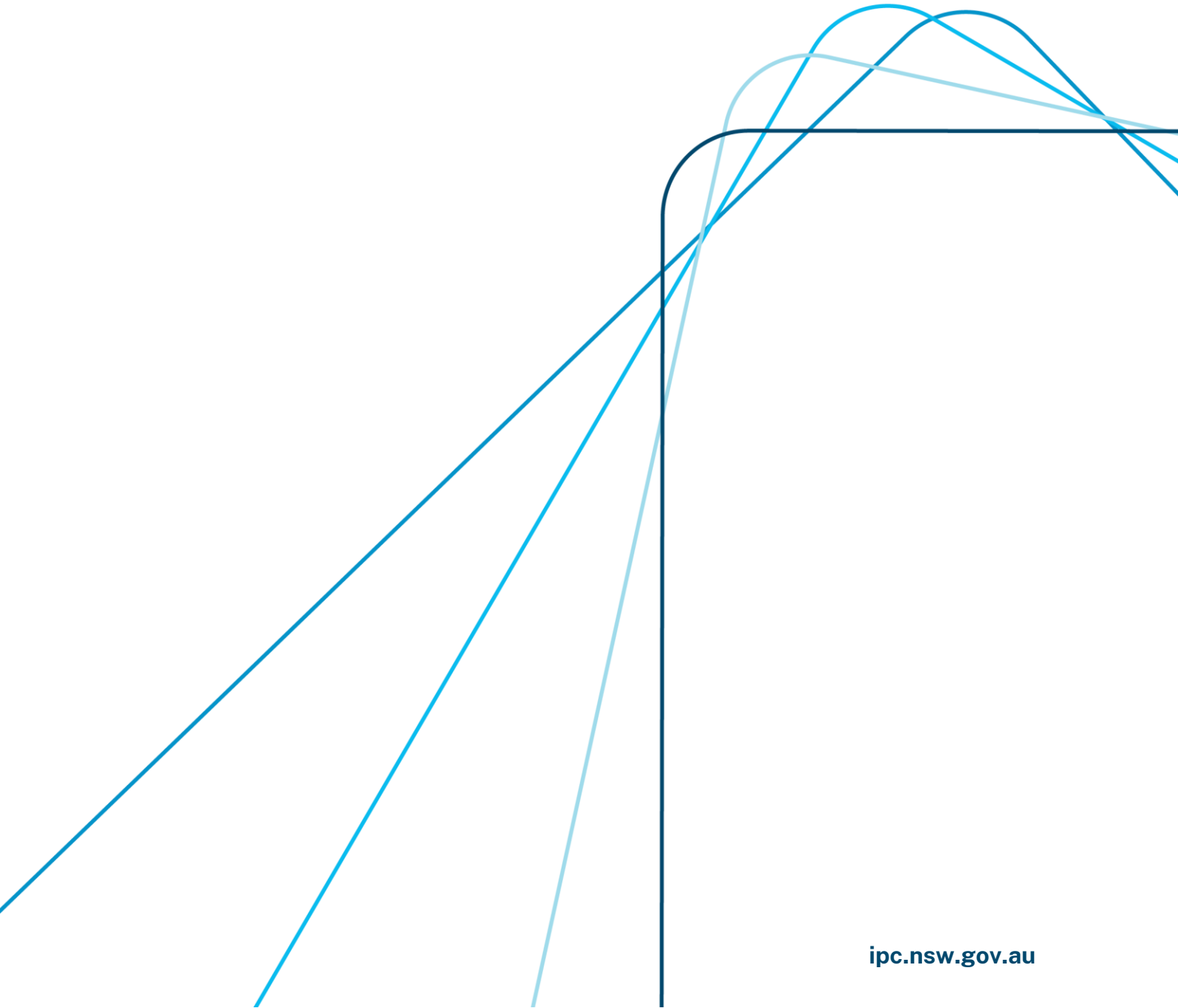
Information and Privacy Commission NSW

IPC Public Interest Disclosure Policy

May 2025



ipc.nsw.gov.au

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1. Purpose

Under the *Public Interest Disclosures Act 2022* (**PID Act**), all agencies in NSW must have a public interest disclosure policy.

The Information and Privacy Commission (**IPC**) is an agency under the PID Act. The PID Act creates a special role for integrity agencies. Both the Information Commissioner and the Privacy Commissioner are defined as integrity agencies for the purposes of the PID Act. This policy is the policy for the IPC, the Information Commissioner and the Privacy Commissioner.

Disclosures made to the IPC, or to the Information Commissioner or Privacy Commissioner in their capacity as integrity agencies (typically reports that relate to *government information contraventions or privacy contraventions*, respectively), will be handled in accordance with this policy.

The IPC, the Information Commissioner and the Privacy Commissioner take reports of serious wrongdoing seriously. The IPC is 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 the NSW public sector relies on public sector staff, volunteers, contractors and subcontractors speaking up when they become aware of serious wrongdoing. Other reports of wrongdoing may not meet the definition of 'public interest disclosures', however we support and encourage such reports, as wrongdoing in the workplace is neither condoned nor tolerated.

