
Public Interest Disclosure Policy

NSW Reconstruction Authority

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V5.0



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1. Policy

1.1 Introduction

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

1.2 Scope

The NSW Reconstruction Authority's (the RA) Public Interest Disclosure Policy (the Policy) applies to any public official.

You are a public official if:

- you are employed by the RA
- you are a contractor, subcontractor or volunteer who provides services, or exercises functions, on behalf of the RA, or
- you work for an entity (such as a non-government organisation) who is contracted by RA to provide services or exercise functions on it's behalf and 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 Policy does not apply to:

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

This means that if you are not a public official, this policy does not apply to making a complaint (there are some circumstances where a complaint can be deemed to be a voluntary public interest disclosure (PID), see section 1.9 of this policy for more information).

1.3 Purpose

The NSW Reconstruction Authority takes reports of serious wrongdoing seriously. We are committed to building a 'speak up' culture where our staff, volunteers, contractors and subcontractors are encouraged to report conduct that they reasonably believe involves wrongdoing.

This Policy documents our commitment and 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 should be read in conjunction with the RA's Code of Conduct and associated policies.

1.4 Definitions

Acronym / Term	Definition
Corrupt conduct	Conduct which is dishonest or a biased exercise of official functions by a public official. Further defined in Section 8 of the <i>Independent Commission Against Corruption Act 1988</i> (NSW) (the ICAC Act)
Detrimental action	Any detrimental action against the reporter that is substantially in response to the reporter making a disclosure. Detriment means anything that causes disadvantage or harm to person. This includes harm to reputation, intimidation, bullying, harassment, discrimination or any other unfair treatment. Further defined in Section 32 of the PID Act
Government information contravention	A failure, other than a trivial failure to properly fulfil functions under the <i>Government Information (Public Access) Act 2009</i> (NSW) (the GIPA Act) or <i>State Records Act 1998</i> (SR Act)
Local government pecuniary interest contravention	Any failure to properly fulfil functions under the <i>Local Government Act 1993</i> (NSW) relating to a mandatory disclosure of pecuniary interests under a local government's adopted code of conduct
Manager	A manager is defined in section 15 of the PID Act and for most RA staff, will be a person who directly or indirectly supervises them. In the case of individual contractors and subcontractors providing services or exercising functions on behalf of an agency, this is the public official within the RA who oversees those services or functions or manages the relevant contract.
Mandatory PID	A disclosure about serious wrongdoing made by a public official as a result of a statutory obligation to report wrongdoing or in the course of the public official's regular duties. A disclosure made because of an obligation imposed by a code of conduct is not considered to be a mandatory PID.
Privacy Contravention	A failure, other than a trivial failure to exercise functions in accordance with: <ul style="list-style-type: none">• the <i>Privacy and Personal Information Protection Act 1998</i>, or• the <i>Health Records and Information Privacy Act 2002</i>.
Public interest disclosure (PID)	In this Policy, public interest disclosure means a voluntary public interest disclosure, a mandatory public interest disclosure or a witness public interest disclosure.
Public Interest Disclosure Coordinator	A staff member nominated to manage and report on public interest disclosures on behalf of the RA .
Public Interest Disclosure Officer	A person responsible for receiving voluntary public interest disclosures on behalf of the RA in line with section 18 (1) of the PID Act. Public Interest Disclosure Officers within the Governance and Legal branches will assess and investigate a PID.

