament Staff Act 2013</i> (NSW)</li> <li>• you are employed by INSW</li> <li>• you are a contractor, subcontractor or volunteer who provides services, or exercises functions, on behalf of INSW, or</li> <li>• you work for an entity (such as a non-government organisation) who is contracted by RA to provide services or exercise functions on its behalf, and you are involved in undertaking that contracted work.</li> </ul>
<b>Reporter</b>	<p>An individual who makes a disclosure and either:</p> <ul style="list-style-type: none"> <li>• is a public official as defined by section 14 of the PID Act, or</li> <li>• is otherwise deemed to be a public official for the purposes of this disclosure, as per section 14(2) of the PID Act.</li> </ul>
<b>Serious and substantial waste of public money</b>	<p>Any uneconomical, inefficient or ineffective use of resources, whether authorised or unauthorised, and which results in a loss of public funds or resources.</p>
<b>Serious maladministration</b>	<p>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.</p>
<b>Serious wrongdoing</b>	<p>Under section 13 of the PID Act, there are six categories of serious wrongdoing: corrupt conduct, serious maladministration, a government information contravention, a privacy contravention, serious and substantial waste of public money and a local government pecuniary interest contravention.</p>
<b>Subject</b>	<p>The person who the disclosure is about, i.e., the person who is alleged to have committed serious wrongdoing.</p>
<b>Voluntary PID</b>	<p>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:</p> <ul style="list-style-type: none"> <li>• a report is made by a public official</li> <li>• it is made to a person who can receive voluntary PIDs</li> <li>• the public official honestly and reasonably believes that the information they are providing shows (or tends to show) serious wrongdoing</li> <li>• the report was made orally or in writing</li> <li>• the report is voluntary (meaning it is not a mandatory or witness PID).</li> </ul>
<b>Witness PID</b>	<p>A disclosure made during an investigation into serious wrongdoing. The witness will have made the disclosure at the request of, or in response to, a requirement to provide information by a person or agency conducting the investigation. The investigation does not have to have been in relation to or arise from a voluntary PID.</p>

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## 2 Policy Statement

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### 2.1 Purpose

The *Public Interest Disclosures Act 2022* (NSW) (the **PID Act**) provides a framework for public officials to report serious wrongdoing in the public sector, and to be protected when they do so. All agencies in NSW are required to have a PID Policy under section 42 of the PID Act.

Infrastructure NSW (**INSW**) takes reports of serious wrongdoing seriously. We are committed to building a ‘speak up’ culture where our staff, volunteers, contractors and subcontractors are encouraged to report conduct that they reasonably believe involves wrongdoing.

The INSW PID Policy (the **Policy**) documents our commitment and sets out:

- how INSW will support and protect you if you come forward with a report of serious wrongdoing
- how we will deal with the report and our other responsibilities under the PID Act
- who to contact if you want to make a report and how to make a report
- how to make a report
- the protections available to you under the PID Act including protection from detrimental action.

This Policy should be read in conjunction with INSW’s Code of Conduct and associated policies.

### 2.2 Accessibility of this Policy

This Policy is available on the INSW publicly available website and staff intranet. A copy of the Policy is made available to all staff on commencement with INSW and a hard copy of the Policy can be requested from [PID@infrastructure.nsw.gov.au](mailto:PID@infrastructure.nsw.gov.au).

### 2.3 Who does this policy apply to?

This Policy applies to, and for the benefit of, all public officials in NSW. The definition of ‘public official’ is provided in section 1 of this Policy and includes persons who are:

- employed by INSW
- contractors, subcontractors or volunteers who provides services, or exercises functions, on behalf of INSW
- employees of entities contracted by INSW to provide services or exercise functions on its behalf who are involved in undertaking that contracted work.

The Chief Executive Officer (Chief Executive), other nominated disclosure officers and managers within INSW 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 INSW may use this Policy if they want information on who they can report wrongdoing to within INSW.

### 2.4 Who does this Policy not apply to?

This Policy does not apply to:

- people who have received services from INSW and want to make a complaint about those services
- contractors who provide services to INSW, for example, employees of a company that is engaged by INSW to supply computer software to INSW.

