

# Public Interest Disclosure Policy

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## Purpose

At the Department of Regional NSW (DRNSW) we are committed to having a positive and safe environment for you to come forward and report serious wrongdoing. We want to continue to build on our 'speak up' culture.

The Code of Ethics and Conduct sets out your obligation to report serious wrongdoing.

This policy supports you to 'speak up' by outlining how you can make a public interest disclosure (PID), how you are protected when you make a PID and what we will do when you make a PID.

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 PID.

This policy covers all public sector agencies in DRNSW as defined in the *Public Interest Disclosure Act 2022* (PID Act). This includes Local Land Services (LLS), which is an executive agency of DRNSW.

This policy relates to making a voluntary PID and how we will deal with voluntary PIDs. People who make a mandatory PID or a witness PID are still entitled to protections outlined in this policy.

## Who does this policy apply to?

This policy applies to all public officials in NSW as outlined in section 14 of the *Public Interest Disclosure Act 2022* (NSW) (PID Act). This includes:

- a person employed in or by an agency or otherwise in the service of an agency
- 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
- an individual in the service of the Crown
- a statutory officer
- a person providing services or exercising functions on behalf of any agency, 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 any agency, or exercises functions of and agency and are involved in providing those services or exercising those functions
  - a judicial officer
  - a Member of Parliament (MP), including a Minister
  - a person employed under the *Members of Parliament Staff Act 2013*.
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## What does this policy apply to?

This policy applies to reports of serious wrongdoing made by public officials. 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 government information contravention — such as destroying, concealing, or altering records to prevent them from being released under a Government Information Public Access application
- a privacy contravention — such as unlawfully accessing a person's personal information on an agency's database
- 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.

Internal complaints and grievances about matters that do not involve serious wrongdoing (such as workplace issues, bullying or sexual harassment) should be made to the People team. Further information is on the People intranet page and in the Code of Ethics and Conduct.

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## Monitoring and review of this policy

This policy will be reviewed every two years by Legal and Governance for final approval by the Secretary.

If you have identified any errors or issues with this policy, please contact [governance@regional.nsw.gov.au](mailto:governance@regional.nsw.gov.au).

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## Support

If you require further information about how PIDs are handled, you can contact:

- the Governance, Information and Privacy team at DRNSW at [governance@regional.nsw.gov.au](mailto:governance@regional.nsw.gov.au)
- a nominated disclosure officer within DRNSW
- 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.

You can also seek wellbeing support through the Employee Assistance Program (EAP), provided by [Benestar](#).

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## 1. What is a public interest disclosure (PID)?

### (a) Voluntary PID

Your report will be a voluntary PID if it meets all of the following:

1. is made by a public official
2. is made to a person specified in this policy
3. discloses information that the person honestly and on reasonable grounds believes, or tends to show serious wrongdoing
4. is made in writing or orally (an exception is that it has to be in writing to a Minister or Minister's office)
5. is voluntary (not a mandatory or witness PID)

### (b) Mandatory PID

We will manage mandatory PIDs in accordance with the NSW Ombudsman Guidelines "Dealing with mandatory PIDs."

A mandatory PID is when a report about serious wrongdoing is made because you:

- have a legal obligation to make the report (for example, section 11 of the *Independent Commission Against Corruption Act 1988* requires heads of agencies to report corrupt conduct – such a report will be a mandatory PID) or
- make the report while meeting the ordinary requirements of your role or function (for example, an auditor comes across serious mishandling of government money).

### (c) Witness PID

We will manage witness PIDs in accordance with the NSW Ombudsman Guidelines "Dealing with witness PIDs."

A disclosure will be a witness PID if:

- a person (whether they are a public official or not) discloses information during an investigation, and
- that investigation is into serious wrongdoing, and
- they disclosed the information following a request or requirement of the investigator or investigating agency

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## 2. How am I protected when I make a PID?

The maker of a PID is protected in several ways.

### ***Protection from detrimental action***

A person cannot take detrimental action (such as bullying, harassment, intimidation, or dismissal) against you because you have made a voluntary PID or are considering making a PID.

The PID Act provides a mechanism for you to seek compensation for injury, damage or loss suffered because of detrimental action and the ability to seek an injunction to prevent the commission of a detrimental action offence (such as an order to prevent dismissal).

### *Immunity from civil liability*

As part of your role, you may be subject to a duty of confidentiality that prevents you from disclosing certain information that you obtain or become aware of at work. Sometimes, to make a PID, you will need to breach or disregard such confidentiality duties. If that happens, you cannot be disciplined, sued, or criminally charged for breaching confidentiality.

