

Message from the Secretary

This *Public Interest Disclosures Internal Reporting Policy* has been developed in accordance with the provisions of the *Public Interest Disclosures Act 1994* and provides an effective framework for the making and management of disclosures and the protection and support for people who make them.

The reporting of suspected wrongdoing by staff is vital to the integrity of the public sector. Staff who are prepared to raise their concerns about corrupt conduct, maladministration or other serious wrongdoing are one of the most important and accurate sources of information for identifying and addressing serious problems within an organisation.

Managers and supervisors are responsible for establishing and maintaining a positive reporting environment that encourages staff to adopt an 'if in doubt, report' approach. Staff should feel that it is a part of their job to report wrongdoing and they will not suffer reprisals for reporting incidents.

An ethical work environment gives people confidence that allegations will be taken seriously and receive the appropriate response.

NSW Treasury is committed to protecting staff who make disclosures concerning corrupt conduct, maladministration, serious substantial waste of public money and government information contraventions.

Rob Whitfield

Secretary

February 2016

Policy Statement and Objective

A key objective of the *Public Interest Disclosures Act 1994* (PID Act) is to encourage and facilitate the disclosure, in the public interest, of corrupt conduct, maladministration, serious and substantial waste, and government information contravention in the public sector by:

- enhancing and augmenting established procedures for making disclosures
- protecting people from reprisals simply because they have made a disclosure
- providing for those disclosures to be properly investigated and dealt with.

The PID Act sets out a comprehensive framework for protecting public officials who disclose wrongdoing in accordance with the Act. An effective protective disclosure system encourages public officials, who are often best placed to identify wrongdoing, to come forward and report problems with public sector administration. This enables problems to be adequately addressed thus ensuring continual improvement in the integrity of public sector administration.

All NSW Treasury staff should act in an honest and proper manner in the workplace (consistent with the principles laid down in Treasury's *Code of Conduct*). This includes a duty to report incidents of corruption, maladministration, substantial waste and government information contravention. It is strongly recommended that all staff also refer to Treasury's *TIPP 5.9 Fraud and Corruption Prevention policy* which outlines NSW Treasury's approach to the prevention, identification of potential and actual instances of fraud and corruption.

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This comprehensive *Public Interest Disclosures Internal Reporting Policy* has been developed in accordance with the provisions of the PID Act and is supported by procedures based on the Ombudsman's guidelines. The Policy establishes an internal reporting system that aims to protect and support NSW Treasury employees who may wish to come forward with disclosures relating to:

- corrupt conduct
- maladministration
- serious and substantial waste of public money
- contravention of the Government Information (Public Access) Act 2009 (GIPA Act)

This policy conforms to the *Code of Conduct and Ethics for Public Sector Executives* and *Model Contract of Employment for the Chief and Senior Executive Service (SES)*.

The policy enables such internal disclosures to be made to a disclosure coordinator or nominated disclosure officers, as an alternative to reporting to the Secretary of NSW Treasury.

The policy is designed to complement normal communication channels between supervisors and staff. Staff members are therefore encouraged to continue to raise appropriate matters at any time with their supervisors, but as an alternative have the option of making a Protected Disclosure in accordance with this policy.

The Secretary of NSW Treasury strongly endorses this policy and confirms NSW Treasury's commitment to high standards of ethical and accountable conduct. Any form of wrongdoing will not be tolerated. NSW Treasury employees who come forward and report wrongdoing provide a vital public service to the people of NSW in promoting integrity, accountability and good management within a key government agency. NSW Treasury is committed to protecting staff who make disclosures concerning corrupt conduct, maladministration, serious substantial waste of public money and government information contraventions.

Organisational commitment

For NSW Treasury to be able to deal effectively with staff reports of wrongdoing, it must have the right culture. NSW Treasury is committed to the aims and objectives of the PID Act and recognises the value and importance of contributions by employees to enhance administrative and management practices across NSW Treasury.

