

Public Interest Disclosures (PID) Policy

October 2023

Acknowledgement of Country

We acknowledge that Aboriginal and Torres Strait Islander peoples are the First Peoples and Traditional Custodians of Australia, and the oldest continuing culture in human history.

We pay respect to Elders past and present and commit to respecting the lands we walk on, and the communities we walk with.

We celebrate the deep and enduring connection of Aboriginal and Torres Strait Islander peoples to Country and acknowledge their continuing custodianship of the land, seas and sky.

We acknowledge the ongoing stewardship of Aboriginal and Torres Strait Islander peoples, and the important contribution they make to our communities and economies.

We reflect on the continuing impact of government policies and practices and recognise our responsibility to work together with and for Aboriginal and Torres Strait Islander peoples, families and communities, towards improved economic, social and cultural outcomes.



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The above artwork represents NESA's reconciliation journey, with the circles representing the different schools and communities that NESA engage with on a day-to-day basis. You will notice the circles aren't perfectly round; they are a more organic shape. This represents the journey to reconciliation and the genuineness of the people involved.

Within each circle there are details that demonstrate the complexities in each relationship, and the varying colours show us that they are each individual and diverse. Finally, the two white dots at the centre focuses our attention on NESA's reconciliation goals:

- continual growth in attainment levels of Aboriginal and Torres Strait Islander students
- greater understanding of Aboriginal and Torres Strait Islander knowledge's, histories, and cultures for all students.

Contents

Acknowledgement of Country.....	2
Purpose	5
Accessibility of this policy	5
1 How to make a report of serious wrongdoing	8
1.1 Reports, complaints and grievances.....	8
1.2 When will a report be a PID?	8
1.3 Who can make a voluntary PID?	9
1.4 What is serious wrongdoing?.....	9
1.5 Who can I make a voluntary PID to?	10
1.6 What form should a voluntary PID take?	11
1.7 What should I include in my report?	12
1.8 What if I am not sure if my report is a PID?	12
1.9 Deeming that a report is a voluntary PID.....	13
1.10 Who can I talk to if I have questions or concerns?	13
2 Protections	13
2.2 Protections for people who make mandatory and witness PIDs	14
3 Reporting detrimental action	15
4 General Support.....	15
5 Roles and responsibilities of NESAs employees.....	16
5.1 CEO of NESAs	16
5.2 Disclosure coordinators	17
5.3 Disclosure officers.....	18
5.4 Managers	18
5.5 All employees.....	19
6 How NESAs will deal with voluntary PIDs	20
6.1 How NESAs will acknowledge that we have received a report and keep the person who made it informed 20	
6.2 How NESAs will deal with voluntary PIDs	21
6.3 How NESAs will protect the confidentiality of the maker of a voluntary PID	22
6.4 How NESAs will assess and minimise the risk of detrimental action	23
6.5 How NESAs will deal with allegations of a detrimental action offence.....	24

6.6	What NESA will do if an investigation finds that serious wrongdoing has occurred.....	24
7	Review and dispute resolution	25
7.1	Internal review.....	25
7.2	Voluntary dispute resolution	25
8	Other agency obligations	26
8.1	Record-keeping requirements	26
8.2	Reporting of voluntary PIDs and NESA annual return to the Ombudsman.....	26
8.3	How NESA will ensure compliance with the PID Act and this policy	26
	Appendix A: Contact details of NESA's disclosure coordinators and officers	29
	Disclosure coordinator.....	29
	Disclosure officers	29
	Appendix B: List of integrity agencies.....	30
	Appendix C: Reporting process.....	32

Purpose

All agencies in New South Wales are required to have a Public Interest Disclosures (PID) Policy under section 42 of the Public Interest Disclosures Act 2022 (PID Act).

At NESAs, we take reports of serious wrongdoing seriously. We are committed to building a 'speak up' culture where public officials are encouraged to report any conduct that they reasonably believe involves wrongdoing.

The integrity of our agency relies upon our staff, volunteers, contractors and subcontractors speaking up when they become aware of wrongdoing.