### *Confidentiality*

We must not disclose information tending to identify you 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 you an undertaking that a disclosure of your own past conduct will not be used against you if you disclose your own wrongdoing or misconduct while making a report. This undertaking can only be given on application by an integrity agency to the Attorney General.

### *Reasonable management action not prevented*

If you make a PID, you 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.

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## 3. Reporting and dealing with detrimental action

If you experience detrimental action, you should report this immediately. You can report detrimental action by contacting:

- the Disclosure Coordinator at [governance@regional.nsw.gov.au](mailto:governance@regional.nsw.gov.au).
- the Secretary of DRNSW
- the CEO of LLS
- the Chief People Officer
- the General Counsel or
- an integrity agency (see Annexure A for a list of integrity agencies).

Once a report is made, we will:

- take all steps possible to stop the action and protect you
- update you on the support we offer
- take appropriate disciplinary action against anyone that has taken detrimental action
- refer any evidence of a detrimental action offence to the ICAC
- notify the NSW Ombudsman

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## 4. How to make a voluntary PID

### **(a) What format does my report need to take?**

You can make a voluntary PID in the following ways:

- in writing — by an email, letter, or internal reporting form (located on the intranet)
- anonymously — by completing an online digital form using [Whispli](#) without providing your name or anything that might identify you as the maker of the report. Even if you choose to remain

anonymous, you will still be protected under the PID Act. However, it may be difficult for DRNSW to investigate if your identity remains undisclosed

- orally — have a private discussion with a disclosure officer

## **(b) Who do I make the report to?**

### ***Making a report to us***

You can provide your report to the following disclosure officers. You can access the contact details for disclosure officers on the Governance intranet page:

- the Secretary of DRNSW
- the Chief Executive Officer of LLS
- all employees who hold a substantive Public Service Senior Executive Band 1, Band 2 or Band 3 role or are acting in one of these roles for a period of 3 months or more
- members of the Governance, Information and Privacy team at Grade 9/10 or above
- all Human Resources Business Partners (HRBPs)
- your people leader
- members of the State Board of Local Land Services.

Due to the extensive number of locations, sites and depots that we have, we cannot practically maintain a list of site-based disclosure officers. To ensure that you have sufficient access to make a PID, all people leaders have been nominated as a disclosure officer.

Disclosure officers handle reports as outlined in Part 5 of this policy.

### ***Making a report to someone outside of DRNSW***

You can make a report to:

- the head of another public service agency
- an integrity agency (see list at Annexure A of this policy)
- a disclosure officer for another agency — refer to the PID policy of the other agency
- a Minister or a member of a Minister's staff – these reports must be made in writing.

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

### ***Making a report to a Member of Parliament or journalist***

You can only disclose a report of wrongdoing as a voluntary PID to an MP or journalist in the following circumstances:

- you must have 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 us:
  - notification that we 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 our 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.

### **(c) What should I include in my report?**

You should provide as much information as possible so we can identify if the report relates to serious wrongdoing. 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.

When you make your report, you do not need to prove that what you reported happened or is serious wrongdoing. However, 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.

### **(d) 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.

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 our policies for dealing with complaints and grievances.

### **(e) Deeming that a report is a voluntary PID**

If you make a report that has not met all the requirements of a voluntary PID, you can refer your matter to the Secretary of DRNSW, the CEO of LLS, the General Counsel or the Disclosure Coordinator to request that they consider deeming your report to be a voluntary PID.

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

## **5. How we will deal with voluntary PIDs**

### **(a) Disclosure officers to provide report to Disclosure Coordinator**

If you receive a report which is a voluntary PID, or looks like it may be a voluntary PID, you must provide that report to the Disclosure Coordinator.

The Disclosure Coordinator is the Director Governance, Information and Privacy. You can send the report to [governance@regional.nsw.gov.au](mailto:governance@regional.nsw.gov.au).

## **(b) Disclosure Coordinator will acknowledge the report**

Within 10 working days of the report being received by the Disclosure Coordinator, the Disclosure Coordinator will acknowledge the report and include the following information:

- 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 PID policy
- provide you with details of a contact person and available support.

## **(c) Disclosure Coordinator will assess the report and provide you with information**

The Disclosure Coordinator will look at the information contained in the report to determine if it is a voluntary PID and will write to you and let you know the outcome of that assessment.

