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# Public Interest Disclosures Policy

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## 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.

The PID act 2022 facilitates reporting of wrongdoing by

- Protecting people who speak up.
- Ensuring agencies have policies and procedures in place.
- Imposing duties on agencies who receive reports to take appropriate action.

## Purpose

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

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

This policy sets out:

- how Multicultural NSW 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 Public Interest Disclosures Policy ensures that reports of wrongdoing relating to corruption, serious and substantial waste, maladministration, government information contravention, privacy contraventions and local government pecuniary interest contraventions are managed appropriately and effectively, and that staff who make reports will be protected from reprisal. Staff of Multicultural NSW should be able to report suspected wrongdoing with the confidence that their disclosure will be appropriately managed and in doing so, will be supported, and protected.

This policy should be read in conjunction with the Multicultural NSW Code of Conduct, Code of Ethics and Conduct for NSW government sector employees, Code of Ethics for Interpreters and Translators and relevant legislation and policies.

## Policy Statement

Multicultural NSW is committed to implementing and maintaining a strong ethical organisation with accountable behaviour. This comes from leadership that encourages and strongly supports the disclosure of unlawful, corrupt, negligent, or improper conduct, maladministration, or serious and substantial waste of public money.

- Every staff member of Multicultural NSW has an ethical responsibility to report suspected unlawful, corrupt, negligent, or improper conduct, maladministration, or serious and substantial waste of public money.
- The Public Interest Disclosures Policy establishes the commitment and framework to support and protect staff who report wrongdoing.

- The Public Interest Disclosures Policy also sets out the manner in which Multicultural NSW meets its obligations under the [Public Interest Disclosures Act 2022](#) (PID Act).

## Definitions

Corrupt conduct (corruption)	Corrupt conduct is defined in sections 8 and 9 of the <a href="#">Independent Commission Against Corruption Act 1988</a> . Corrupt conduct includes the dishonest or partial exercise of official functions by a public official. The conduct of a person who is not a public official, when it adversely affects the impartial or honest exercise of official functions by a public official, also comes within the definition. Examples include: <ul style="list-style-type: none"> <li>• the improper use of knowledge, power or position for personal gain or the advantage of others</li> <li>• acting dishonestly or unfairly, or breaching public trust</li> <li>• bribery and blackmail</li> <li>• fraud</li> <li>• theft</li> </ul>
Disclosures Coordinator	The role is the responsibility of the Associate Director, Human resources of Multicultural NSW who holds a pivotal position in the internal reporting system.
Disclosures Manager	The role is the responsibility of the Director, People and Corporate who is responsible for Multicultural NSW's management of its public interest disclosure and compliance with the PID Act.
GIPA Act	<i>Government Information (Public Access) Act 2009</i>
Government information contravention	A failure to properly fulfil functions under the <i>GIPA Act</i> . Examples include: <ul style="list-style-type: none"> <li>• destroying, concealing, or altering records to prevent them from being released</li> <li>• knowingly making decisions contrary to the <i>GIPA Act</i></li> <li>• directing another person to make a decision that is contrary to the <i>GIPA Act</i></li> </ul>
Maladministration	Involves action or inaction of a serious nature that is: <ul style="list-style-type: none"> <li>• contrary to law</li> <li>• unreasonable, unjust, oppressive, or improperly discriminatory</li> <li>• based wholly or partly on improper motives.</li> </ul> <p>Examples include:</p> <ul style="list-style-type: none"> <li>• awarding contracts and tenders to private parties that are related by family, friendship, or association</li> <li>• failing to make a decision in accordance with official policy for no appropriate reason</li> <li>• issuing an order against a person without giving them procedural fairness.</li> </ul>
PID Act	<a href="#">Public Interest Disclosures Act 2022</a>
Principal Officer	The Chief Executive Officer of Multicultural NSW.
Public interest disclosure	An allegation of corruption, maladministration, serious and substantial waste, or government information contravention by a public official, about a public official, to a Disclosures Officer or other specified person, made in accordance with the PID Act.