Acronym / Term	Definition
Public Official	<p>A public official is defined in <u>section 14 of the PID Act</u>. You are a public official if:</p> <ul style="list-style-type: none"> • you are employed by the RA • you are a contractor, subcontractor or volunteer who provides services, or exercises functions, on behalf of the RA, or • you work for an entity (such as a non-government organisation) who is contracted by RA to provide services or exercise functions on it's behalf and you are involved in undertaking that contracted work.
Reporter	<p>An individual who makes a disclosure and either:</p> <ul style="list-style-type: none"> • is a public official as defined by Section 14 of the PID Act, or • is otherwise deemed to be a public official for the purposes of this disclosure, as per Section 14 (2) of the PID Act.
Serious and substantial waste of public money	<p>Any uneconomical, inefficient or ineffective use of resources, whether authorised or unauthorised, and which results in a loss of public funds or resources.</p>
Serious maladministration	<p>Conduct, other than conduct of a trivial nature, of an agency or a public official relating to a matter of administration that is unlawful, unreasonable, unjust, oppressive or improperly discriminatory, or based wholly or partly on improper motives.</p>
Serious wrongdoing	<p>Under section 13 of the PID Act, there are six categories of serious wrongdoing: corrupt conduct, serious maladministration, a government information contravention, a privacy contravention, serious and substantial waste of public money and a local government pecuniary interest contravention.</p>
Staff member	<p>Includes all public sector Senior Executives and non-executive employees who are ongoing or temporary, seconded staff working for the NSW Reconstruction Authority, graduates, interns, casual staff and contractors.</p>
Subject	<p>The person who the disclosure is about, i.e., the person who is alleged to have committed serious wrongdoing.</p>
Voluntary PID	<p>A report is a voluntary PID if it has the following five features, which are set out in Sections 24 to 27 of the PID Act:</p> <ul style="list-style-type: none"> • A report is made by a public official • It is made to a person who can receive voluntary PIDs • The public official honestly and reasonably believes that the information they are providing shows (or tends to show) serious wrongdoing • The report was made orally or in writing • The report is voluntary (meaning it is not a mandatory or witness PID)

Acronym / Term	Definition
Witness PID	A disclosure made during an investigation into serious wrongdoing. The witness will have made the disclosure at the request of, or in response to, a requirement to provide information by a person or agency conducting the investigation. The investigation does not have to have been in relation to or arise from a voluntary PID.

1.5 Responsibilities

All staff must:

- be familiar and comply with this policy
- report all wrongdoing they become aware of
- use their best endeavours to assist in an investigation of serious wrongdoing if asked to do so by a Disclosure Officer dealing with a voluntary PID on behalf of the RA
- treat any person dealing with or investigating reports of serious wrongdoing with respect.

All Managers can receive voluntary PIDs and must:

- pass on reports they receive from staff that report to them or that they supervise to a Disclosure Officer
- successfully complete mandatory training to support their role as a Manager under the PID Act by 1 April 2024, or within 3 months of the commencement date in the role, and periodically on an ongoing basis.

The CEO and Deputy CEO will:

- foster a ‘speak-up’ culture where reporting is encouraged
- receive disclosures from public officials and refer these to the Public Interest Disclosure Coordinator for allocation and investigation (if appropriate)
- ensure that the RA has a policy and procedure for receiving, assessing and dealing with PIDs
- ensure compliance with the policy and the RA’s obligations under the PID Act
- ensure that the RA has appropriate systems for:
 - overseeing internal compliance with the PID Act
 - supporting public officials who make voluntary PIDs, including by minimising the risk of detrimental action
 - implementing corrective action if serious wrongdoing is found to have occurred
 - complying with reporting obligations regarding allegations or findings of detrimental action
 - complying with yearly reporting obligations to the NSW Ombudsman.

The RA’s Public Interest Disclosure Officers can receive voluntary PIDs and will:

- refer PIDs to the Public Interest Disclosure Coordinator if they are a Disclosure Officer located across any of the regional offices
- receive reports when they are passed on to them by managers within the RA
- ensure reports are dealt with appropriately
- successfully complete mandatory training to support their role as a Public Interest Disclosure Officer by 1 April 2024, or within 3 months of the commencement date in the role, and periodically on an ongoing basis.

The RA’s Public Interest Disclosure Coordinator can receive voluntary PIDs and will:

- receive reports when they are passed on by managers within the RA
- ensure reports are dealt with appropriately, including allocating reports that have been assessed as PIDs for investigation to a Public Interest Disclosure Officer

- successfully complete mandatory training to support their role as a Public Interest Disclosure Coordinator by 1 April 2024, or within 3 months of the commencement date in the role, and periodically on an ongoing basis.