This policy sets out:

- who to contact if you want to make a report (section 6.5)
- how to make a report (section 6.6)
- how we will support and protect you if you come forward with a report of serious wrongdoing (section 7)
- the protections which are available to you under the PID Act (section 7)
- how we will deal with the report and our other responsibilities under the PID Act (section 10).

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

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

In NSW, that framework is the PID Act.

2. Accessibility of this policy

This policy is available on the IPC's website.

A copy of the policy and mandatory e-learning modules are sent to all staff of the IPC on their commencement and staff may also access the policy on the IPC's intranet.

3. Who does this policy apply to?

This policy applies to, and for the benefit of, all public officials in NSW, who may make a PID to the IPC, the Information Commissioner or the Privacy Commissioner (including those who may make a PID to another agency that is referred by the agency to the IPC, Information Commissioner or Privacy Commissioner for investigation).

This includes both:

a) staff of, or public officials associated with, the IPC, and

b) all other public officials in the NSW public sector.

You are a public official if you are:

- a person employed in or by an agency or otherwise in the service of an agency
- a person having public official functions or acting in a public official capacity whose conduct or activities an integrity agency is authorised by another Act or law to investigate
- an individual in the service of the Crown
- a statutory officer
- a person providing services or exercising functions on behalf of an agency, including a contractor, subcontractor or volunteer
- an employee, partner or officer of an entity that provides services, under contract, subcontract or other arrangement, on behalf of an agency or exercises functions of an agency, and are involved in providing those services or exercising those functions
- a judicial officer
- a Member of Parliament (**MP**), including a Minister
- a person employed under the *Members of Parliament Staff Act 2013*.

4. Who does this policy not apply to?

This policy does not apply to:

- people who have received services from the IPC (or another agency) and want to make a complaint about those services
- people, such as contractors, who provide services to the IPC (or another agency), for example, employees of a company that sold computer software to the IPC.

This means that if you are **not** a public official, this policy does not apply to your complaint (there are some circumstances where a complaint can be deemed to be a voluntary PID, see section 6.9 (Deeming that a report is a voluntary PID) for more information).

However, you can still make a complaint to the IPC about the services you have received from the IPC.

To make a complaint about the IPC please refer to the IPC website or the Factsheet – How to make a complaint about us.

To make a complaint about other agencies, please refer to the complaints page of that agency's website.

5. What is contained in this policy?

This policy will provide you with information on the following:

- ways you can make a voluntary PID to the IPC, the Information Commissioner or the Privacy Commissioner under the PID Act
- the contact details for the IPC's nominated disclosure officers, the Information Commissioner and the Privacy Commissioner

- the roles and responsibilities of people who hold particular roles under the PID Act and who are employees of the IPC
- what information you will receive once you have made a voluntary PID
- the protections available to people who make a report of serious wrongdoing under the PID Act and what we will do to protect you
- the procedures for dealing with disclosures
- the procedures for managing the risk of detrimental action and reporting detrimental action
- record-keeping and reporting requirements
- how we will ensure that we comply with the PID Act and this policy.

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

- confidentially contact a nominated disclosure officer within the IPC (refer to Annexure A)
- 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.

The IPC is not able to provide legal advice to you. 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.

6. How to make a report of serious wrongdoing

6.1 Reports, complaints and grievances

When a public official reports suspected or possible wrongdoing in the public sector, their report will be a PID if it has certain features which are set out in the PID Act.

Some internal complaints or internal grievances may also be PIDs, if they have the features of a PID. If an internal complaint or grievance is a report of serious wrongdoing, we will consider whether it is a PID. If it is a PID, we will deal with it as set out in this policy, but we will also ensure we follow policies relevant to the complaint or grievance being made.

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

6.2 When will a report be a PID?

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

- ***Voluntary 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*** – 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*** – where a person discloses information during an investigation of serious wrongdoing following a request or requirement of the investigator.

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

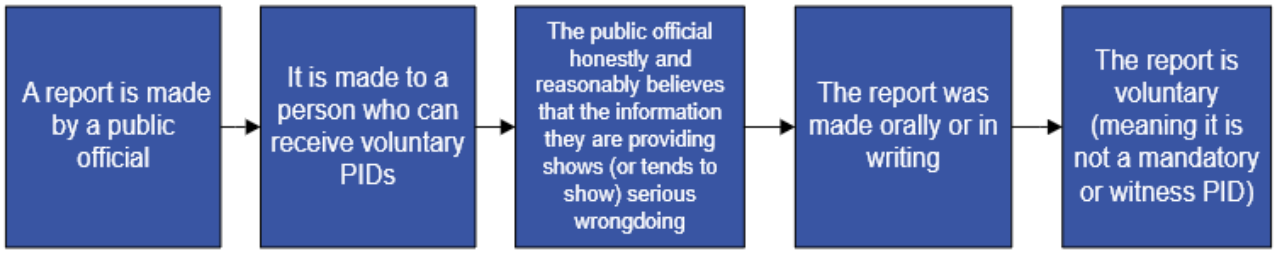
People who make a mandatory PID or a witness PID are still entitled to protection. More information about protections is available in section 7 of this policy.