In this context, NSW Treasury has a strong commitment to:

- creating a climate of trust, where staff are comfortable and confident about reporting wrongdoing
- encouraging staff to come forward if they have witnessed what they consider to be wrongdoing within the organisation
- keeping the identity of the staff member disclosing wrongdoing confidential, wherever possible and appropriate
- protecting staff who make disclosures from any adverse action motivated by their report
- dealing with reports thoroughly and impartially and if some form of wrongdoing has been found, taking appropriate action to rectify it
- keeping staff who make reports informed of their progress and the outcome
- encouraging staff to report wrongdoing within the organisation, but respecting any decision to disclose wrongdoing outside the organisation – provided that disclosure outside the organisation is made in accordance with the provisions of the PID Act
- ensuring managers and supervisors at all levels in the organisation understand the benefits of reporting wrongdoing, are familiar with this policy, and aware of the needs of those who report wrongdoing

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- providing adequate resources, both financial and human, to:
 - encourage reports of wrongdoing
 - protect and support those who make them
 - provide training for key personnel
 - investigate allegations
 - properly manage any workplace issues that the allegations identify or create
 - correct any problem that is identified
 - reassess / review the policy each year to ensure it is still relevant and effective.

Summary

| Item | Topic | Key points |
|------|--|---|
| 1 | Responsibilities of Staff | All employees are responsible for reporting wrongdoing |
| 2 | What should be reported | Any of the four categories of serious wrongdoing – corrupt conduct, maladministration, serious and substantial waste of public money, and government information contravention. |
| 3 | When will a report be protected? | A reasonable belief that there is wrongdoing and the report needs to be made to a specified officer |
| 4 | How to make a report | A report on wrongdoing can be made in writing or verbally |
| 5 | Can a report be anonymous | A report can be anonymous but it is preferable to identify yourself to assist Treasury in protecting and supporting you |
| 6 | Maintaining confidentiality | Treasury is committed to keeping your identity confidential. However there may be situations where this may not be possible or appropriate |
| 7 | Who can receive and/or assess a report within Treasury | For a report to be a <u>protected</u> disclosure – it must be made to a public official in accordance with this policy |
| 8 | Who can receive a report outside of NSW Treasury | An investigating authority listed in the PID Act and in limited circumstances, a Member of Parliament or a journalist |
| 9 | Feedback to staff who report wrongdoing | Staff will receive acknowledgment letter, a copy of this policy, timeframes and contact details of officer you can speak to about the disclosure |
| 10 | Protection against reprisals | PID Act provides protection for people reporting wrongdoing by imposing penalties on anyone who takes detrimental action in reprisal |
| 11 | Support for those reporting wrongdoing | Reporters are provided with access to any professional support they may need as a result of the reporting process |
| 12 | Sanctions for making false or misleading disclosures | It is a criminal offence under the PID Act to wilfully make a false or misleading statement when reporting wrongdoing |
| 13 | Support for the subject of report | Staff subject to a report will be treated are treated fairly and reasonably |
| 14 | More information | Available from the NSW Ombudsman's website at www.ombo.nsw.gov.au or Treasury's Disclosure Coordinator |
| 15 | Resources | Contact details for external investigating authorities |
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Procedure

1 Responsibilities of staff

This internal policy places responsibilities upon people at all levels within NSW Treasury. It applies to:

- permanent employees, whether full-time or part-time
- temporary or casual employees
- consultants
- individual contractors working for the organisation.

Employees are encouraged to report known or suspected incidences of corrupt conduct, maladministration, serious and substantial waste, or government information contravention in accordance with this policy.

All employees of NSW Treasury have important roles to play in supporting those who have made legitimate disclosures. Staff must abstain from any activity that is or could be perceived to be victimisation or harassment of a person who has made a disclosure. Further, they should protect and maintain the confidentiality of any person they know or suspect to have made disclosures.

The policy may also apply to other people who perform public official functions and their conduct and activities could be investigated by an investigating authority. This can include volunteers and those contracted to work for NSW Treasury.

2 What should be reported

You should report any wrongdoing you see within NSW Treasury. Reports about the four categories of serious wrongdoing – corrupt conduct, maladministration, serious and substantial waste of public money, and government information contravention – will be dealt with under the PID Act as protected disclosures and according to this policy.

a. Corrupt conduct

Corrupt conduct is the dishonest or partial exercise of official functions by a public official. For example, this could include:

- the improper use of knowledge, power or position for personal gain or the advantage of others
- acting dishonestly or unfairly, or breaching public trust
- a member of the public influencing or trying to influence a public official to use their position in a way that is dishonest, biased or breaches public trust.

b. Maladministration

Maladministration is conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives.