This means that this Policy does not apply to complaints. (There are some circumstances where a complaint by a public official can be deemed to be a voluntary public interest disclosure (PID), see section 4.9 of this Policy for more information.)

## 2.5 Compliance with the PID Act

This Policy will provide you with information on the following:

- ways you can make a voluntary PID to INSW under the PID Act
- the nominated disclosure officers in INSW
- the roles and responsibilities of people who hold particular roles under the PID Act and who are employees of INSW
- what information you will receive once you have made a voluntary PID
- protections available to people who make a report of serious wrongdoing under the PID Act and what we will do to protect you
- INSW's procedures for dealing with disclosures, managing the risk of detrimental action and reporting detrimental action
- INSW's record-keeping and reporting requirements
- how INSW will ensure it complies with the PID Act and this Policy.

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

- confidentially contact a nominated disclosure officer within INSW by emailing [PID@infrastructure.nsw.gov.au](mailto:PID@infrastructure.nsw.gov.au)
- contact the PID Advice Team within the NSW Ombudsman by phone: (02) 9286 1000 or email: [pidadvice@ombo.nsw.gov.au](mailto: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

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## 3 Responsibilities

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Certain people within INSW have responsibilities under the PID Act.

The **Chief Executive** is responsible for:

- fostering a workplace culture where reporting is encouraged
- receiving disclosures from public officials
- ensuring there is a system in place for assessing disclosures
- ensuring that INSW complies with this Policy and the PID Act
- ensuring that INSW 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.

INSW's **PID Coordinator** is responsible for:

- successfully completing mandatory training to support their role as a Public Interest Disclosure Coordinator within 3 months of the commencement date in the role, and periodically on an ongoing basis
- receiving disclosures from public officials
- receiving disclosures reports when they are passed on by managers within INSW or referred by Disclosure Officers
- the overall coordination of INSW's response to the receipt of a PID including ensuring that reports are acknowledged and dealt with appropriately
- ensuring that INSW's processes for managing PIDs complies with the PID acting
- ensuring that INSW provides required information and reports to the NSW Ombudsman.

**Disclosure Officers** are responsible for:

- successfully completing mandatory training to support their role as a Disclosure Officer within 3 months of the commencement date in the role, and periodically on an ongoing basis
- receiving reports from public officials
- receiving reports when they are passed on to them by managers
- ensuring that any oral reports that have been received are recorded in writing
- ensuring reports are provided to the PID Coordinator for coordination and appropriate management.

All **Managers** are responsible for:

- successfully completing mandatory training to support their role as a manager within 3 months of the commencement date in the role, and periodically on an ongoing basis
- encouraging employees to report known or suspected wrongdoing within INSW and supporting employees when they do so
- receiving PIDs from staff that report to them or that they are supervising, and passing on these reports to the PID Coordinator or a Disclosure Officer
- notifying the PID Coordinator or Chief Executive immediately if they believe and employee is being subjected to any detrimental action.

All **INSW employees** must:

- be familiar and comply with this Policy
- 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 the PID Coordinator or a Disclosure Officer dealing with a voluntary PID on behalf of INSW
- treat any person dealing with or investigating reports of serious wrongdoing with respect
- not take detrimental action against any person who has made, may in the future make, or is suspected of having made, a PID.

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## 4 How to make a report of serious wrongdoing

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### 4.1 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 INSW's Code of Conduct and associated policies.

It is important that we quickly recognise that we have received a PID. This is because once a PID is received, the person who has made the report 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 person who has made the report

### 4.2 When will a report be a PID?

There are 3 types of PIDs in the PID Act. These are:

- **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.
- **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.
- **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 relates mostly to making a voluntary PID and how INSW will deal with voluntary PIDs. People who make a mandatory PID or a witness PID are still entitled to protection. More information about protections is available in section 4.12 of this Policy.

Voluntary PIDs are the kind of PIDs people have in mind when they think about public interest reporting or '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 as set out in the PID Act:

1. A report is made by a public official.
2. It is made to a person which 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 make 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 5.7 of this Policy.