The NESAs PID Policy has been developed in accordance with the provisions of the PID Act.

This policy sets out:

- how we 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
- how to make a report
- the protections which are available to you under the PID Act.

This policy also documents our commitment to building a speak up culture. Part of that speak up culture is having in place a framework that facilitates public interest reporting of wrongdoing by:

- protecting those who speak up from detrimental action
- imposing duties on agencies who receive reports of wrongdoing to take appropriate action to investigate or otherwise deal with them.

In New South Wales, that framework is the PID Act. This policy should be read in conjunction with:

- the NESAs Code of Ethics and Conduct
- the NESAs Fraud and Corruption Control System Framework
- the NESAs Privacy Management Plan and Guidelines
- NSW Procurement Board Complaints Management Guidelines Policy
- the NESAs Managing Grievances Policy
- the NESAs Complaints Handling Policy

Accessibility of this policy

This policy is available on NESAs publicly available website as well as on the NESAs intranet.

A copy of the policy is also sent to all staff of NESAs on their commencement. A hard copy of the policy can be requested from the Chief Financial Officer.

Who does this policy apply to?

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

- 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 an 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 an agency or exercises functions of an 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.

The Chief Executive Officer, disclosure coordinators, disclosure officers and managers within NESAs 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 NESAs may use this policy if they want information on who they can report wrongdoing to within NESAs.

Who does this policy not apply to?

This policy does not apply to:

- people who have received services from an agency and want to make a complaint about those services
- people who provide services to an agency (but are not acting on behalf of an agency). For example, employees of a company that sold computer software to an agency.
- This means that if you are not a public official, this policy does not apply to your complaint (there are some circumstances where a complaint can be deemed to be a voluntary PID, see section 1.9 of this policy for more information).

However, you can still make a complaint to NESAs in other ways. This can be done by:

- submitting a complaint through the Contact NESAs form on the NESAs website <https://www.nesa.nsw.edu.au/form/contact-us>
- accessing the Feedback Assist widget on the NESAs website (<https://www.nesa.nsw.edu.au/>)
- writing to NESAs at GPO Box 5469, Sydney, NSW 2001.

Compliance with the PID Act

The review process for this policy is as follows:

- this policy will be reviewed at least annually
- the Chief Financial Officer will review this policy and the executive Director, Strategy and Capability will approve the version of the policy
- the Chief Financial Officer should be contacted if an error or issue is found in this policy
- the Chief Financial Officer will monitor the policy and consider whether it is meeting its purpose.

What is contained in this policy?

This policy will provide you with information on the following:

- ways you can make a voluntary PID to NESA under the PID Act
- the names and contact details for the nominated disclosure officers in NESA
- the roles and responsibilities of people who hold particular roles under the PID Act and who are employees of NESA
- 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
- NESA procedures for dealing with disclosures
- NESA procedures for managing the risk of detrimental action and reporting detrimental action
- NESA record-keeping and reporting requirements
- how NESA 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 the Finance and Governance Directorate by phone: (02) 9367 8421 or by email: pid@nesa.nsw.edu.au
- confidentially contact a nominated disclosure coordinator or disclosure officer within NESA (see [Appendix A](#))
- access the Governance, Ethics and Integrity branch intranet page
- contact the PID Advice Team within the NSW Ombudsman by phone: (02) 9286 1000 or email: pidadvice@ombo.nsw.gov.au
- 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.

1 How to make a report of serious wrongdoing

1.1 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 our Fraud and Corruption Control System Framework, Privacy Management Plan and Guidelines, Managing Grievances Policy and Complaints Handling Policy

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.

1.2 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.
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. People who make a mandatory PID or a witness PID are still entitled to protection. More information about protections is available in section 3 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'.

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:

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 8 of this policy.

1.3 Who can make a voluntary PID?

Any public official can make a voluntary PID – see ‘Who this policy applies to’ at section 1.1 above. You are a public official if:

- you are employed by NESA
- you are a contractor, subcontractor or volunteer who provides services, or exercises functions, on behalf of NESA
- you work for an entity (such as a non-government organisation) who is contracted by NESA to provide services or exercise functions on behalf of NESA – 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. Appendix B of this policy has a list of integrity agencies.