For example, this could include:

- making a decision and/or taking action that is unlawful
- refusing to grant someone a licence for reasons that are not related to the merits of their application.

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c. **Serious and substantial waste of public money**

Serious and substantial waste is the uneconomical, inefficient or ineffective use of resources that could result in the loss or wastage of public resources.

For example, this could include:

- not following a competitive tendering process for a large scale contract
- having bad or no processes in place for a system involving large amounts of public funds.

d. **Contravention of the Government Information (Public Access) Act 2009**

A contravention of the Government Information (Public Access) Act 2009 could include:

- destroying, concealing or altering records to prevent them from being released
- knowingly making decisions that are contrary to the legislation
- directing another person to make a decision that is contrary to the legislation.

e. **Other wrongdoing**

Although reports about the previous four categories of conduct can attract the specific protections of the PID Act, you should report all activities or incidents that you believe are wrong.

For example, these could include:

- harassment or unlawful discrimination
- reprisal action against a person who has reported wrongdoing
- practices that endanger the health or safety of staff or the public.

These types of issues should be reported to a supervisor, in line with the NSW Treasury's policies.

Other NSW Treasury policies and procedures that relate to grievances and complaints include:

- Internal Grievance Procedures
- NSW Treasury Anti-Corruption Policy Statement
- Fraud and Corruption Prevention Policy
- Recruitment and Selection

Even if these reports are not dealt with as protected disclosures, NSW Treasury will consider each matter and make every attempt to protect the staff member making the report from any form of reprisal.

3 When will a report be protected

NSW Treasury will support any staff who report wrongdoing. For a report to be considered a protected disclosure, it has to meet all of the requirements under the PID Act. These requirements are:

- The person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing.
- The report has to be made to one or more of the following:
 - a position nominated in this policy – see section 9 (b) & (c) below
 - the Secretary
 - one of the investigating authorities nominated in the PID Act – see section 10

Reports by staff will not be considered to be protected disclosures if they:

- mostly question the merits of government policy
- are made with the sole or substantial motive of avoiding dismissal or other disciplinary action.

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4 How to make a report

You can report wrongdoing in writing or verbally. You are encouraged to make a report in writing as this can help to avoid any confusion or misinterpretation. Please download a [Public Interest Disclosure Reporting form](#) from the Treasury Templates.

If a report is made verbally, the person receiving the report must make a comprehensive record of the disclosure and ask the person making the disclosure to sign this record.. (Download the [Public Interest Disclosure – Record of initial discussion with individual reporting wrongdoing](#)) The staff member making the disclosure should keep a copy of this record.

If you are concerned about being seen making a report, ask to meet in a discreet location away from the workplace.

5 Can a report be anonymous

There will be some situations where you may not want to identify yourself when you make a report. Although these reports will still be dealt with by NSW Treasury, it is best if you identify yourself. This allows us to provide you with any necessary protection and support, as well as feedback about the outcome of any investigation into the allegations.

It is important to realise that an anonymous disclosure may not prevent you from being identified. If we do not know who made the report, it is very difficult for us to prevent any reprisal action.

6 Maintaining confidentiality

NSW Treasury realises many staff will want their report to remain confidential. This can help to prevent any action being taken against you for reporting wrongdoing.

We are committed to keeping your identity, and the fact you have reported wrongdoing, confidential. However there may be situations where this may not be possible or appropriate. We will discuss with you whether it is possible to keep your report confidential.

If confidentiality cannot be maintained, we will develop a plan to support and protect you from risks of reprisal. You will be involved in developing this plan.

If you report wrongdoing, you should only discuss your report with those dealing with it. This will include the disclosures coordinator and the Secretary.

7 Who can receive and/or assess a report within NSW Treasury?

You are encouraged to report general wrongdoing to your supervisor. However the PID Act requires that – for a report to be a protected disclosure – it must be made to a public official in accordance with the organisation's disclosure procedures. For NSW Treasury, this means this policy and any supporting procedures.