Public official	An individual who is an employee of a state government department or agency (including part-time or casual staff), an employee of a local government authority, an employee of a state owned corporation or a subsidiary of a state owned corporation, a person having a public official function or acting in a public official capacity for the state or an individual who is engaged by a public authority under a contract to provide services to or on behalf of the public authority.
Privacy contravention	A failure by an agency or public official to exercise functions in accordance with the <a href="#">Privacy and Personal Information Protection Act 1998</a> and the <a href="#">Health Records and Information Privacy Act 2002</a> .
Reporter	A person who makes a public interest disclosure.
Reprisal	Action causing, comprising, or involving any of the following: <ul style="list-style-type: none"> <li>• Injury, damage, or loss;</li> <li>• Property damage</li> <li>• Reputational damage;</li> <li>• Unfavourable treatment;</li> <li>• Intimidation, bullying or harassment;</li> <li>• Discrimination, disadvantage, or adverse treatment in relation to employment;</li> <li>• Dismissal from, or prejudice in, employment;</li> <li>• Disciplinary proceedings</li> </ul>
Respondent	The person who is the subject of an allegation or other concern about suspected corrupt conduct, maladministration, or serious and substantial waste.
Serious and substantial waste of public money	Any uneconomical, inefficient, or ineffective use of resources, authorised or unauthorised, which results in a loss or wastage of public funds or resources. Serious and substantial waste can be where the waste: <ul style="list-style-type: none"> <li>• is regarded as significant</li> <li>• indicates a pattern that results from a weakness within an organisation's system</li> <li>• is about the organisation's expenditure or a particular item of expenditure or is to such an extent that it affects an organisation's capacity to perform its primary functions.</li> </ul> <p>Examples include:</p> <ul style="list-style-type: none"> <li>• misappropriation or misuse of public property</li> <li>• the purchase of unnecessary or inadequate goods and services</li> </ul>
Serious maladministration	Conduct of an agency or a public official that is unlawful, unreasonable, unjust, oppressive, or improperly discriminatory, or based wholly or partly on improper motives
Staff member	A person working in an ongoing, temporary, or casual capacity for Multicultural NSW, including consultants, contractors, Advisory Board members and any person performing a public official function, whose conduct could be investigated by an investigating authority.

## Authority of the Policy

The Public Interest Disclosures Policy is issued under the authority of the Chief Executive Officer of Multicultural NSW and will be reviewed regularly and amended as required.

## Roles and responsibilities

### **Chief Executive Officer**

The Chief Executive Officer is responsible for ensuring that systems are in place to support and protect staff who report wrongdoing and refer actual or suspected corrupt conduct to the Independent Commission Against Corruption.

### **Disclosures Manager**

The Director of People and Corporate is the Disclosures Manager responsible for overall management of public interest disclosures and compliance with the PID Act in Multicultural NSW and will report on the status of public interest disclosures to the Chief Executive Officer.

The Disclosures Manager is also responsible for the development, implementation, and review of policy in relation to public interest disclosures.

### **Disclosures Coordinator**

The Associate Director of Human Resources is the Disclosures Coordinator responsible for receiving, forwarding and/or dealing with reports made in accordance with this policy.

### **Multicultural NSW Staff**

Staff are required to comply with this policy in reporting known or suspected incidents of corrupt conduct, maladministration, or serious and substantial waste in accordance with procedures.

## Scope

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

- Ongoing employees, whether full-time or part-time;
- Temporary or casual employees;
- Consultants;
- Volunteers;
- Contractors and agency staff engaged to perform work for, or on behalf of, Multicultural NSW.

The Chief Executive Officer, other nominated disclosure officers and managers within Multicultural NSW have specific responsibilities under the PID Act. This policy also provides information on how people in these roles will fulfil their responsibilities. Other public officials who work in and for the public sector, but do not work for Multicultural NSW may use this policy if they want information on who they can report wrongdoing to within Multicultural NSW.