1.4 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* – this is conduct that is intentionally dishonest, biased, partial, a breach of public trust, or involves a misuse of information or materials. For example, offering or accepting a bribe, using influence dishonestly, committing fraud, or embezzling money.
- *Serious maladministration* – this is conduct that relates to a matter of administration that is unlawful, unreasonable, unjust, oppressive, improperly discriminatory, or based wholly or partly on improper motives. For example, taking an unreasonable amount of time to process an application, deliberately disregarding agency processes or procedures to make an agency decision, an agency systemically failing to comply with proper recruitment processes when hiring staff, making a decision and/or taking action that is unlawful, or refusing to grant someone a licence for reasons that are not related to the merits of their application.
- *A government information contravention* – this is the failure to properly exercise functions under the Government Information (Public Access) Act 2009 (GIPA Act), Government Information (Information Commissioner) Act 2009, or State Records Act 1998. For example, such as destroying, concealing, or altering records to prevent them from being released under a Government Information Public

Access application, knowingly making decisions or directing another person to make a decision that is contrary to the GIPA Act or directing another person to do so.

- *A local government pecuniary interest contravention* – this is the failure to fulfil requirements that relate to the management of pecuniary interests under the Local Government Act 1993. For example, a senior council staff member recommending a family member for a council contract and not declaring the relationship or a councillor holding an undisclosed shareholding in a company competing for a contract.
- *A privacy contravention* – this involves where secure information or data is stolen, lost, collected, sold, used, or disclosed without authority. For example, unlawfully accessing a person's personal information on an agency's database, contravening the Privacy and Personal Information Protection Act 1998, or Health Records and Information Privacy Act 2002.
- *A serious and substantial waste of public money* – this is the uneconomical, inefficient or ineffective use of resources that could result in the loss of public funds or resources. For example, an agency not following a competitive tendering process when contracting with entities to undertake government work or having bad or no processes in place for a system involving large amounts of public funds.

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.

1.5 Who can I make a voluntary PID to?

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

1.5.1 Making a report to a public official who works for NESAs

You can make a report inside NESAs to:

- the Chief Executive Officer
- a disclosure coordinator for NESAs – a list of disclosure coordinators for NESAs and their contact details can be found at Appendix A of this policy
- a disclosure officer for NESAs – a list of disclosure officers for NESAs and their contact details can be found at Appendix A of this policy
- 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.

Refer to Appendix C for a diagram of NESAs's reporting process.

1.5.2 Making a report to a recipient outside of NESAs

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 Appendix B 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 NESAs, it is possible that your disclosure will be referred back to NESAs so that appropriate action can be taken.

1.5.3 Making a report to a Member of Parliament or journalist

Disclosures to a Member of Parliament (MP) or journalist 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 one of the following from NESAs:
 - notification that NESAs will not investigate the serious wrongdoing and will also not refer the previous disclosure to another agency
 - the following information at the end of the investigation period:
 - notice of NESAs’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
- 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.

1.6 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. For example, you can:
 - send an email or letter to your manager or supervisor
 - send an email to the Finance and Governance Directorate at pid@nesa.nsw.edu.au

- submit the PID Reporting Form available on the NESAs intranet to the Finance and Governance Directorate
- orally – have a private discussion with a person who can receive voluntary PIDs (refer to section 2.5 above for who a voluntary PID can be made to). This can be face-to-face, via telephone or virtually. For example, you can:
 - arrange to speak confidentially with your manager or supervisor
 - speak to a disclosure coordinator or disclosure officer on the phone or in person
- 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 NESAs to investigate the matter(s) you have disclosed if we cannot contact you for further information. For example, you can:
 - speak to a disclosure coordinator or disclosure officer in Finance and Governance Directorate by contacting **(02) 9367 8421**
 - complete the PID Reporting Form available on the NESAs intranet without providing your name.

1.7 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
- other information you have that supports your report.

1.8 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. It is important for us 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.