### 4.3 Who can make a voluntary PID?

Any public official can make a voluntary PID (refer to section 2.3 of this Policy). You are a public official if:

- you are employed by INSW
- you are a contractor, subcontractor or volunteer who provides services, or exercises functions, on behalf of INSW
- you work for an entity who is contracted by INSW to provide services or exercise functions on behalf of INSW, if you are involved in undertaking that contracted work.

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 our agency. It also means that you can make a PID to any agency, including an integrity agency like the Independent Commission Against Corruption (ICAC) and the NSW Ombudsman. Section 6.4 of this Policy has a list of integrity agencies.

### 4.4 What is serious wrongdoing?

Reports must be of one or more of the following categories of serious wrongdoing to be a voluntary PID (in addition to having the other features set out here). Serious wrongdoing is defined in the PID Act as:

- **corrupt conduct** such as a public official accepting a bribe
- **serious maladministration** such as an agency systemically failing to comply with proper recruitment processes when hiring staff
- **a serious and substantial waste of public money** such as an agency not following a competitive tendering process when contracting with entities to undertake government work.
- **a government information contravention** such as destroying, concealing or altering records to prevent them from being released under a Government Information Public Access application
- **a local government pecuniary interest contravention** such as a senior staff member recommending a family member for a contract and not declaring the relationship
- **a privacy contravention** such as unlawfully accessing a person's personal information on an agency's database.

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

### 4.5 Who can I make a voluntary PID to?

For a report to be a voluntary PID, it must be made to certain public officials.

#### Making a report to a public official who works for INSW

You can make a report inside INSW to:

- the Chief Executive

## OFFICIAL

- a disclosure officer for INSW (a list of disclosure officers is provided section 6.5)
- your manager (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.

### **Making a report to a recipient outside of INSW**

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 — a list of integrity agencies is located at section 6.4 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 INSW, it is possible that your disclosure will be referred back to us so that appropriate action can be taken

### **Making a report to a Member of Parliament or a 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, and either
- you did not receive the required information in relation to the previous disclosure at the end of the investigation period, or
- you did not receive the following from INSW:
  - notification that INSW will not investigate the serious wrongdoing and will also not refer the previous disclosure to another agency, or
  - the following information at the end of the investigation period:
    - notice of INSW's decision to investigate the serious wrongdoing
    - a description of the results of an investigation into the serious wrongdoing
    - 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.

## **4.6 What form should a voluntary PID take?**

You can make a voluntary PID:

- in writing — this could be an email or letter to a person who can receive voluntary PIDs or to [PID@infrastructure.nsw.gov.au](mailto:PID@infrastructure.nsw.gov.au)

## OFFICIAL

- orally — have a private discussion with a person who can receive voluntary PIDs. This can be face-to-face, via telephone or virtually
- anonymously — write an email or letter or call a person who can receive PIDs to make a report without providing your name or anything that might identify you as the maker of the report. A report will only be considered anonymous if there is no reasonable or practical way of communicating with the person making the report. Even if you choose to remain anonymous, you will still be protected under the PID Act. It may be difficult, however, for INSW to investigate the matter(s) you have disclosed if we cannot contact you for further information.

## 4.7 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
- any other information that may support the report.

## 4.8 What if I am not sure of my report is a PID?

You should report all wrongdoing you become aware of regardless of whether you think it is serious wrongdoing. It is important for INSW to understand what is or may be occurring.

We are then 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, it may fall within another one of the agency's policies for dealing with reports, allegations or complaints.

## 4.9 Deeming a report is a voluntary PID

The Chief Executive 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 the 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 INSW at [PID@infrastructure.nsw.gov.au](mailto:PID@infrastructure.nsw.gov.au) to request that we 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 Chief Executive or their delegate.

## 4.10 Who can I talk to if I have questions or concerns?

If you require further information or have concerns you can:

- confidentially contact a nominated disclosure officer within INSW
- confidentially contact INSW's PID Coordinator at [PID@infrastructure.nsw.gov.au](mailto:PID@infrastructure.nsw.gov.au).