The RA's **Executive Director, Corporate Services** will have internal oversight of the agency's compliance with the PID Act.

1.6 Policy Statement

This policy provides information on:

- ways you can make a voluntary PID to the RA under the PID Act
- how to contact the nominated Public Interest Disclosure Officers at the RA
- the roles and responsibilities of people who hold particular roles under the PID Act and who are public officials of the RA
- 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
- procedures for dealing with disclosures and managing the risk of detrimental action and reporting detrimental action
- record-keeping and reporting requirements
- how the RA will ensure it complies with the PID Act and this policy.

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

- confidentially contact a Public Interest Disclosure Officer or the Public Interest Disclosure Coordinator within the RA
- contact the PID Advice Team within the NSW Ombudsman by phone: (02) 9286 1000 or email: pidadvice@ombo.nsw.gov.au, or
- access the NSW Ombudsman's PID guidelines which are available on its website.

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

1.7 What is a Public Interest Disclosure?

The types of Public Interest Disclosures (PIDS) are:

- **Voluntary PID:** This is a PID where a report has been made by the public official because they decided, of their own accord, to come forward and disclose what they know.
- **Mandatory PID:** This is a PID where the public official has made a report about serious wrongdoing because they have a legal obligation to make that report, or because making that report is an ordinary aspect of their role or function in an agency.
- **Witness PID:** This is a PID where a person discloses information during an investigation of serious wrongdoing following a request or requirement of the investigator.

This policy relates mostly to making a voluntary PID and how the RA will deal with voluntary PIDs.

Voluntary PIDs are the kind of PIDs people have in mind when they think about public interest reporting or 'whistleblowing'. A report is a voluntary PID if it has the following five features as set out in the PID Act:

- A report is made by a public official.
- It is made to a person which can receive voluntary PIDs.
- The public official honestly and reasonably believes that the information they are providing shows (or tends to show) serious wrongdoing.

- The report was made orally or in writing.
- The report is voluntary (meaning it is not a mandatory or witness 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 the nominated Public Interest Disclosure 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 is provided in this policy regarding reporting to the NSW Ombudsman.

1.8 What is serious wrongdoing?

Reporters can make a PID when they have an honest and reasonable belief that serious wrongdoing has occurred within a NSW Government organisation. Section 13 of the PID Act provides that serious wrongdoing refers to any of the following:

- **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 local government pecuniary interest contravention** — such as a senior staff member recommending a family member for a contract and not declaring the relationship.
- **A privacy contravention** — such as unlawfully accessing a person's personal information on an agency's database.
- **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.

Where a disclosure is made involving one or more of the above categories, the person making the report is protected from reprisal under the PID Act.

1.9 Who can make a voluntary PID?

Any public official can make a voluntary PID. You are a public official if:

- you are employed by the RA
- you are a contractor, subcontractor or volunteer who provides services, or exercises functions, on behalf of the RA or
- you work for an entity (such as a non-government organisation) who is contracted by the RA to provide services or exercise functions on behalf of the RA — 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.

1.10 How can a Public Interest Disclosure or report of serious wrongdoing be made?

You can make a report inside the RA to:

- The CEO or Deputy CEO.
- A Public Interest Disclosure Officer for the RA – a list of Public Interest Disclosure Officers is at section 1.22.
- 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. Your manager is responsible for communicating to a Public Interest Disclosure Officer on your behalf or may accompany you while you make the report to a Public Interest Disclosure Officer.

Reporters can make a PID:

- in writing – this could be an email or letter to a person who can receive voluntary PIDs
- orally – have a private discussion with a person who can receive a voluntary PID
- anonymously – write an email or letter or call a person who can receive a PID 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 the RA to investigate the matter/s you have disclosed if we cannot contact you for further information.
- by completing a Public Interest Disclosure form, and emailing it to PID@reconstruction.nsw.gov.au.