1.9 Deeming that a report is a voluntary PID

A disclosure coordinator has delegated responsibility to, 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 a disclosure coordinator 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 disclosure coordinator. For more information about the deeming power, see the Ombudsman's guideline 'Deeming that a disclosure is a voluntary PID'.

1.10 Who can I talk to if I have questions or concerns?

For any questions or concerns, please contact the Finance and Governance Directorate by phone: **(02) 9367 8421** or by email: pid@nesa.nsw.edu.au.

Also refer to the list of disclosure coordinators and disclosure officers and their contact details at Appendix A of this policy.

2 Protections

2.1 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.

NESA 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 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 NESA that concerns serious wrongdoing relating to NESA 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 \$2,200 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 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 e.g. those found in NESAC Code of Ethics and Conduct. 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 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.

2.2 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:* This is a PID where the public official has made the 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. For example, a manager communicating a PID report they have received to a disclosure officer is considered to be a mandatory PID and the manager will be protected from detrimental action.
- *A 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.
- Protections for makers of mandatory and witness PIDs are detailed in the table below.

Protection	Mandatory PID	Witness PID
<i>Detrimental action</i> – 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 PID.	Yes	Yes
<i>Right to compensation</i> – A person can initiate proceedings and seek compensation for injury, damage or loss suffered as a result of detrimental action being taken against them.	Yes	Yes
<i>Ability to seek injunction</i> – 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.	Yes	Yes
<i>Immunity from civil and criminal liability</i> – 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: <ul style="list-style-type: none"> • breaching a duty of secrecy or confidentiality, or • breaching another restriction on disclosure. 	Yes	Yes

3 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 NESAs by contacting the Finance and Governance Directorate by phone: (02) 9367 8421 or by email: pid@nesa.nsw.edu.au, or to an integrity agency. A list of integrity agencies is located at Appendix B of this policy.

4 General Support

NESA is committed to supporting people who have made a report of serious wrongdoing. If you make a report of wrongdoing, you will be:

- provided with an acknowledgement that your report has been received, how it has been assessed and a copy of this policy within 10 working days of receiving your report
- allocated a key contact person (likely the person who received the report) who will take steps to protect your interests and assess risks of detrimental action on an ongoing basis
- told your rights, obligations and protections under our policies and procedures and the PID Act
- kept informed during any investigation including expected timeframes and how information will be given or contact will be made (e.g. secure mail, phone discussions, virtually)
- updated on the progress of any investigation at intervals of no more than every 3 months throughout the duration of the investigation
- told the result of any investigation including any decision made and your review rights
- linked to wellbeing support services such as NESAs Employee Assistance Program.

NESA is also committed to supporting people who are the subject of a report of wrongdoing. If you are the

subject of a report, you will be:

- allocated a key contact person
- treated fairly and impartially
- told your rights and obligations under our policies and procedures
- kept informed during any investigation including expected timeframes and how information will be given or contact will be made (e.g. secure mail, phone discussions, virtually)
- given the opportunity to respond to any allegation made against you
- told the result of any investigation including any decision made about whether or not further action will be taken against you
- linked to wellbeing support services such as NESAs Employee Assistance Program.

Where reported allegations of wrongdoing against an employee are unsubstantiated, the employee will be supported by NESAs. The fact of the allegations and any investigation will be kept confidential unless otherwise agreed to by the subject of a report of wrongdoing or if there is a requirement to disclose.

In limited circumstances, prior to an employee the subject of an alleged report of wrongdoing being made aware of allegations against them, NESAs may determine that the report is unsubstantiated after a fact finding or informal investigation. In these limited circumstances, NESAs may choose not to inform the subject employee of the unsubstantiated report about the allegations for reasons including confidentiality.

5 Roles and responsibilities of NESAs employees

Certain people within NESAs have responsibilities under the PID Act.

5.1 CEO of NESAs

The Chief Executive Officer of NESAs is responsible for:

- fostering a workplace culture where reporting is encouraged
- ensuring there is a system in place for assessing disclosures
- ensuring NESAs complies with this policy and the PID Act
- ensuring that NESAs 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
 - dealing with detrimental action (e.g. workplace adjustments, separate/independent investigations into alleged detrimental action, referring evidence of detrimental action to the Commissioner of Police or ICAC)
 - 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.