This policy does not apply to:

- people who have received services from an agency and want to make a complaint about those services
- people, such as contractors, who provide services to an agency. For example, employees of a company that sold computer software to an agency.

This means that if you are not a public official, this policy does not apply to your complaint. Please refer to “Who can make a Public Industry Disclosure” (page 10) of this policy for more information.

## Procedures for managing Public Interest Disclosures

Procedures for managing public interest disclosures will identify the roles and responsibilities of all Multicultural NSW staff in making and/or receiving public interest disclosures.

These procedures are based on the principle that any staff member reporting wrongdoing will be supported and protected from reprisal.

1. The Principal Officer is the Chief Executive Officer of Multicultural NSW who is responsible for:
  - nominating a Disclosure Manager to manage public interest disclosures and to comply with the PID Act.
  - ensuring an organisational culture that values and encourages the making of public interest disclosures and is committed to minimising corrupt conduct, maladministration, serious and substantial waste, and government information contravention, privacy contraventions and local government pecuniary interest contraventions;
  - 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 make public interest disclosures and prevent reprisal following a public interest disclosure;
  - taking appropriate disciplinary, remedial, or other managerial action following an investigation;
  - reporting on public interest disclosures in accordance with the PID Act and Regulations and the requirements of the Ombudsman;
  - reporting evidence of reprisal to appropriate authorities;
  - providing staff with access to this policy, internal and external reporting channels and to ensure that staff are aware about protections available to staff members making public interest disclosures.
- 2) The Disclosures Manager is the Director of People and Corporate who is responsible for:
  - preparing reports of actual or suspected corrupt conduct to the Chief Executive Officer for matters to be notified to the Independent Commission Against Corruption;
  - complying with requests for information from the Ombudsman;
  - establishing procedures for public interest disclosures including reporting channels;
  - initiating appropriate assessments and/or investigations and risk;
  - arranging prompt investigations into allegations of reprisal;
  - implementing organisational change as necessary as a result of a disclosure;
  - deciding who will conduct the investigation if a matter is to be investigated;
  - determining action to be taken in relation to a disclosure;
  - deciding what remedial action can be undertaken to correct any problem that has been identified.
- 3) The Associate Director of Human resources is the Disclosures Coordinator who is responsible for receiving, forwarding, and acting upon disclosures in accordance with these guidelines. Responsibilities include:
  - managing public interest disclosures made by staff members (“reporters”);
  - assessing each disclosure to determine whether the disclosure meets the requirements of a public interest disclosure;

- ensuring that a person who has made a disclosure is provided with a copy of this policy and a written acknowledgement of their disclosure within 45 days after the report is made, and explaining what action will be taken;
- advising the reporter of the support available to them and witnesses;
- making arrangements so that disclosures can be made privately and discreetly (if necessary, away from the workplace);
- preparing a written version of any disclosure received verbally (and have reporter sign the document);
- developing and implementing plans to minimise reprisal risks associated with disclosures including conducting risk assessments throughout the management process as required;
- taking all necessary and reasonable steps to keep the identity of reporters and any respondents confidential;
- arranging for investigations to be conducted in ways that support reporters and minimise the risk of reprisal against them;
- monitoring any internal investigation arising out of a disclosure;
- liaising with external investigating authorities in relation to public interest disclosures as required;
- reporting regularly in writing to the Disclosures Manager on progress of assessment, investigation, and management of public interest disclosures, including allegations of reprisals;
- notifying the person who has made a disclosure about the outcome of their disclosure;
- notifying the respondent of the outcome (where the respondent is aware of an investigation);
- coordinating annual reporting as required by the PID Act;
- coordinating the reporting of disclosures statistics to the Ombudsman as required by the PID Act and Regulations.

- 4) Multicultural NSW staff have an important role to play in supporting those who have made legitimate disclosures. They must not victimise or harass those who make disclosures. Further, they should protect the confidentiality of those known or suspected of having made a disclosure.