A report can be made to a public official in another agency (meaning an agency you do not work for) or an integrity agency including:

- NSW Independent Commission Against Corruption Commissioner (for matters involving corruption)
- NSW Ombudsman (for matters involving maladministration)
- NSW Audit Office (for the serious and substantial waste of public money)
- NSW Information Privacy Commission (for GIPA Act contraventions).

A detailed list of NSW integrity agencies with contact details is available under section 1.20.

A report may also be made to a Member of Parliament or journalist, however these may only be made in the following circumstances:

- You must have first made substantially the same disclosure (described here as a ‘previous disclosure’) to someone who can receive disclosures.
- The previous disclosure must be substantially true.
- You did not make the previous disclosure anonymously.
- You did not give a written waiver of your right to receive information relating to your previous disclosure.
- You did not receive the following from the RA:
 - notification that the RA 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 the RA’s decision to investigate the serious wrongdoing
 - a description of the results of an investigation into the serious wrongdoing
 - details of proposed or recommended corrective action as a result of the previous disclosure or investigation.

Investigation period means:

- after six months from the previous disclosure being made, or

- after 12 months if you applied for an internal review of the agency's decision within six months of making the disclosure.

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

Staff should report all wrongdoing, regardless of whether you think it is serious wrongdoing. If an internal complaint or grievance is a report of serious wrongdoing, we will consider whether it is a PID. It is important for the RA to understand what is or may be occurring.

The RA is then responsible for making sure the report is handled appropriately under the PID Act, or if it is not a PID, in line with other procedures.

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 it is a PID, we will deal with it as set out in this policy, but we will also make sure we follow our RA Code of Conduct and associated policies.

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

Section 2 details the Procedure within the RA for making voluntary PIDs.

1.11 What should I include in my report?

A report should include as much information as possible to assist the RA in dealing with the report effectively. The type of information that should be included is:

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

1.12 Deeming a report is a voluntary PID

The CEO or D/CEO of the RA can, in certain circumstances, determine that a report is a voluntary PID even if the report does not otherwise have all the features of a voluntary PID. This is known as the 'deeming power'. By deeming that a report is a voluntary PID, it ensures that reporters are provided with the protections under the PID Act.

These protections encompass strict confidentiality, safeguarding the reporter's identity throughout the disclosure process. Access is limited to authorised personnel, and awareness of the reporter's identity is coupled with a legal obligation of confidentiality as described throughout section 2.2.3.

1.13 Protections for people who make of voluntary PIDs

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

The RA is committed to taking all reasonable steps to protect you from detriment as a result

of having made a PID. We are also committed to maintaining your confidentiality as much as possible while the PID is being dealt with.

We will not tolerate any type of detrimental action being taken against you because you have made a report, might make a report or are believed to have made a report.

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

- **Protection from detrimental action** – A person cannot take detrimental action against another person because they have made a voluntary PID or are considering making a voluntary PID. Detrimental action includes bullying, harassment, intimidation or dismissal (refer to section 2.2.4)
- **Immunity from civil and criminal liability** – Some public officials are often subject to a duty of confidentiality that prevents them disclosing certain information that they obtain or become aware of at work. Sometimes, in order to make a PID, public officials will need to breach or disregard such confidentiality duties. If that happens, a public official cannot be disciplined, sued or criminally charged for breaching confidentiality.
- **Confidentiality** – Public officials and agencies must not disclose information tending to identify a person as the maker of a voluntary PID unless doing so is permitted by the PID Act (refer to section 2.2.3)
- **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.

Protection is not available for disclosures which:

- principally question the merits of government policy
- have been made solely or substantially with the motive of avoiding dismissal or other disciplinary action
- have been made to a Member of Parliament or/ journalist without first referring the matter to the RA.