## 4.11 Protections for reporters of voluntary PIDs

When you make a voluntary PID you receive special protections under the PID Act. INSW is 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 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 voluntary PID. Detrimental action includes bullying, harassment, intimidation or dismissal as defined in section 1 of this Policy.
  - Once we become aware that a voluntary PID relating to INSW 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.
  - 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 that 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.
- **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.
- **Protection from liability for own past conduct:** The Attorney General can give the maker of a voluntary PID 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.

## 4.12 Protections for people who make mandatory and witness PIDs

Protections for makers of mandatory and witness PIDs include:

- **Protection from detrimental action:** It is an offence to take detrimental action against a person based on the suspicion, belief or awareness that a person has made, may have made or may make a mandatory or witness PID.
- **Right to compensation:** A person can initiate proceedings and seek compensation for injury, damage or loss suffered as a result of detrimental action being taken against them.

- **Ability to seek injunction:** An injunction can be sought to prevent the commission or possible commission of a detrimental action offence against a person. For example, an order to prevent dismissal or to require reinstatement.
- **Immunity from civil and criminal liability:** A person will not incur civil or criminal liability if the person breaches a duty of confidentiality while making a disclosure. This means that legal action cannot be taken against a person for breaching a duty of secrecy or confidentiality or breaching another restriction on disclosure.

### 4.13 Reporting detrimental action

If you experience adverse treatment or detrimental action, such as bullying or harassment, you should report this immediately. You can report any experience of adverse treatment or detrimental action directly to INSW or to an integrity agency listed in section 6.5 of this Policy.

### 4.14 How can I get support after making a disclosure?

INSW will make sure that reporters, regardless of whether their report is treated as a PID, are provided with access to any professional support they may need as a result of the reporting process.

Staff may access INSW's Employee Assistance Program (EAP) regardless of whether they are the reporter, a witness or a support person. Staff may also contact a Mental Health First Aider. These are staff members who have received specific training to recognise, understand and respond to signs of challenges faced by staff members. All staff support resources can be accessed via the intranet.

Anyone involved may also discuss their support options with the PID Coordinator.

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## 5 Procedure for dealing with voluntary PIDs

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### 5.1 How INSW will acknowledge the receipt of a report and keep the person who made it informed

When INSW 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 the following information:

- You will receive an acknowledgment that the report has been received. This acknowledgement will:
  - state that the report will be assessed to identify whether it is a PID
  - state that the PID Act applies to how we deal with the report
  - provide clear information on how you can access this Policy
  - provide you with details of a contact person and available supports.
- If the report is a voluntary PID, we will inform you as soon as possible how we intend to deal with the report. This may include:
  - that we are investigating the 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
  - if we decide to not investigate the report and to not refer it to another agency for investigation, 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 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 investigate the serious wrongdoing, we will provide you with the following information once the investigation is complete:
  - a description of the results of the investigation — that is, we will tell you whether we found that serious wrongdoing took place
  - information about any corrective action as a result of the investigation — this means 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 our agency, 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).
- There may be some details about the investigation findings and the corrective action taken that cannot be revealed to you. We will always balance the right of a person who makes a report 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 information to you.

## 5.2 How INSW will manage voluntary PIDs

Once a report that may be a voluntary PID is received INSW will look at the information contained in the report to see if it has the features of a voluntary PID. This assessment 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.

### Report 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 INSW's Code of Conduct and associated policies or through an alternate 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. INSW can, but does not have to, request the NSW Ombudsman to conciliate the matter.

### Cease dealing with the report as a voluntary PID

INSW 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). If we stop dealing with your report because it is not a voluntary PID we will notify you and provide reasons for this decision.

### Where the report is a voluntary PID

If the report is a voluntary PID:

- In most cases we will conduct enquiries or 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 INSW 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, such as an 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* (NSW).
- 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.

### 5.3 How INSW 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 INSW 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 not disclose identifying information unless it is necessary and authorised under the PID Act.

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 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. We will do this by:

- limiting the number of people who are aware of the maker's identity or information that could identify them.
- not disclose 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
- updating the risk assessment and risk management plan for the report

- implement strategies to minimise the risk of detrimental action
- provide additional supports 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.

## 5.4 How INSW will assess and minimise the risk of detrimental action

INSW will not tolerate any detrimental action being taken by any person against a person who has made a PID, investigators, witnesses or the person the report is about.