Supervisory staff should also assist a staff member to report to the Disclosure Coordinator if they believe the matter would be a public interest disclosure.

## What is a Public Interest Disclosure?

When a public official report 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

A public interest disclosure is a report of suspected wrongdoing by a public official, about a public official which has been accepted as meeting all the following requirements under the *PID Act*:

- a) The report alleges corruption, maladministration, serious and substantial waste government information contravention, a privacy contravention, or a local government pecuniary interest contravention;
- b) The person making the report must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing.



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

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

- Voluntary PID: This is a PID where a report has been made by the public official because they decided, of their own accord, to come forward and disclose what they know. Voluntary PIDs are the focus of this policy
- 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.

You can find more information about mandatory and witness PIDs in the Ombudsman's guidelines 'Dealing with mandatory PIDs' and 'Dealing with witness PIDs'.

The five features of a voluntary PID, as set out in sections 24 to 27 of the PID Act, are:

1. A report made by a public official
2. It is made to a person who can receive voluntary PIDs
3. The public official honestly and reasonably believes that the information they are providing shows (or tends to show) serious wrongdoing
4. The report was made orally or in writing.
5. The report is voluntary (meaning it is not a mandatory or witness PID)

## What is serious wrongdoing?

Serious wrongdoing is defined in the PID Act as:

- *corrupt conduct* — such as a public official accepting a bribe
- *serious maladministration* — such as an agency systemically failing to comply with proper recruitment processes when hiring staff
- *a government information contravention* — such as destroying, concealing, or altering records to prevent them from being released under a Government Information Public Access application
- *a local government pecuniary interest contravention* — such as a senior council staff member recommending a family member for a council 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.

## Who can receive a report within Multicultural NSW?

Staff are encouraged to report general wrongdoing to their supervisor. However, the PID Act requires that for a report to be a public interest disclosure, it must be made to a public official in accordance with Multicultural NSW's disclosure procedures as outlined in this policy.

Any supervisor who receives a report that they believe may be a public interest disclosure must refer the staff member making the report to one of the positions listed below.

The following positions are the only staff within Multicultural NSW who can receive a public interest disclosure:

- a) the Chief Executive Officer;
- b) the Disclosures Manager (Director, People and Corporate);
- c) the Disclosures Coordinator (Associate Director, Human Resources);
- d) An investigating authority nominated in the PID Act (see Appendix I)

## Who can make a Public Interest Disclosure?

One of the criteria for a report of wrongdoing to be considered a public interest disclosure is that the report must be made by a public official.

- a) A public official is defined as being staff of a state government department or agency (including part-time or casual staff), staff of a local government authority, an employee of a state owned corporation or a subsidiary of a state owned corporation, a person having a public official function or acting in a public official capacity for the state, or an individual who is engaged by a public authority under a contract to provide services to or on behalf of the public authority.
- b) In Multicultural NSW, the following people are eligible to make a public interest disclosure:
  - i) ongoing employees, whether full-time or part-time;
  - ii) temporary or casual employees;
  - iii) consultants, volunteers; and
  - iv) contractors and agency staff engaged to perform work for, or on behalf of, Multicultural NSW.

## Expectation of all Multicultural NSW Staff

Every person to whom this policy applies has a responsibility to report suspected unlawful, corrupt, negligent, or improper conduct, maladministration, serious and substantial waste of public money, privacy contraventions and local government pecuniary interest contraventions that they may be aware of in Multicultural NSW.

All staff are expected to support those who have made disclosures, as well as protect and maintain their confidentiality. They must not victimise or harass anyone who has made a disclosure.

A PID report should include is:

- date, time and location of key events
- names of person(s) involved in the suspected wrongdoing, their role, title and how they are involved
- your relationship with the person(s) involved, such as whether you work closely with them

- your explanation of the matter you are reporting
- how you became aware of the matter you are reporting
- possible witnesses
- other information you have that supports your report.