5.2 Disclosure coordinators

Disclosure coordinators are responsible for:

- receiving reports from public officials
- recording oral reports in writing
- taking records of all conversations (e.g. file notes, email confirmations, dated written notes)
- receiving reports when they are referred on to them by disclosure officers and managers
- informing reporters that:
 - to the extent possible, the reporter's identity and details of the disclosure will be kept confidential
 - the reporter should not discuss the disclosure with others
- ensuring confidentiality of the identity of reporters and the person whose conduct is the subject of a PID (to the extent possible)
- ensuring reports are dealt with appropriately and within 6 months of receipt, including by:
 - conducting assessments of internal reports received
 - advising reporters within 10 working days of the outcome of the assessment
 - advising reporters of their review rights
 - providing reporters with a copy of this policy
 - referring the matter to another complaints process (if applicable)
 - considering and facilitating risk assessments and management action
 - keeping reporters regularly informed about progress of any investigation (at intervals of not more than 3 months)
 - determining action to be taken (e.g. no action, fact-finding/informal investigation, formal/external investigation or referral to other authority)
 - addressing findings and recommendations from any investigation
 - notifying the maker of the report of the proposed or recommended corrective action
- ensuring that any oral reports that have been received are recorded in writing
- making determinations in certain circumstances that a disclosure is a voluntary PID (even if requirements are not met)¹
- ensuring NESAs comply with this policy and the PID Act
- ensuring that NESAs 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
 - dealing with detrimental action (e.g. workplace adjustments, separate/independent investigations into alleged detrimental action, referring evidence of detrimental action to the Commissioner of Police or ICAC)

- 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

5.3 Disclosure officers

Disclosure officers are responsible for:

- receiving reports from public officials
- recording oral reports in writing
- taking records of all conversations (e.g. file notes, email confirmations, dated written notes)
- receiving reports when they are passed on to them by managers
- informing reporters that:
 - to the extent possible, the reporter's identity and details of the disclosure will be kept confidential
 - the reporter should not discuss the disclosure with others
- ensuring confidentiality of the identity of reporters and the person whose conduct is the subject of a PID (to the extent possible)
- ensuring reports are dealt with appropriately, including by:
 - conducting initial assessments of reports received
 - advising reporters within 10 working days of the outcome of the initial assessment
 - advising reporters of their review rights
 - providing reporters with a copy of this policy
 - referring the matter to the disclosure coordinator for further assessment or to another complaints process (if applicable)
 - advising them of their review rights should they not agree with the Disclosures Officer's assessment
- ensuring any oral reports that have been received are recorded in writing.

5.4 Managers

The responsibilities of managers include:

- fostering a team culture where reporting is encouraged
- receiving reports from persons that report to them or that they supervise (directly or indirectly)
 - recording oral reports in writing
- taking records of all conversations (e.g. file notes, email confirmations, dated written notes)

- informing the maker of a report that:
 - the disclosure may be a voluntary PID
 - they will be passing on the report to a disclosure officer
 - the disclosure officer will be in contact to discuss next steps
 - to the extent it is possible, the reporter's identity and details of the disclosure will be kept confidential
 - the reporter should not discuss the disclosure with others
- passing on reports they receive to a disclosures officer or disclosures coordinator as soon as reasonably practicable
- keeping all disclosures confidential except for communicating to the disclosure officer / coordinator, or the maker of the PID report
- accompanying the reporter in speaking to the disclosure officer / disclosures coordinator at the reporter's request.

5.5 All employees

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 NESAs
- 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.

6 How NESA will deal with voluntary PIDs

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

When a disclosure officer in NESA 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 NESA deals with the report
 - provide clear information on how you can access this PID 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 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 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/s – 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 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 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 this information to you.

6.2 How NESAs will deal with voluntary PIDs

Once a report that may be a voluntary PID is received NESAs 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.