1.14 Protections for people who make mandatory and witness PIDs

Protections for makers of mandatory and witness PIDs (described in section 1.6) include:

- **Protection from detrimental action** – It is an offence to take detrimental action against a person based on the suspicion, belief or awareness that a person has made, may have made or may make a mandatory or witness PID.
- **Right to compensation** – A person can initiate proceedings and seek compensation for injury, damage or loss suffered as a result of detrimental action being taken against them.
- **Ability to seek injunction** – An injunction can be sought to prevent the commission or possible commission of a detrimental action offence against a person. For example, an order to prevent dismissal or to require reinstatement.
- **Immunity from civil and criminal liability** – A person will not incur civil or criminal liability if the person breaches a duty of confidentiality while making a disclosure. This means that legal action cannot be taken against a person for breaching a duty of secrecy or confidentiality or breaching another restriction on disclosure.

1.15 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 the RA or to an integrity agency listed in this policy.

Reporters who make a disclosure in accordance with the PID Act will not be subject to liability and no action, claim or demand can be taken against them for making the disclosure.

Reporters will not have breached any confidentiality or secrecy obligations and will have the defence of absolute privilege in defamation.

The 'deeming power' provides reporters with protections under the PID Act as detailed in section 1.11.

1.16 Right to internal review

Reporters may seek an internal review of certain decision relating to their disclosure including:

- a decision the agency is not required by Section 49(1) of the PID Act to deal with the disclosure as a voluntary PID
- a decision under Section 49(2) of the PID Act to cease to deal with the disclosure as a voluntary PID
- a decision mentioned in Section 55(3) of the PID Act in relation to the disclosure:
 - the decision to neither investigate or refer the investigation into serious wrongdoing
 - the decision to cease an investigation without completing it or referring it.

An application for internal review must be lodged within 28 days of the maker being informed of the agency's decision. It must be made in writing and state the reasons why the applicant considers the decision should not have been made.

The internal review of the decision will be conducted by a staff member who was not substantially involved in making the decision or dealing with the disclosure. The internal reviewer can confirm the agency's decision or decide that it be dealt with as a voluntary PID.

1.17 Voluntary dispute resolution

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

1.18 How can I get support after making a disclosure?

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

Staff may access the RA's Employee Assistance Program (EAP) regardless of whether they are the reporter, a witness or a support person.

Staff may also contact a Mental Health First Aider. These are staff members who have received specific training to recognise, understand and respond to signs of challenges faced by staff members.

All staff support resources can be accessed via the intranet.

Anyone involved may also discuss their support options with the Public Interest Disclosure Coordinator.

1.19 False and misleading statements

It is a criminal offence under the PID Act to wilfully make a false statement, mislead, or attempt to mislead an investigating authority, public authority or public official when making a disclosure to them.

1.20 Other agency obligations

1.20.1 Record-keeping requirements

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

Given the sensitive nature of PIDs, all records associated with a disclosure, the reporter or the subject are to be kept confidential and must be kept in a secure location within EDRMS. Access to the folder containing these records must be limited to only RA staff members involved in the administration of the PID process.

1.20.2 Reporting of voluntary PIDS and RA annual return to the NSW Ombudsman

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

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

The Public Interest Disclosures Coordinator is responsible for collecting information about voluntary PIDs and preparing the other information captured in the annual return.

1.20.3 How the RA ensures compliance with the PID Act and this policy

The RA has mechanisms in place for monitoring the effectiveness of its PID policy and for ensuring compliance with the PID Act. This is undertaken at the RA through regular audits as part of the ongoing Internal Audit Program for the RA and in the annual review of legislative compliance across the RA, undertaken by the Legal Branch.

Reports on the effectiveness and compliance with the PID Policy are presented to the Executive Committee and the RA's Audit and Risk Committee.

1.21 References

Legislation – Acts and Regulations

- Public Interest Disclosures Act 2022
- Independent Commission Against Corruption Act 1988
- Local Government Act 1993
- State Records Act 1998
- Privacy and Personal Information Protection Act 1998
- the Health Records and Information Privacy Act 2002
- Workplace Health and Safety Act 2011

External documents

- NSW Ombudsman Model Internal Reporting Policy – State Government – July 2020
- Public Interest Disclosure Guideline A2 'Internal Reporting Policy and Procedures' - 2015
- Public Interest Disclosure Guideline B2 'What should be reported' - 2020

NSW Reconstruction Authority Policies

- NSW Reconstruction Authority Code of Conduct
- NSW Reconstruction Authority External Complaints Policy

NSW Integrity Agencies and contact details (current at the time of writing)

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

1.22 Accessibility of this policy

The policy is made available to all staff on commencement with the RA and is additionally available with the associated form on the RA's intranet and website.