Managers and supervisors should make themselves aware of the expectations of the Multicultural NSW *Public Interest Disclosures Policy* to provide support and guidance to any person who confides in them about making a disclosure.

Those staff responsible for receiving disclosures must:

- act expediently and impartially in relation to any disclosure made to them;
- consider the risks of reprisal that a person making a disclosure may face as a result of their disclosure; and
- actively consider the actions required to reduce those risks.

## Principles for the management of Public Interest Disclosures

### Confidentiality

The PID Act requires investigating authorities, public authorities, and public officials to whom public interest disclosures are made or referred, not to disclose information that might identify or tend to identify the person who made the disclosure. The exceptions to the confidential requirement are:

- where the person consents in writing to the disclosure
- where it is generally known that the person is the maker of the voluntary PID because of their voluntary self-identification as the maker
- when the public official or Multicultural NSW 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.

References to the disclosure that might be read by persons other than those involved in conducting the investigation, should not unnecessarily reveal the identity of the reporter.

Some people who need to know of the matter do not need to know the identity of the reporter, and care needs to be taken to observe this distinction.

Multicultural NSW will limit the number of people who are aware of the identity of the reporter or information that could identify them. If we must disclose information that may identify the reporter, the actual identity will not be disclosed, unless they have provided their consent.

Any person who knows the identity of the maker of a PID or can access documentation related to the PID is reminded that they have a legal obligation to keep their identity confidential.

We will also provide information to the maker of the PID about the importance of maintaining confidentiality and advising them how best to protect their identity, for example, by telling them not to discuss their report with other staff.

To ensure confidentiality, all documents relating to public interest disclosures will be stored securely in a locked TRIM file. Access to these documents will be strictly controlled. Their movement and eventual destruction will also be secure.

### Actioning the PID

When a disclosure officer receives a report which is a voluntary PID, or looks like it may be a voluntary PID, the person who made the report will receive an acknowledgment that the report has been received, whether there will be an investigation or if it needs to refer to another agency for it to be investigated. This initial response will be followed by updates on the investigation as well as the results of the investigation and any corrective action put in place.

There are a number of available options for action ranging from no action to referral to the police or ICAC in accordance with section 11 of the [Independent Commission Against Corruption Act 1988](#). Appropriate action will depend on a number of factors including the seriousness of the matter and what previous investigation or review has occurred.

Generally, decisions about action taken, whether an investigation is required and who investigates the matter are made by the Disclosures Coordinator. In some cases, it may be appropriate for the Disclosures Manager, or the Chief Executive Officer, to make these decisions.

### Minimising the risk of reprisals

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

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, or
- any other type of disadvantage.

Detrimental action does not include:

- lawful action taken by a person or body to investigate serious wrongdoing or other misconduct

- the lawful reporting or publication of a finding of serious wrongdoing or other misconduct
- the lawful making of adverse comment, resulting from investigative action
- the prosecution of a person for a criminal offence
- reasonable management action taken by someone in relation to a person who made or may make a PID.

Steps to be taken include:

- educating all staff that Multicultural NSW does not tolerate corrupt, negligent, or improper conduct, maladministration, serious and substantial waste of public money, privacy contraventions and local government pecuniary interest contraventions and supports the making of disclosures;
- investigating anonymous allegations where this is feasible;
- educating all staff that a person shown to have taken reprisal action against an officer for making a disclosure will be guilty of a breach of discipline and will be guilty of an offence under the PID Act which may be punishable by imprisonment;
- advising reporters of their rights;
- encouraging reporters to refrain from telling others (who are not involved) that they have made a disclosure;
- reminding those who are aware that a disclosure has been made of the need to support and protect the reporter(s);
- discouraging those who speculate on the identity of the reporter(s), whether or not the complaint was anonymous;
- providing positive support to reporters who need special arrangements to protect their confidentiality or wellbeing; and
- reporting detrimental action that is suspected to have occurred as a reprisal for making a disclosure, to the Disclosures Coordinator or the Disclosures Manager so that appropriate action can be taken.