6.2.1 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 our internal complaints or grievance handling process (e.g. Fraud and Corruption Control System Framework, Privacy Management Plan and Guidelines, NSW Procurement Board Complaints Management Guidelines Policy, Managing Grievances, Complaints Handling Policy 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. NESAs can, but do not have to, request the NSW Ombudsman to conciliate the matter.

6.2.2 Cease dealing with report as voluntary PID

NESA 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 this is the case, we will provide you with reasons for ceasing to deal with the report as a voluntary PID.

6.2.3 Where the report is a voluntary PID

If the report is a voluntary PID:

- In most cases we will conduct an investigation (fact-finding/informal or formal) 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.
- If an investigation (fact-finding/informal or formal) is conducted, the findings and recommendations will be received by the NESAs CEO or a disclosure coordinator (if it does not warrant dismissal). For formal investigations, this will be set out the Terms of Reference or Investigation Plan. For internal fact-finding or informal investigations, the findings and recommendations will be received by the disclosure coordinator assigned to the report.
- The NESAs CEO or disclosure coordinator assigned to the report will address any findings and recommendations from the investigation, ensure corrective action takes place, and notifying the maker of the report of the proposed or recommended corrective action.
- 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.

- 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.

6.3 How NESAs 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 NESAs reasonably considers it necessary to disclose the information to protect a person from detrimental action
- 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
- if we must disclose information that may identify the maker of the PID, 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, NESAs 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 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.

6.4 How NESAs will assess and minimise the risk of detrimental action

NESA 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.

We 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 take steps to assess and minimise the risk of detrimental action by:

- explaining that a risk assessment will be undertaken, and a risk management plan will be created (including reassessing the risk throughout the entirety of the matter)
- providing details of the unit/role that will be responsible for undertaking a risk assessment
- explaining the approvals for risk assessment and the risk management plan, that is, rank or role of the person who has final approval
- explaining how the agency will communicate with the maker to identify risks
- listing the protections that will be offered, that is, the agency will discuss protection options with the maker which may include remote working or approved leave for the duration of the investigation
- outlining what supports will be provided.

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
- 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.

6.5 How NESA will deal with allegations of a detrimental action offence

If NESA becomes 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 or the Law Enforcement Conduct Commission (whichever is applicable)
- notify the NSW Ombudsman about the allegation of a detrimental action offence being committed.

Victims of alleged detrimental action should contact a disclosure coordinator or the Finance and Governance directorate by phone: (02) 9367 8421 or by email: pid@nesa.nsw.edu.au. The disclosure coordinators and the Finance and Governance directorate are responsible for making referrals about alleged detrimental action offences and updating and offering support to victims.

6.6 What NESA 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, NESA 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.

We will also notify the maker of the report of the proposed or recommended corrective action within 6 months.

7 Review and dispute resolution

7.1 Internal review

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

- that NESAs are not required to deal with the report as a voluntary PID
- to stop dealing with the report because NESAs 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.

If you would like to make an application for an internal review, you must apply in writing within

28 days of being informed of NESAs's decision. The application should state the reasons why you consider NESAs's decision should not have been made. You may also submit any other relevant material with your application.

Applications for internal review should be sent to the Governance, Ethics and Integrity branch in writing by emailing pid@nesa.nsw.edu.au. The Finance and Governance directorate will advise you on who will be conducting the internal review within NESAs. Applications for internal review will be assessed and determined within 20 working days.

7.2 Voluntary dispute resolution

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

8 Other agency obligations

8.1 Record-keeping requirements

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

The Finance and Governance directorate will store all reports received, correspondence and material relating to investigations securely and confidentially on NESA's records management system.

8.2 Reporting of voluntary PIDs and NESA annual return to the Ombudsman

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

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

The Finance and Governance directorate is responsible for collecting information about voluntary PIDs and the other information captured in the annual return. The information is stored securely and confidentially on NESA's records management system. The Finance and Governance directorate is responsible for preparing NESA's annual return in relation to PIDs.