1.23 Contacts

A list of Public Interest Disclosure Officers can be found on the intranet for staff and the RA's website.

The following roles at the NSW Reconstruction Authority are Public Interest Disclosure Officers.

- The CEO
- The Deputy CEO
- General Counsel
- Director, Governance (also the Public Interest Disclosure Coordinator)
- Director, Legal
- Manager, Governance
- Manager, Legal
- The following staff at each RA regional office:
 - Regional Delivery Director responsible for Grafton and Port Macquarie
 - Regional Delivery Director responsible for Dubbo and Eugowra
 - Regional Delivery Director responsible for Queanbeyan and Goulburn
 - Regional Delivery Director responsible for Maitland
 - Regional Delivery Director responsible for Wagga and Albury
 - Executive Director, Northern Rivers Adaptation Division, Lismore

The Public Interest Disclosure Coordinator is the Director Governance.

For the contact information of one of the above Public Interest Disclosure Officers, please contact people@reconstruction.nsw.gov.au

To make a Public Interest Disclosure directly to a Public Interest Disclosure Officer, please complete the Public Interest Disclosure form and email it to PID@reconstruction.nsw.gov.au.

For questions about the Public Interest Disclosure Policy, to obtain a hard copy, or for general questions about the process or any other queries, please contact the Governance Branch at governance@reconstruction.nsw.gov.au.

2. Procedure for voluntary PIDs

2.1 Acknowledging the report

Once a report that may be a voluntary PID is received by a nominated Disclosure Officer within the RA either directly from you or from your manager, it will be referred to the Public Interest Disclosure Coordinator and you will receive the following information:

- 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 the RA 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.

This assessment will be undertaken by a nominated Disclosure Officer within the Governance or Legal Branch to determine if the report has the features of a voluntary PID.

2.1.1 If your report is not a voluntary PID

If your report is assessed as not being a voluntary PID, it will still need to be dealt with in a manner consistent with our internal complaints or grievance handling process 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 Disclosure Officer, request an internal review or request that the matter be conciliated. The RA can, but does not have to, request the NSW Ombudsman to conciliate the matter.

2.1.2 Cease dealing with report as voluntary PID

The RA 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 advise you that we have ceased dealing with the report as a voluntary PID, and provide reasons why.

2.2 Where the report is a voluntary PID

If the report is assessed as a voluntary PID, we will inform you as soon as possible how we intend to deal with the report.

- In most cases we will conduct an investigation to make findings about whether the serious wrongdoing disclosed in the report occurred, who was involved, who was responsible, and whether the people involved or the agency engaged in serious wrongdoing. There may be circumstances where we believe an investigation is not warranted — for example, if the conduct has previously been investigated.
- There may also be circumstances where we decide that the report should be referred to another agency, 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 ICAC Act.
- 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.

2.2.1 Investigating a PID

The investigation of the PID may be undertaken by a nominated Disclosure Officer within the Governance or Legal Branch, however, will typically be undertaken by an external investigator.

Where the Public Interest Disclosure Coordinator appoints an external investigator, they will prepare a letter of appointment for the investigator which:

- outlines the allegations
- defines the scope of the investigation
- authorises the investigator to request records, conduct interviews and any other necessary steps.

This appointment is to be approved by the Executive Director Corporate Services and a letter of appointment is issued prior to the commencement of the investigation.

If we decide to investigate the serious wrongdoing, the Disclosure Officer nominated as your contact will provide you with updates on the investigation at least every three months. These updates will be provided in a way agreed with you. During this time, if you would like more frequent updates, you should contact the Disclosure Officer.

2.2.2 Inform reporter of the outcome

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.