## What should be reported?

Staff should report wrongdoing that they identify within Multicultural NSW. Reports about the four categories of serious wrongdoing (corrupt, negligent, or improper conduct, maladministration, serious and substantial waste of public money, privacy contraventions and local government pecuniary interest contraventions) may be dealt with under the PID Act as public interest disclosures and according to these guidelines.

See Appendix 2 for examples of wrongdoing.

## How to make a report?

Reports of wrongdoing may be made in writing or verbally. Staff are encouraged to make a report in writing as this can help to avoid any confusion or misinterpretation.

If a report is made verbally, the person receiving the report must make a comprehensive record of the disclosure and, if possible, ask the reporter to sign this record. The reporter should keep a copy of this record. Makers of PID's do not need to state the category of serious wrongdoing that they are reporting. Indeed, they do not even need to necessarily state that they are reporting a serious wrongdoing.

A request can be made to meet in a discreet location away from the workplace if there is concern about being seen making a report.

### Can a report be anonymous?

There may be some situations where staff may not want to identify themselves when making a report. Although these reports will still be dealt with by Multicultural NSW and considered to be a public interest disclosure, it is best if staff identify themselves. This allows Multicultural NSW to provide the necessary protection and support, as well as feedback about the outcome of any investigation into the allegations.

### Who can receive a report outside Multicultural NSW?

Staff are encouraged to report wrongdoing within Multicultural NSW, but internal reporting is not the only option - a report can be made to an investigating authority. This can be done first, or at any stage after the initial report to Multicultural NSW. If the report is about the Chief Executive Officer, it should be made to an investigating authority.

Reports can also be made to a Member of Parliament or a journalist.

### Investigating Authorities

The PID Act lists a number of investigating authorities in NSW to which staff can report wrongdoing, as well as the categories that are dealt with by each authority. 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 Office of Local Government 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.

Staff should contact the relevant authority for advice about how to make a disclosure to them. Contact details for relevant investigating authorities are provided at the end of this policy (Appendix 1).

Staff should be aware that it is very likely that the investigating authority will discuss the case with Multicultural NSW. Multicultural NSW 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. Multicultural NSW will also provide appropriate support and assistance to staff who report wrongdoing to an investigating authority.

## 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 Disclosures Coordinator
- the Disclosures Manager
- the Chief Executive Officer
- an investigating authority in accordance with the PID Act (Appendix I).

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

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

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

If staff report wrongdoing to a person or an organisation that is not listed above, they will not be protected under the PID Act. This may mean staff will be in breach of legal obligations or the Multicultural NSW *Code of Conduct* and *The Code of Ethics and Conduct for NSW government sector employees* by, for example, disclosing confidential information.

For more information about reporting wrongdoing outside of Multicultural NSW, contact the Disclosures Coordinator or the Ombudsman's Public Interest Disclosures Unit. Their contact details are provided at Appendix I.

## Feedback to staff who report wrongdoing

Staff who report wrongdoing will be told what is happening in response to their report. When a report is made, a reporter will be given:

- an acknowledgement that their disclosure has been received;
- the timeframe for when they will receive further updates;
- the name and contact details of the people who can tell them what is happening.

The PID Act requires that staff are provided with an acknowledgement letter and a copy of this policy within 45 days after they have made a report. Multicultural NSW will attempt to provide this information within two working days from the date that the report is made.

After a decision is made about how Multicultural NSW will deal with a report, the reporter will be given:

- information about the action that will be taken in response to the report;
- likely timeframes for any investigation;

- information about the resources available within Multicultural NSW to handle any concerns that staff may have;
- information about external agencies and services that can be accessed for support.

This information will be provided within 10 working days from the date that a report is made. During any investigation, reporters 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 disclosure of identity is needed for the purposes of investigating the matter, and an opportunity for discussion.