8.3 How NESA will ensure compliance with the PID Act and this policy

NESA will monitor the effectiveness of this policy and ensure compliance with the PID Act in conjunction with the NESA Fraud and Corruption Control System Framework and the additional action items below:

Attribute	Strategy	Action	Responsibility	When
Awareness	Communicate to all NESA staff their responsibilities with regards to PIDs.	Ensure all employees complete mandatory online awareness modules relating to PIDs.	People Operations, MBES, Finance and Governance	On commencement, all staff given a copy of this policy and awareness training modules completed. At least every three years – all staff to refresh knowledge through e-learning.

Attribute	Strategy	Action	Responsibility	When
Awareness	Communicate to NESA CEO, managers, disclosure officers and disclosure coordinators their responsibilities with regards to PIDs.	Ensure NESA CEO, managers, disclosure officers and disclosure coordinators, complete mandatory training relating to their role and PIDs.	People Operations, Communications and Media, Finance and Governance	On commencement, managers, NESA CEO, disclosure officers and disclosure coordinators to be given training in their responsibilities through e-learning. At least every three years – managers, disclosure officers and disclosure coordinators to refresh knowledge through e-learning.
Awareness	Communicate to contractors, subcontractor and volunteers providing services on behalf of NESA their responsibilities with regards to PIDs.	Ensure contract terms reflect contractor, subcontractor and volunteer responsibilities with regards to PIDs.	Finance and Governance	On engagement, contractors, subcontractors and volunteers given a copy of this policy and awareness training modules completed. On execution of service contract, contract to reflect responsibilities.
Awareness	Make information readily available for staff and the public on NESA's approach to PIDs.	Make this policy accessible on NESA's intranet and internet sites.	People Operations, Communications and Media, Finance and Governance	Policy to be prominently displayed on the intranet and internet. A review of to occur at least every two years or when an earlier need is identified.
Detection	Maintain a PID register.	All PID reports are recorded in a secure and centralised location.	Finance and Governance	As necessary. The PID register to be updated as matters arise and to be reviewed annually.
Reporting	Reporting voluntary PIDs to nominated body.	NESA to report on voluntary PIDs to the NSW Ombudsman in an annual return.	Finance and Governance	NESA will provide the annual return on a yearly basis ending on 30 June within 30 days of the return period to the NSW Ombudsman.

Attribute	Strategy	Action	Responsibility	When
Reporting	Disclose to stakeholders in NESAs Annual Report any PIDs made.	Draft wording to disclose PIDs in the Annual Report.	MBES, Finance and Governance	On an annual basis.
Reporting	Report compliance with PID Act and this policy to the NESAs Executive Leadership Team and the NESAs Audit and Risk Committee.	Advise the NESAs Executive Leadership Team and the NESAs Audit and Risk Committee of non-compliance with the PID Act and this policy.	Finance and Governance	Quarterly and as needed.
Reporting	Report PID reports to the NESAs Executive Leadership Team and the NESAs Audit and Risk Committee.	Advise the NESAs Executive Leadership Team and the NESAs Audit and Risk Committee of the number of PID reports received and a high level description.	Finance and Governance	Finance and Governance

Appendix A: Contact details of NESA's disclosure coordinators and officers

Disclosure coordinators

Executive Director

Strategy and Capability NESA

117 Clarence Street, SYDNEY NSW 2000.

Email: pid@nesa.nsw.edu.au

Phone: (02) 9367 8421

Chief Financial Officer

Finance and Governance directorate NESA

117 Clarence Street, SYDNEY NSW 2000.

Email: pid@nesa.nsw.edu.au

Phone: (02) 9367 8421

Disclosure officers

Primary disclosure officers:

All staff within the Finance and Governance directorate, NESA at clerk grade 7/8 or above