Staff receiving a report

The responsibilities of staff receiving a report, whether they are a principal officer, disclosures coordinator or disclosures officer, include:

- keeping the identity of the internal reporter and anyone who is the subject of a report confidential, if this is possible and appropriate
- when requested by a person wishing to report wrongdoing, arranging to meet with them privately and discreetly – if necessary away from the workplace
- assisting the person to put their report in writing or ensuring that any reports received orally are documented, dated and signed by the person (A [PID Record of initial discussion with individual reporting wrongdoing form](#) can be downloaded from Treasury Templates).

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- forwarding reports to the disclosures coordinator or Secretary for assessment
- advising the internal reporter to only discuss the matter with authorised people and not alert anyone who is the subject of a report that a disclosure has been made about them
- explaining to the internal reporter what will happen in relation to the information received
- advising the internal reporter to notify the disclosures coordinator or Secretary immediately of any suspicions they have that reprisal is occurring or has been threatened against them
- helping the internal reporter to communicate with the disclosures coordinator, Secretary or their support person if they are having difficulty doing this directly.
- when meeting with the internal reporter, discuss all points and ask internal reporter to sign *PID – Confirmation of information provided to individual reporting wrongdoing form* (available from Treasury Templates).

All disclosures officers should be accessible to staff and appropriately trained in their responsibilities.

Any supervisor who receives a report that they believe may be a protected disclosure must refer the staff member making the report to one of the positions listed below. The positions listed below are the only staff within NSW Treasury who can receive a protected disclosure.

Staff assessing a report

This policy sets out below the positions that are responsible for assessing what should happen in response to a report of wrongdoing. Reports received by nominated disclosures officers should generally be referred to the disclosures coordinator or Secretary for assessment.

The responsibilities of staff assessing a report include:

- determining whether or not the report is a protected disclosure
- deciding how the report should be progressed, whether it is a protected disclosure or not, providing the Secretary with written advice about the initial assessment and the decision about how the report is to be progressed
- ensuring that a written acknowledgement is given to the internal reporter as soon as possible, but at least within two weeks of having received the report
- in consultation with the internal reporter, assessing the likelihood of their identity remaining confidential in the workplace if the report is investigated
- as far as possible and appropriate, keeping the identity of the internal reporter and anyone who is the subject of a report confidential
- if it is not possible to maintain confidentiality, developing a strategy for supporting the internal reporter and preventing reprisals – and giving the internal reporter an opportunity to discuss this proposal with you
- in consultation with the internal reporter, assessing the likelihood of them being exposed to reprisal or workplace conflict
- in consultation with the internal reporter, appointing a support person to assist them – someone who is not an investigator or someone with management responsibility for deciding the response to the report
- providing advice to the internal reporter’s manager or the Secretary on the systems and strategies that should be established to minimise any risk of reprisal that the internal reporter faces
- reminding all managers that they have an obligation to notify the disclosures coordinator or Secretary immediately of any suspicions they have or allegations they receive that reprisal to an internal reporter is occurring or has been threatened.

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a. The Secretary (the Principal Officer)

You can report wrongdoing directly to the Secretary.

The Secretary is responsible for:

- deciding if a report is a public interest disclosure
- determining what needs to be done next, including referring it to other authorities
- deciding what needs to be done to correct any problem that has been identified
- ensuring that NSW Treasury has the required policy and that staff are made aware of the contents of the policy and the protections under the PID Act
- establishing and maintaining a working environment that encourages staff to report wrongdoing
- establishing an effective internal reporting system to appropriately deal with reports of wrongdoing, support staff who report, and ensure reprisals are not taken against them
- ensuring adequate resources, both financial and human, are dedicated towards achieving these outcomes.

If wrongdoing is reported to the Secretary under s.8(1)(2) of the PID Act, the Secretary has the responsibilities outlined for **‘Staff receiving a report’**. In addition to these general responsibilities, the Secretary must also refer actual or suspected corrupt conduct to the Independent Commission Against Corruption (ICAC).