### ***Report is a voluntary PID***

If the report is assessed as a voluntary PID, the Disclosure Coordinator will inform you as soon as possible how we intend to deal with the report and what we will do to protect you. This will include:

- that we are investigating the serious wrongdoing
- that we will refer the report to a different agency to deal with. If we do this, we will provide you with details of this referral. For example, reports concerning possible corrupt conduct may need to be reported to the ICAC in accordance with section 11 of the *Independent Commission Against Corruption Act 1988*
- that we are not investigating the report (for example, if the conduct has previously been investigated). If we do this, we will tell you about the reasons for this decision and notify the Ombudsman
- explaining that a risk assessment will be undertaken, and where appropriate, a risk management plan will be created (including reassessing the risk throughout the entirety of the matter)
- providing contact details of the Disclosure Coordinator
- explaining how the Disclosure Coordinator will communicate with you to identify risks
- listing the protections that may be offered (for example, remote working or approved leave for the duration of the investigation)
- outlining other support that will be provided.

### **Report is not a voluntary PID**

If the report is not a voluntary PID, the Disclosure Coordinator will inform you as soon as possible:

- that the PID Act does not apply to the report,
- how we will deal with the concerns raised in the report (even if the report is not a voluntary PID, it will still need to be dealt with in a manner consistent with our internal procedures for complaints and grievances) and
- the support services available to you.

If you disagree with the assessment of your report, you can raise it with the Disclosure Coordinator and request a review. See the 'Review and dispute resolution' section of this policy.

## **(d) How we will keep your identity confidential**

We will put in place steps to keep your identifying information and the fact that a report has been made confidential. We will not disclose identifying information unless it is necessary and authorised under the PID Act. These include:



- where you consent in writing
- where it is generally known that you are the maker of the voluntary PID because of your voluntary self-identification as the maker
- when we reasonably consider 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
- 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.

It may not be possible for us to maintain complete confidentiality while we progress the investigation. We will do all we practically can to keep your information confidential by:

- limiting the number of people who are aware of your identity or information that could identify you
- not disclosing your actual identity unless we have your consent to do so
- ensuring that any person who does know your identity is reminded that they have a legal obligation to keep your identity confidential.
- ensuring that only authorised persons have access to emails, files or other documentation that contain information about your identity
- undertake an assessment to determine if anyone is aware of your identity and if those persons have a motive to cause detrimental action to be taken against you
- provide information to you about the importance of maintaining confidentiality and advising you how to protect your identity, for example, by telling you not to discuss your report with other staff.

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

- advise you that your identity may become known
- implement strategies to minimise the risk of detrimental action
- provide additional support to you
- remind persons who become aware of your identity 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.

### **(e) Investigating the PID**

If we decide to investigate the serious wrongdoing, the Disclosure Coordinator will provide you with:

- updates on the investigation at least every three months
- the results of the investigation (whether we found that serious wrongdoing took place)
- information about any corrective action because of the investigation

There may be some details about the results of the investigation, or the corrective action taken that cannot be revealed to you. We will always balance the right for you to know the outcome of the report, with other legal obligations we have.

If you have made an anonymous report, we may not be able to provide this information to you. If you lodge your anonymous report in Whispli, we can communicate with you through Whispli.

### **(f) 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.

The relevant Deputy Secretary (or equivalent) will be responsible for ensuring the appropriate corrective action is taken.

The outcomes of any investigation will also be reported to the Secretary, the CEO of LLS (for LLS matters), the relevant Deputy Secretary and Executive Director (or equivalent), and General Counsel.

### **(g) Can we cease dealing with report as a voluntary PID?**

We may stop dealing with a voluntary PID because it is not actually a voluntary PID. In these instances, you will be informed, and reasons provided.

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## **6. Review and dispute resolution**

### **(a) Internal review**

You can seek an internal review of the following decisions made by us:

- 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.

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

Applications should be sent to [governance@regional.nsw.gov.au](mailto:governance@regional.nsw.gov.au).

The internal review will be conducted by an employee of DRNSW that is not a member of the Governance, Information and Privacy team and is at the same level or above as the Disclosure Coordinator.

### **(b) Voluntary dispute resolution**

If a dispute arises with you about your report, we may request the NSW Ombudsman to conciliate the dispute. Conciliation is a voluntary process and will only be suitable for disputes where everyone is willing to resolve the dispute.

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## 7. Other obligations

### (a) Record-keeping requirements

We have obligations under the *State Records Act 1998* to keep full and accurate records of all information received in connection with the PID Act. These records will be stored on the approved electronic document and records management system (CM9). Records held in CM9 will have the appropriate security applied to them to ensure only those dealing with the matter have access to the file.