Email: pid@nesa.nsw.edu.au

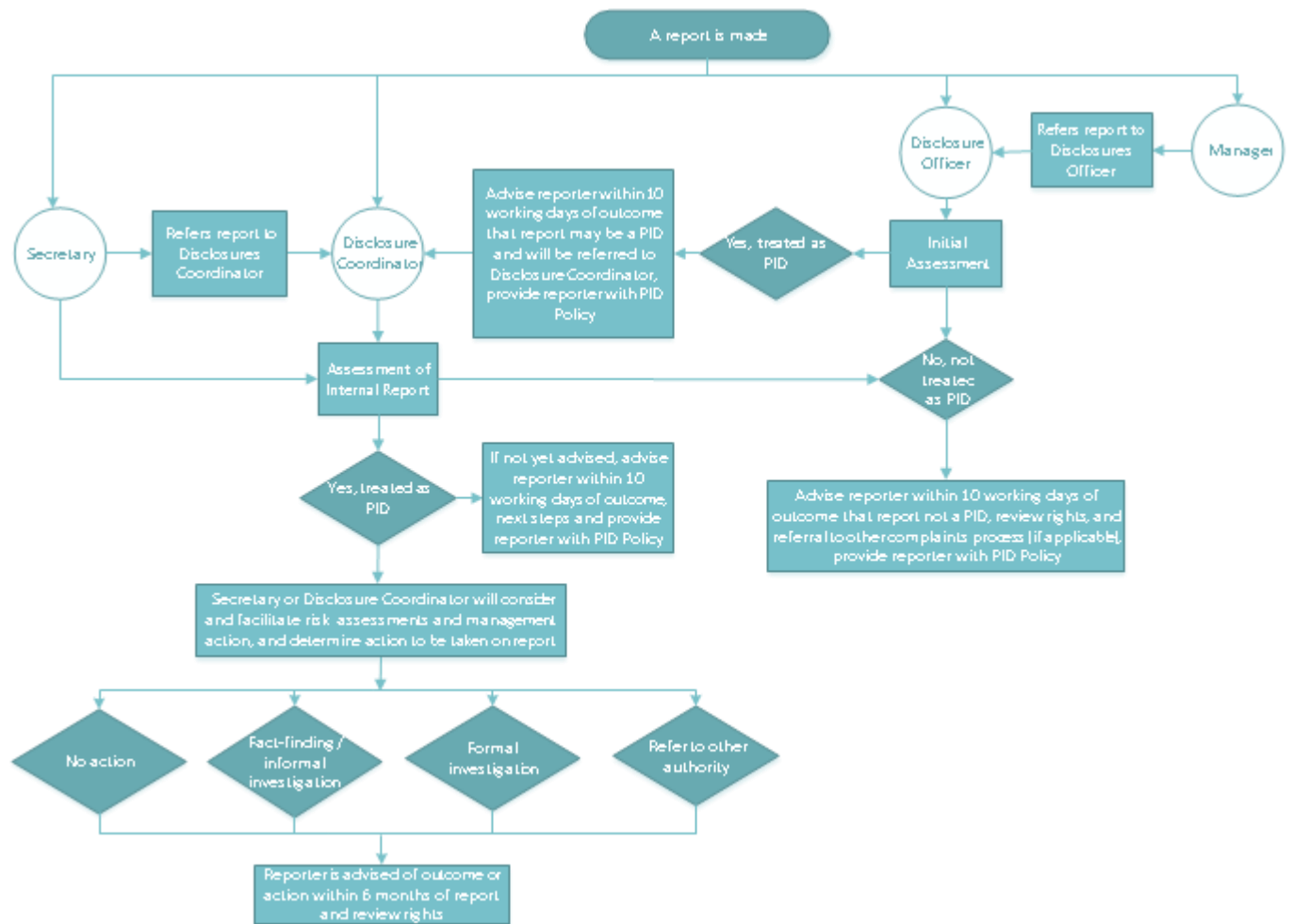
Phone: (02) 9367 8421

Appendix B: 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 auditable agencies	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

Integrity Agency	What they investigate	Contact information
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	Writing: GPO Box 7011, Sydney NSW 2001 Email: ipcinfo@ipc.nsw.gov.au

Appendix C: Reporting process



Version information

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Document approver	Executive Director, Strategy and Capability, Sara Brown

Contact details:

Peter Byrnes

Chief Financial Officer

Finance and Governance Directorate

Strategy and Capability Division

Email: pid@nesa.nsw.edu.au