The Secretary is responsible for assessing any reports that are received in accordance with the responsibilities for **‘Staff assessing a report’**.

Irrespective of whether the Secretary receives or assesses a report, the Secretary’s responsibilities include:

- as far as possible and appropriate, keeping the identity of the internal reporter and anyone who is the subject of a report confidential
- ensuring that they are advised when an assessment decision has been made about a report and, if further action is recommended, given regular progress updates and a report of the outcome
- ensuring that a person who makes a public interest disclosure to the authority, receives the agency’s PID policy and an acknowledgment of receipt of their disclosure within two working days of the person having made the disclosure
- providing adequate resources to any support person appointed to assist an internal reporter
- providing adequate resources to any person appointed to investigate a report
- ensuring that appropriate systems and strategies are established to minimise any risk of reprisal that the internal reporter faces
- effectively managing the workplace situation, or ensuring that the workplace situation is effectively managed, if reprisal is threatened or does take place
- taking appropriate action against anyone who threatens or takes reprisal against a person for reporting wrongdoing

The contact details for the Secretary are as follows:

Mr Rob Whitfield

Secretary, NSW Treasury

52 Martin Place

SYDNEY 2000.

Email: rob.whitfield@treasury.nsw.gov.au

Phone: 9228 5440

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b. Disclosures coordinator

The disclosures coordinator has a central role in dealing with reports made by staff. The coordinator receives them, assesses them, and refers them to the people within NSW Treasury or to external parties (in consultation with the Secretary) who can deal with them appropriately.

When a disclosures coordinator receives or assesses an internal report, their responsibilities are those for ‘Staff receiving a report’ and ‘Staff assessing a report’.

Irrespective of whether the disclosures coordinator receives or assesses a report, their responsibilities include:

- keeping the identity of the internal reporter and anyone who is the subject of a report confidential, as far as possible and appropriate
- continually assessing the likelihood of the internal reporter being exposed to reprisal or workplace conflict
- ensuring that appropriate systems and strategies are established to minimise any risk of reprisals that the internal reporter faces
- ensuring that the internal reporter is kept regularly informed about the progress of the matter
- ensuring that a person who makes a public interest disclosure to the authority, receives the agency’s PID policy and an acknowledgment of receipt of their disclosure within two working days of the person having made the disclosure
- ensuring that the time frames promised in the acknowledgement letter are adhered to
- in consultation with the Secretary, assessing whether a report requires a ‘desk top audit’ or a preliminary investigation or if enough evidence has been provided to authorise a full investigation
- in consultation with the Secretary, deciding whether an audit or investigation is to be conducted by a senior and experienced staff member within Treasury or engaging an investigator from IAB Services.

If the disclosures coordinator becomes aware that reprisal against an internal reporter is threatened or is taking place or has taken place, his or her responsibilities include:

- taking all steps to enable the internal reporter to continue working without being subjected to reprisal, or changing the workplace so that their exposure to the detriment is minimised (for example, moving staff to a different location)
- ensuring a senior and experienced staff member, who has not been involved in dealing with the initial report, investigates the suspected reprisal
- ensuring that the results of that investigation and any arising recommendations – including that appropriate disciplinary action be taken against anyone proven to have taken any reprisal – are provided to the Secretary for a decision
- referring any evidence of reprisals to the police, the ICAC or the Police Integrity Commission (depending on the subject matter of the allegation) to see if there are sufficient lines of inquiry to establish that a criminal offence has taken place.

The disclosures coordinator is also responsible for ensuring that your organisation meets its broader obligations under the PID Act, including:

- implementing an internal reporting policy that provides procedures for receiving, assessing and dealing with protected disclosures
- reporting annually on the incidence and management of protected disclosures within your organisation and providing a copy of this report to the Ombudsman.

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The contact details for the Disclosures Coordinator:

Mr Sean Darragh
Manager Parliamentary Support and Information
52 Martin Place, SYDNEY 2000.
Email: sean.darragh@treasury.nsw.gov.au
Phone: 9228 4611

c. Disclosures officers

Disclosure officers have the responsibilities outlined for 'Staff receiving a report'.