### (b) Annual return to the Ombudsman

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

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

The Disclosure Coordinator is responsible for preparing the annual return and storing the information in CM9:

### (c) How we will ensure compliance with the PID Act and this policy

We will ensure compliance by:

- requiring disclosure officers to undertake nominated mandatory PID training modules:
  - within six months of the introduction of the PID Act or upon commencement of employment
  - annually thereafter
- requiring all staff to undertake nominated PID awareness training:
  - within six months of the introduction of the PID Act or upon commencement of employment
  - every two years thereafter
- reviewing completion of mandatory training on an annual basis and a report provided to the Secretary and the Audit and Risk Committee.
- reports of any detrimental action offences will be prepared on an annual basis and provided to the Secretary and the Audit and Risk Committee.

The reports to the Secretary and the Audit and Risk Committee will be prepared by the Governance, Information and Privacy team.

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## 8. Roles and responsibilities

### (a) The Secretary of DRNSW and CEO of LLS 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 we comply with this policy and the PID Act
- ensuring that we have 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.

**(b) The Disclosure Coordinator is responsible for:**

- acknowledging assessing PIDs received by disclosure officers
- determining deemed voluntary public interest disclosures as a delegate of the Secretary
- providing support to makers of PIDs
- undertaking risk assessments to assess and minimise the risk of detrimental action

**(c) Disclosure officers are responsible for:**

- receiving reports from public officials
- referring reports to the Disclosure Coordinator
- ensuring that any oral reports that have been received are recorded in writing.

**(d) All employees must:**

- report suspected serious wrongdoing or other misconduct
- assist in an investigation of serious wrongdoing if asked to do so by a person dealing with a voluntary PID on behalf of DRNSW
- 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.

## Annexure A – List of integrity agencies

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 Police, judicial officers, or MPs)	<b>Telephone:</b> 1800 451 524 between 9am to 3pm Monday to Friday <b>Writing:</b> Level 24, 580 George Street, Sydney NSW 2000 <b>Email:</b> <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	<b>Telephone:</b> 02 9275 7100 <b>Writing:</b> GPO Box 12, Sydney NSW 2001 <b>Email:</b> <a href="mailto:governance@audit.nsw.gov.au">governance@audit.nsw.gov.au</a>
Independent Commission Against Corruption	<b>Corrupt conduct</b>	<b>Telephone:</b> 02 8281 5999 or toll free on 1800 463 909 (callers outside Sydney) between 9am and 3pm, Monday to Friday <b>Writing:</b> GPO Box 500, Sydney NSW 2001 or faxing 02 9264 5364 <b>Email:</b> <a href="mailto:icac@icac.nsw.gov.au">icac@icac.nsw.gov.au</a>
The Inspector of the Independent Commission Against Corruption	<b>Serious maladministration</b> by the ICAC or the ICAC officers	<b>Telephone:</b> 02 9228 3023 <b>Writing:</b> PO Box 5341, Sydney NSW 2001 <b>Email:</b> <a href="mailto:oiicac_executive@oiicac.nsw.gov.au">oiicac_executive@oiicac.nsw.gov.au</a>
The Law Enforcement Conduct Commission	<b>Serious maladministration</b> by the NSW Police Force or the NSW Crime Commission	<b>Telephone:</b> 02 9321 6700 or 1800 657 079 <b>Writing:</b> GPO Box 3880, Sydney NSW 2001 <b>Email:</b> <a href="mailto:contactus@lecc.nsw.gov.au">contactus@lecc.nsw.gov.au</a>
The Inspector of the Law Enforcement Conduct Commission	<b>Serious maladministration</b> by the LECC and LECC officers	<b>Telephone:</b> 02 9228 3023 <b>Writing:</b> GPO Box 5341, Sydney NSW 2001 <b>Email:</b> <a href="mailto:oilc_executive@oilc.nsw.gov.au">oilc_executive@oilc.nsw.gov.au</a>
Office of the Local Government	<b>Local government pecuniary interest contraventions</b>	<b>Email:</b> <a href="mailto:olg@olg.nsw.gov.au">olg@olg.nsw.gov.au</a>
The Privacy Commissioner	<b>Privacy contraventions</b>	<b>Telephone:</b> 1800 472 679 <b>Writing:</b> GPO Box 7011, Sydney NSW 2001 <b>Email:</b> <a href="mailto:ipcinfo@ipc.nsw.gov.au">ipcinfo@ipc.nsw.gov.au</a>
The Information Commissioner	<b>Government information contraventions</b>	<b>Telephone:</b> 1800 472 679 <b>Writing:</b> GPO Box 7011, Sydney NSW 2001 <b>Email:</b> <a href="mailto:ipcinfo@ipc.nsw.gov.au">ipcinfo@ipc.nsw.gov.au</a>