INSW will assess and take steps to mitigate detrimental action from being taken against the maker of a voluntary PID, the person whose conduct is the subject of a PID, investigators and witnesses.

We will minimise the risk of detrimental action by:

- communicating with you to understand and identify the risks
- undertaking a risk assessment and developing a risk management plan ensuring that risk is reassessed throughout the handling of the matter
- communicating with you, investigators, witnesses or the person the report is about regarding the protection options and supports available.

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) and is defined in section 1 of this Policy.

## 5.5 How INSW will deal with allegations of a detrimental action offence

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

- take all reasonable steps to stop the action and protect the person
- 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.

Reporters who disclose detrimental action will be kept informed of the progress of any investigation and the outcome.

## 5.6 What INSW 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, INSW will take the most appropriate action to address that wrongdoing or misconduct. This is also known as corrective action and 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.

The findings of an investigation, including any recommendations and corrective actions will be provided to the Chief Executive.

In most circumstances, the reporter will be advised of:

- the findings of the investigation
- action taken and/or is proposed to be taken in response to the disclosure
- any recommendations made following the investigation of the disclosure.

## 5.7 Review and dispute resolution

### Internal review

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

- that INSW is 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 report and not refer the report to another agency
- to cease investigating the report without either completing the investigation or referring the report to another agency for investigation.

INSW will ensure that internal reviews are conducted in compliance with the PID Act. If you would like to make an application for an internal review, you must apply in writing to [PID@infrastructure.nsw.gov.au](mailto:PID@infrastructure.nsw.gov.au) within 28 days of being informed of our decision. The application should state the reasons why you consider our decision should not have been made. You may also submit any other relevant material with your application.

The internal review of the decision will be conducted by a staff member who was not substantially involved in making the decision or dealing with the disclosure. The internal review will be completed within 30 working days or as otherwise advised by INSW.

## 5.8 Voluntary dispute resolution

If a dispute arises between INSW 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 INSW and the maker of the report are willing to resolve the dispute.

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# 6 Other INSW obligations and information

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## 6.1 Record-keeping requirements

INSW must keep full and accurate records with respect to all information received in connection with the PID Act. This ensures that INSW complies with its obligations under the *State Records Act 1998* (NSW).

Given the sensitive nature of PIDs, all records associated with a disclosure, the reporter or the subject are kept confidential in a secure location within INSW's records management system. Access to these records is limited to only INSW staff members involved in the administration of the PID process.

## 6.2 Reporting of voluntary PIDS

Each year INSW provides an annual return to the NSW Ombudsman which includes:

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

The PID Coordinator is responsible for collecting information about voluntary PIDs and preparing information captured in the annual return.

## 6.3 Compliance with this policy

INSW has mechanisms in place for monitoring the effectiveness this Policy and for ensuring compliance with the PID Act. This is undertaken through regular audits as part of the ongoing internal audit program for INSW and in reviews of legislative compliance across INSW.

Reports on the effectiveness of and compliance with the PID Policy are provided to INSW's Executive Leadership Team and Audit and Risk Committee.

Non-compliance with this Policy will be dealt with in line with INSW's Code of Conduct and associated policies.

## 6.4 References

### Legislation – Acts and Regulations

- *Independent Commission Against Corruption Act 1988*
- *Government Information (Public Access) Act 2009*
- *Health Records and Information Privacy Act 2002*
- *Local Government Act 1993*
- *Privacy and Personal Information Protection Act 1998*
- *Public Interest Disclosures Act 2022*
- *State Records Act 1998*

### INSW Policies

- Code of Conduct

### NSW integrity agencies (current at the time of writing)

Integrity agency	What they investigate	Contact information
The NSW Ombudsman	Most kinds of <b>serious maladministration</b> by most agencies and public officials (but not NSW Policy, judicial officers or MPs)	1800 451 524 Level 24 580 George Street Sydney NSW 2000 <a href="mailto:info@ombo.nsw.gov.au">info@ombo.nsw.gov.au</a>
The Auditor-General	<b>Serious and substantial waste of public money</b> by auditable agencies	02 9275 7100 Auditor-General / Disclosures Coordinator GPO Box 12 Sydney NSW 2001 <a href="mailto:governance@audit.nsw.gov.au">governance@audit.nsw.gov.au</a>