Nominated disclosure officers are responsible for receiving, forwarding and/or acting upon disclosures made in accordance with the policy. Nominated disclosure officers will:

- clearly explain to the person making a disclosure what will happen in relation to the information received,
- when requested by a person wishing to make a disclosure, make arrangements to ensure that disclosures can be made privately and discreetly (if necessary away from the workplace),
- put in writing and date any disclosures received orally (and have the person making the disclosure sign the document),
- deal with disclosures impartially,
- forward disclosures to the disclosure coordinator for assessment,
- take all necessary and reasonable steps to ensure that the identity of the person who has made a disclosure, and any person who is the subject of a disclosure, are kept confidential (where this is practical and reasonable), and
- support any person who has made a disclosure and protect them from victimisation, harassment or any other form of reprisal.
- The **contact details** for the disclosure officers are as follows:

Ms Cassandra Wilkinson
Director Executive & Ministerial Services
52 Martin Place
SYDNEY 2000.
Email: cassandra.wilkinson@treasury.nsw.gov.au
Phone: 9228 5865

Ms Mirjana Juka
Director, Human Resources
52 Martin Place
SYDNEY 2000.
Email: mirjana.juka@treasury.nsw.gov.au
Phone: 9228 5319

Mr Aman Chand
Chief Audit Executive
NSW Treasury
52 Martin Place
SYDNEY 2000
Email: aman.chand@treasury.nsw.gov.au
Phone: 9228 3621

Mr Jim Dawson
Exec Director Commercial Assets
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8 Who can receive a report outside of NSW Treasury?

Staff are encouraged to report wrongdoing within NSW Treasury, but internal reporting is not your only option. If you follow the guidance below, your report can still be a protected disclosure.

You can choose to make your report to an investigating authority. You can do this first, or at any stage after your initial report to NSW Treasury. If your report is about the Secretary, you should make it to an investigating authority.

You can also choose to make a report to a Member of Parliament or a journalist, but only in limited circumstances.

a. Investigating authorities

The PID Act lists a number of investigating authorities in NSW that staff can report wrongdoing to and the categories of wrongdoing each authority can deal with.

These authorities are:

- the Auditor-General — for serious and substantial waste
- the Independent Commission Against Corruption (ICAC) — for corrupt conduct
- the Ombudsman — for maladministration
- the Police Integrity Commission (PIC) — for police misconduct
- the PIC Inspector — for disclosures about the PIC or its staff
- the Division of Local Government, Department of Premier and Cabinet — for serious and substantial waste in local government agencies
- the ICAC Inspector — for disclosures about the ICAC or its staff
- the Information Commissioner — for disclosures about a government information contravention.

You should contact the relevant authority for advice about how to make a disclosure to them. Contact details for each investigating authority are provided at the end of this policy.

You should be aware that it is very likely the investigating authority will discuss the case with the NSW Treasury. We will make every effort to assist and cooperate with the investigating authority to ensure the matter is dealt with appropriately and there is a satisfactory outcome. We will also provide appropriate support and assistance to staff who report wrongdoing to an investigating authority.

b. Members of Parliament or journalists

To have the protections of the PID Act, staff reporting wrongdoing to a Member of Parliament (MP) or a journalist must have already made substantially the same report to one of the following:

- the Secretary
- a person nominated in this policy
- an investigating authority in accordance with the PID Act.

Also, the NSW Treasury or investigating authority that received the report must have either:

- decided not to investigate the matter
- decided to investigate the matter, but not completed the investigation within six months of the original report
- investigated the matter but not recommended any action as a result
- not told the person who made the report, within six months of the report being made, whether the matter will be investigated.

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Most importantly – to be protected under the PID Act – if you report wrongdoing to an MP or a journalist you will need to be able to prove that you have reasonable grounds for believing that the disclosure is substantially true and that it is in fact substantially true.

If you report wrongdoing to a person or an organisation that is not listed above, you will not be protected under the PID Act. This may mean you will be in breach of legal obligations or NSW Treasury code of conduct – by, for example, disclosing confidential information.

For more information about reporting wrongdoing outside the NSW Treasury, contact the disclosures coordinator or the NSW Ombudsman’s Public Interest Disclosures Unit. Their contact details are provided at the end of this policy.