2.2.3 How the RA will protect your confidentiality

We understand that if you make a voluntary PID you may want your identity and the fact that you 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 may be situations where the disclosure of identifying information is allowed, including:

- 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 reporter or the RA reasonably considers it necessary to disclose the information to protect a person from detriment
- where it is necessary the information be disclosed to a person whose interests are affected by the disclosure
- where the information has previously been lawfully published

- when the information is disclosed to a medical practitioner or psychologist for the purposes of providing medical or psychiatric care, treatment or counselling to the individual disclosing the information
- when the information is disclosed for the purposes of proceedings before a court or tribunal
- when the disclosure of the information is necessary to deal with the disclosure effectively
- if it is otherwise in the public interest to disclose the identifying information.

We will not disclose identifying information unless it is necessary and authorised under the PID Act. 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 which may identify you as the maker of the report.

We will do this in the following way:

- The RA will restrict the number of individuals who are privy to your identity or any information that could reveal your identity.
- In situations where it becomes necessary to disclose information that might reveal your identity, the RA will refrain from disclosing your actual identity unless explicit consent has been obtained from you.
- The RA will ensure that any individual who becomes aware of your identity is reminded of their legal obligation to maintain strict confidentiality regarding this information.
- Access to emails, files, or any documentation containing information related to your identity will be limited solely to authorised personnel within the RA.
- The RA will conduct a thorough assessment to determine whether anyone is aware of your identity. Additionally, this assessment will evaluate whether these individuals have any motives to engage in detrimental actions against you or hinder the progress of the investigation.
- The RA will provide you with information emphasising the importance of maintaining confidentiality. Guidance will be provided on how to safeguard their identity, such as advising them not to discuss their report with other members of staff.

If confidentiality cannot be maintained or is unlikely to be maintained, the RA will advise you and:

- update the RA's risk assessment and risk management plan as it relates to your report
- implement strategies to minimise the risk of detrimental action
- offer additional support if appropriate
- remind individuals 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.

2.2.4 How the RA will assess and minimise the risk of detrimental action

The RA has a zero-tolerance approach to 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.

The RA 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.

The Disclosure Officer will undertake the following steps to assess and minimise the risk of detrimental action by:

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

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

2.2.5 Responding to allegations of a detrimental action offence

If a reporter believes that detrimental action has been or is being taken against them or someone else, they should tell their manager, a Disclosure Officer or the Public Interest Disclosure Coordinator immediately. All managers, Directors, Executive Directors, Heads and the Deputy CEO must report to a Public Interest Disclosure Officer or the CEO any suspicions they hold that detrimental action is occurring.

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

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

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

2.2.6 What the RA 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, the RA will take the most appropriate action to address that wrongdoing or misconduct. This is also known as corrective action and can include:

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

2.2.7 Briefing to CEO

The Disclosure Officer will provide the findings of an investigation, including any recommendations to both the General Counsel and Executive Director Corporate Services. These recommendations together with any steps to address recommendations and the person/business area responsible for taking corrective action will be provided to the Deputy CEO and CEO.

2.2.8 Inform reporter of the outcome

The Disclosure Officer will advise the reporter of:

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

2.2.9 Implement recommendations or other actions

The implementation of the recommendations of the investigation or other actions will be communicated to the relevant Executive Director, Head and / or any other relevant members of the Executive Committee, as required.

3. Document Version Control

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4. Change History

Version	Issue Date	Team	Details / Reason for Change
1.0	June 2022	Governance Branch	Initial creation of document based on Department of Premier and Cabinet (best practices) with inclusion of additional material for local context.
2.0	February 2023	Governance Branch	Rebranded for NSW Reconstruction Authority, amendments made to align with the new Public Interest Disclosure Act 2022.
3.0	September 2023	Governance Branch	Further changes in line Public Interest Disclosure Act 2022
4.0	February 2024	Governance Branch	Amendments to reporting process, responsibilities and training requirements. Formatting changes
5.0	March 2024	Governance Branch	Updates to policy requirements and procedures to align with 'Developing your PID policy' NSW Ombudsman.