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

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

## Protection against reprisals

The PID Act provides protection for a person reporting wrongdoing by imposing penalties on anyone who takes detrimental action proven to be substantially in reprisal for them making the public interest disclosure.

Multicultural NSW will not tolerate any reprisal action against staff who report wrongdoing. The criminal penalties that can be imposed include imprisonment or fines. Under section 33 of the PID Act, it is a criminal offence to take detrimental action against a person based on a suspicion, belief, or awareness that a person has made, may have made, or may make a PID.

Detrimental action is also misconduct that justifies disciplinary action. A person who takes detrimental action against someone who has made a disclosure can also be required to pay damages for any loss suffered by that person.

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

- Injury, damage, or loss;
- Property damage
- Reputational damage;
- Unfavourable treatment;
- Intimidation, bullying or harassment;
- Discrimination, disadvantage, or adverse treatment in relation to employment;
- Dismissal from, or prejudice in, employment;
- Disciplinary proceedings.



## Responding to reprisals

Multicultural NSW will act to protect reporters from reprisals.

When a report is received, a thorough risk assessment will be conducted to identify any risks to the reporter, as well as strategies to deal with those risks.

If a reporter believes that detrimental action has been taken against them in reprisal for making a report, they should tell either their manager, the Disclosures Coordinator or the Disclosures Manager immediately.

All supervisors must report any suspicions they have that reprisal action against a staff member is occurring, or any reports of reprisal that are made to them. These reports should be made to the Disclosures Coordinator or Disclosures Manager.

If the Disclosures Coordinator or Disclosures Manager receives a report of reprisal against a reporter, they will:

- take all steps possible to stop that alleged reprisal and protect the reporter;
- take action to investigate the suspected reprisal;
- establish whether reprisal has occurred; and
- if reprisal is found to have occurred, provide the results of the investigation to the Chief Executive Officer for a decision;
- recommend appropriate disciplinary or **criminal action** against anyone proven to have taken or threatened any action in reprisal for making a disclosure;
- keep the reporter informed of the progress of any investigation and the outcome.

## Minimising the risk of reprisal

The Chief Executive Officer may issue specific directions to help protect against reprisals, including:

- issuing warnings to those alleged to have taken reprisal action against the reporter;
- relocating the reporter or the respondent within the workplace;
- transferring the reporter or the respondent to another position for which they are qualified;
- granting the reporter or the respondent leave during the investigation of the report.

These actions should be taken in consultation with and agreement by the reporter.

Any staff member who has reported reprisal and believes that it is not being dealt with effectively should discuss this matter with the Disclosures Manager in the first instance. If this does not resolve the reporter's concerns, it would be appropriate to discuss the issue with the Chief Executive Officer.

If there are further concerns in this regard, the Ombudsman or ICAC can be contacted (depending on the type of wrongdoing reported). Contact details for all these investigating authorities are included at Appendix I.

Protections for makers of mandatory and witness PIDs are detailed in the table below.

Protection	Mandatory PID	Witness PID
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 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: <ul style="list-style-type: none"> <li>breaching a duty of secrecy or confidentiality, or</li> <li>breaching another restriction on disclosure.</li> </ul>	✓	✓

### Support for those reporting wrongdoing

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

Multicultural NSW will assist those who report wrongdoing by initiating and coordinating support, particularly to those who are suffering any form of reprisal.

Managers must notify the Disclosures Coordinator if they believe a staff member is suffering any detrimental action as a result of disclosing wrongdoing.

### Support for the subject of a report

Multicultural NSW is committed to ensuring that staff who are the subject of a report of wrongdoing are treated fairly and reasonably. Staff who are the subject of a report will be:

- treated fairly and impartially;
- advised of their rights and obligations under Multicultural NSW policies and procedures;
- kept informed during any investigation;
- given the opportunity to respond to any allegation made against them;
- advised of the result of any investigation.