9 Feedback to staff who report wrongdoing

Staff who report wrongdoing will be told what is happening in response to their report.

When you make a report, you will be provided with:

- an acknowledgement that your disclosure has been received
- a copy of this policy
- the timeframe for when you will receive further updates
- the name and contact details of the people who can tell you what is happening.

This information will be given to you within two working days from the date you make your report.

After a decision is made about how your report will be dealt with, you will be given:

- information about the action that will be taken in response to your report
- likely timeframes for any investigation
- information about the resources available within NSW Treasury to handle any concerns you may have
- information about external agencies and services you can access for support.

This information will be given to you within 10 working days from the date you make your report.

During any investigation, you will be given:

- information on the ongoing nature of the investigation
- information about the progress of the investigation and reasons for any delay
- advice if your identity needs to be disclosed for the purposes of investigating the matter, and an opportunity to talk about this.

At the end of any investigation, you will be given:

- enough information to show that adequate and appropriate action was taken and/or is proposed to be taken in response to your disclosure and any problem that was identified
- advice about whether you will be involved as a witness in any further matters, such as disciplinary or criminal proceedings.

10 Protection against reprisals

The PID Act provides protection for people reporting wrongdoing by imposing penalties on anyone who takes detrimental action substantially in reprisal for them making the protected disclosure.

The NSW Treasury will not tolerate any reprisal action against staff who report wrongdoing. The criminal penalties that can be imposed include imprisonment or fines. Detrimental action is also misconduct that justifies disciplinary action. People who take detrimental action against someone who has made a disclosure can also be required to pay damages for any loss suffered by that person.

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Detrimental action means action causing, comprising or involving any of the following:

- injury, damage or loss
- intimidation or harassment
- discrimination, disadvantage or adverse treatment in relation to employment
- dismissal from, or prejudice in, employment
- disciplinary proceedings.

a. Responding to reprisals

NSW Treasury will act to protect staff who report wrongdoing from reprisals.

When a report is received, we will ensure that a thorough risk assessment is conducted. This will identify any risks to the member of staff who reported the wrongdoing, as well as strategies to deal with those risks.

If you believe that detrimental action has been or is being taken against you or someone else who has reported wrongdoing in reprisal for making a report, you should tell your supervisor, the disclosures coordinator or the Secretary immediately.

All supervisors must report any suspicions they have that reprisal action against a staff member is occurring, or any reports that are made to them, to the disclosures coordinator or the Secretary.

If the disclosures coordinator becomes aware of reprisal action against a person who has made a disclosure, they will:

- ensure a senior and experienced member of staff, who has not been involved in dealing with the initial disclosure, will investigate the suspected reprisal
- give the results of that investigation to the Secretary for a decision
- if it has been established that reprisal action is occurring against someone who has made a disclosure, take all steps possible to stop that activity and protect the member of staff who made the disclosure
- take appropriate disciplinary or criminal action against anyone proven to have taken or threatened any action in reprisal for making a disclosure.

If you report reprisal action, you will be kept informed of the progress of any investigation and the outcome.

The Secretary may issue specific directions to help protect against reprisals, including:

- issuing warnings to those alleged to have taken reprisal action against the member of staff who made the disclosure
- relocating the member of staff who made the disclosure or the subject officer within the current workplace
- transferring the member of staff who made the disclosure or the staff member who is the subject of the allegation to another position for which they are qualified
- granting the member of staff who made the disclosure or the subject officer leave of absence during the investigation of the disclosure.

These directions will only be taken if the member of staff who made the disclosure agrees to it. The disclosures coordinator will make it clear to other staff that this action was taken in consultation with the staff member and with management support – and it is not a punishment.

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If you have reported wrongdoing and feel that any reprisal action is not being dealt with effectively, contact the Ombudsman or the ICAC – depending on the type of wrongdoing you reported. Contact details for all these investigating authorities are included at the end of this policy.

b. Protection against legal action

If you make a disclosure in accordance with the PID Act, you will not be subject to any liability and no action, claim or demand can be taken against you for making the disclosure. You will not have breached any confidentiality or secrecy obligations and you will have the defence of absolute privilege in defamation.