**OFFICIAL**

<p><b>Independent Commission Against Corruption</b></p>	<p><b>Corrupt conduct</b></p>	<p>02 8281 5999 or free call 1800 463 909 (callers outside Sydney)                      GPO Box 500                      Sydney NSW 2001  <a href="mailto:icac@icac.nsw.gov.au">icac@icac.nsw.gov.au</a>                      Online - <a href="#">Report corruption - Independent Commission Against Corruption</a></p>
<p><b>The Inspector of the Independent Commission Against Corruption</b></p>	<p><b>Serious maladministration</b> by the ICAC or the ICAC officers</p>	<p>02 9228 3023                      PO Box 5341                      Sydney NSW 2001  <a href="mailto:oiicac_executive@oiicac.nsw.gov.au">oiicac_executive@oiicac.nsw.gov.au</a></p>
<p><b>The Law Enforcement Conduct Commission</b></p>	<p><b>Serious maladministration</b> by the NSW Police Force or the NSW Crime Commission</p>	<p>02 9321 6700 or 1800 657 079                      Level 3, 111 Elizabeth Street                      Sydney NSW 2000                      GPO Box 3880                      Sydney NSW 2001  <a href="mailto:contactus@lecc.nsw.gov.au">contactus@lecc.nsw.gov.au</a></p>
<p><b>The Inspector of the Law Enforcement Conduct Commission (LECC)</b></p>	<p><b>Serious maladministration</b> by the LECC and LECC officers</p>	<p>02 9228 3023                      Inspector of the Law Enforcement Conduct Commission                      GPO Box 5341                      Sydney NSW 2001  <a href="mailto:oiiecc_executive@oiiecc.nsw.gov.au">oiiecc_executive@oiiecc.nsw.gov.au</a></p>
<p><b>Office of Local Government</b></p>	<p><b>Local government pecuniary interest contraventions</b></p>	<p>02 4428 4100                      Locked Bag 3015                      Nowra NSW 2541  <a href="mailto:olg@olg.nsw.gov.au">olg@olg.nsw.gov.au</a></p>
<p><b>The Privacy Commissioner</b></p>	<p><b>Privacy contraventions</b></p>	<p>1800 472 679                      GPO Box 7011                      Sydney NSW 2001  <a href="mailto:ipcinfo@ipc.nsw.gov.au">ipcinfo@ipc.nsw.gov.au</a></p>
<p><b>The Information Commissioner</b></p>	<p><b>Government information contraventions</b></p>	<p>1800 472 679                      GPO Box 7011                      Sydney NSW 2001  <a href="mailto:ipcinfo@ipc.nsw.gov.au">ipcinfo@ipc.nsw.gov.au</a></p>

## 6.5 Contacts

A list of Disclosure Officers can be found on the intranet for staff and INSW's website. The following roles at INSW are Disclosure Officers:

- The Chief Executive
- General Counsel
- Executive Director Corporate Services (also the PID Coordinator)
- Director, Legal

- Director, Audit, Risk & Safety

The PID Coordinator is the Executive Director, Corporate Services.

For the contact information of one of the above Disclosure Officers, please contact [people@infrastructure.nsw.gov.au](mailto:people@infrastructure.nsw.gov.au).

To make a PID directly to a Disclosure Officer, please contact [PID@infrastructure.nsw.gov.au](mailto:PID@infrastructure.nsw.gov.au).

For questions about this Policy, to obtain a hard copy, or for general questions about the PID process or any other queries, please contact [PID@infrastructure.nsw.gov.au](mailto:PID@infrastructure.nsw.gov.au).

## Document Status

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<b>Author</b>	Director Audit, Risk & Safety
<b>Authorised by</b>	Executive Director, Corporate Services
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## Revision History Log

<b>Version #</b>	<b>Revision Date</b>	<b>Author</b>	<b>Changes</b>
1.0	September 2023	Director, Legal	N/A (first issue)
2.0	February 2026	Director Audit, Risk & Safety	Updated to align to model policy, remove duplication and streamline consistency between policy and procedural elements.