### Sanctions for making false or misleading false or misleading disclosures

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

## Monitoring and Review

This policy will be reviewed every four years and when any significant new information or legislative or organisation change warrants review. As a result of this review, changes may be made to this policy from time to time and all employees and contractors and subcontractors are required to comply with those changes.

## Related References

The relevant legislation relating to Protected Interest Disclosures, as updated from time to time includes, but is not limited to:

- All Multicultural NSW Policies
- [\*Government Sector Employment Act 2013 No 40\*](#)
- [\*Multicultural NSW Act 2000 No 77\*](#)
- [\*Independent Commission Against Corruption Act 1988\*](#)
- [\*Privacy and Personal Information Protection Act 1998 No 133\*](#)
- [\*Health Records and Information Privacy Act 2002\*](#)

## Document Control

POLICY NAME/TITLE	Public Interest Disclosure Policy
APPROVED BY	Joseph La Posta, Chief Executive Officer
DATE APPROVED	17 April 2024
DATE EFFECTIVE	17 April 2024
CONTACT OFFICER	Associate Director Human Resources
ISSUED TO	All Staff

## APPENDIX 1

### CONTACT DETAILS FOR EXTERNAL INVESTIGATING AUTHORITIES

The contact details for external investigating authorities that staff can make a public interest 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](mailto:icac@icac.nsw.gov.au)  
Web: [www.icac.nsw.gov.au](http://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: 1800 451 524  
Tel. typewriter (TTY): 02 9264 8050  
Facsimile: 02 9283 2911  
Email: [nswombo@ombo.nsw.gov.au](mailto:nswombo@ombo.nsw.gov.au)  
Web: [www.ombo.nsw.gov.au](http://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 Audit Office of NSW  
Phone 02 9275 7100  
Facsimile: 02 9275 7200  
Email: [mail@audit.nsw.gov.au](mailto:mail@audit.nsw.gov.au)  
Web: [www.audit.nsw.gov.au](http://www.audit.nsw.gov.au)  
Address: Level 19, Tower 2 Darling Park,  
201 Sussex 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](mailto:ipcinfo@ipc.nsw.gov.au)  
Web: [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au)  
Address: Level 17, 201 Elizabeth Street  
Sydney NSW 2000

## APPENDIX 2

### Examples of serious wrongdoing

#### **Corrupt conduct**

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

- a) the improper use of knowledge, power or position for personal gain or the advantage of others;
- b) acting dishonestly or unfairly, or breaching public trust;
- c) 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.

#### **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:

- a) making a decision and/or taking action that is unlawful;
- b) refusing to approve something for reasons that are not related to the merits of the matter.

#### **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:

- a) not following a competitive tendering process for a large-scale contract;
- b) having poor or no processes in place to manage programs involving large amounts of public funds.

#### **Government information contravention**

A government information contravention is a failure to properly fulfil functions under the *GIPA Act*. For example, this could include:

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

#### **Privacy Contravention**

A privacy contravention is a failure, other than a trivial failure, by an agency or public official to exercise functions in accordance with the Privacy and Personal Information Protection act 1998 or the Health Records and Information Privacy act 2002. For example, this could include:

- a) Unlawfully accessing a person's personal information for non-work-related matters.
- b) Poor data management processes which lead to disclosure of personal information.
- c) Unlawfully accessing someone's health information.
- d) Agencies retaining health information and disclosing for non-work-related matters.

#### **Local government pecuniary interest contravention**

A local government pecuniary interest contravention is a failure to comply with requirements under the local government act 1993 relating to the management of pecuniary interests. For example, this could include:

- a) A public official failing to report criminal conduct in exchange for financial gain.
- b) A public official selling confidential information.

**Other wrongdoing**

Although reports about the four categories of conduct can attract the specific protections of the PID Act, staff should report all activities or incidents that they believe are wrong. For example, these could include:

- a) harassment or unlawful discrimination;
- b) reprisal action against a person who has reported wrongdoing;
- c) 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 Multicultural NSW policies.

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