11 Support for those reporting wrongdoing

The NSW Treasury will make sure that staff who have reported wrongdoing, regardless of whether they have made a protected disclosure, are provided with access to any professional support they may need as a result of the reporting process – such as stress management, counselling services, legal or career advice.

The Manager, People & Performance is responsible for initiating and coordinating support, particularly to those who are suffering any form of reprisal.

The responsibilities of staff appointed to provide support include:

- as far as possible and appropriate, keeping the identity of the internal reporter and anyone who is the subject of a report confidential
- initiating and coordinating appropriate action to support internal reporters, particularly those who are
- suffering any form of reprisal
- advising internal reporters and anyone who is the subject of a report on the avenues available within your organisation to handle any concerns they may have arising out of the report
- advising internal reporters and anyone who is the subject of a report on the external organisations and services they can access for support – such as stress management, counselling services, legal or career advice
- ensuring the internal reporter and anyone who is the subject of a report has access to any necessary professional support
- monitoring the workplace situation for reprisal or conflict
- notifying the disclosures coordinator or Secretary immediately of any suspicions they have that reprisal to an internal reporter is occurring or has been threatened.

All supervisors must notify the disclosures coordinator if they believe a staff member is suffering any detrimental action as a result of disclosing wrongdoing.

12 Sanctions for making false or misleading disclosures

It is important that all staff are aware that it is a criminal offence under the PID Act to wilfully make a false or misleading statement when reporting wrongdoing.

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13 Support for the subject of a report

The NSW Treasury is committed to ensuring staff who are the subject of a report of wrongdoing are treated fairly and reasonably. If you are the subject of a report, you will be:

- treated fairly and impartially
- told your rights and obligations under our policies and procedures
- kept informed during any investigation
- given the opportunity to respond to any allegation made against you
- told the result of any investigation.

14 More information

More information on public interest disclosures is available on our intranet at [Public Interest Disclosures Guidelines](#). Staff can also access advice and guidance from the NSW Treasury disclosures coordinator and the NSW Ombudsman's website at www.ombo.nsw.gov.au.

15 Resources

The contact details for external investigating authorities that staff can make a protected disclosure to or seek advice from are listed below.

For disclosures about corrupt conduct:

Independent Commission Against Corruption (ICAC)
Phone: 02 8281 5999
Toll free: 1800 463 909
Tel. typewriter (TTY): 02 8281 5773
Facsimile: 02 9264 5364
Email: icac@icac.nsw.gov.au
Web: www.icac.nsw.gov.au
Address: Level 7, 255 Elizabeth Street, Sydney NSW 2000

For disclosures about maladministration:

NSW Ombudsman
Phone: 02 9286 1000
Toll free (outside Sydney metro): 1800 451 524
Tel. typewriter (TTY): 02 9264 8050
Facsimile: 02 9283 2911
Email: nswombo@ombo.nsw.gov.au
Web: www.ombo.nsw.gov.au
Address: Level 24, 580 George Street Sydney NSW 2000

For disclosures about serious and substantial waste:

Auditor-General of the NSW Audit Office
Phone: 02 9275 7100
Facsimile: 02 9275 7200
Email: mail@audit.nsw.gov.au
Web: www.audit.nsw.gov.au
Address: Level 15, 1 Margaret Street Sydney NSW 2000

For disclosures about breaches of the GIPA Act:

Information Commissioner
Toll free: 1800 472 679
Facsimile: 02 8114 3756
Email: ipcinfo@ipc.nsw.gov.au
Web: www.ipc.nsw.gov.au
Address: Level 11, 1 Castlereagh Street Sydney NSW 2000

| Version | Date | Name | Details of changes made to TPD |
|---------|------------|--------------|---|
| 1 | 20/01/2015 | Sean Darragh | Minor additions and amendments; updated contact details; formatting update. |
| 2 | 14/07/2015 | Sean Darragh | Updated contact details. |
| 3 | 12/02/2016 | Sean Darragh | Updated contact details. |
| 4 | 17/02/2016 | Karen Somers | Edit to formatting |

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