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

Voluntary PIDs are the kind of PIDs most people have in mind when they think about public interest reporting and 'whistleblowing'.

They involve a public official making a report because they have information that they believe shows, (or tends to show), serious wrongdoing, where they are not under a legal obligation to make that report and where it is not an ordinary part of their role to report such wrongdoing.

A report is a voluntary PID if it has the following five features, which are set out in sections 24 to 27 of the PID Act:



If, (and only if), the report has all five features, it is a voluntary PID.

You will not be expected to prove that what you reported actually happened or is serious wrongdoing. You ***do*** have to honestly believe, on reasonable grounds, that the information you are reporting shows, or tends to show, serious wrongdoing.

Even though you do not have to prove the serious wrongdoing happened or provide evidence, a mere allegation with no supporting information is unlikely to meet this test.

If you report serious wrongdoing without any supporting information, you may be asked to provide further information.

If you report anonymously, and there is not enough information to investigate, we may not be able to investigate the report.

If we make an error, and do not identify that you have made a voluntary PID, you will still be entitled to the protections under the PID Act.

If you make a report and believe we have made an error by not identifying that you have made a voluntary PID, you should raise this with a nominated disclosure officer or your contact officer for the report. If you are still not satisfied with this outcome, you can seek an internal review, or we may seek to conciliate the matter. You may also contact the NSW Ombudsman. Further information on rights to internal review and dispute resolution is found in section 11 of this policy.

6.3 Who can make a voluntary PID?

Any NSW public official can make a voluntary PID. You are a 'public official' if you fall within one of the categories set out in section 3 (Who does this policy apply to?).

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 the IPC.

It also means that you can make a PID to any agency, including the Information Commissioner or the Privacy Commissioner as integrity agencies, and other integrity agencies such as the Independent Commission Against Corruption (**ICAC**) or the NSW Ombudsman. Annexure B of this policy has a list of integrity agencies.

6.4 What is serious wrongdoing?

Reports must be of one or more of the following categories of serious wrongdoing to be a voluntary PID (in addition to having the other features set out here). Serious wrongdoing is defined in section 13 of the PID Act, and includes:

- ***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.

These categories of serious wrongdoing overlap, and conduct may fall under more than one category. You do not need to identify which particular category of serious wrongdoing applies when you make a report.

For more information about government information contraventions and privacy contraventions, see: Fact Sheet – What is serious wrongdoing? Government Information Contravention and Factsheet – What is serious wrongdoing? Privacy Contravention.

For all other types of serious wrongdoing, see the NSW Ombudsman's guideline on what can be reported.

6.5 Who can I make a voluntary PID to?

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

6.5.1 Making a report to a public official at the IPC

You can make a report to:

- the Information Commissioner (as the CEO of the IPC, or in their capacity as an integrity agency)
- the Privacy Commissioner (in their capacity as an integrity agency)
- the IPC's Disclosure Coordinator.

Any of these recipients may receive a report about any category of serious wrongdoing. However:

- if the IPC or the Information Commissioner receives a report about a privacy contravention, it will be referred to the Privacy Commissioner
- if the IPC or the Privacy Commissioner receives a report about a government information contravention it will be referred to the Information Commissioner
- reports received by the Information Commissioner or Privacy Commissioner that relate to the IPC or to another agency will be referred to the IPC or other appropriate agency (including an integrity agency).

Contact details for making disclosures are set out in Annexure A.

If you are a public official employed at the IPC, you can also make a report to:

- your manager – this is the person who directly, or indirectly, supervises you. It can also be the person who you directly, or indirectly, report to. You may have more than one manager. Your manager will make sure that the report is communicated to a disclosure officer on your behalf or may accompany you while you make the report to a disclosure officer.

6.5.2 Making a report to a recipient outside of the IPC

Whether you are a public official working at the IPC or elsewhere, you can also make your report to a public official in an agency you do not work for, or to an integrity agency. You can make your report to:

- the ***head of another agency*** – this means the head of any public service agency
- an ***integrity agency*** – a complete list of integrity agencies is located at Annexure B
- a ***disclosure officer*** *for another agency* – ways to contact the disclosure officers for another agency will be set out in the agency's PID policy which should be made available on the agency's website
- a ***Minister or a member of a Minister's staff*** – the report must be made in writing.

If you are a public official working at the IPC and choose to make a disclosure outside of the IPC, it is possible that your disclosure will be referred back to us so that appropriate action can be taken.

6.5.3 Making a report to a Member of Parliament or journalist

Disclosures to MPs or journalists are different from other reports. You can only disclose a report of wrongdoing as a voluntary PID to an MP or journalist in the following circumstances:

- You must have first made substantially the same disclosure (described here as a 'previous disclosure') to someone who can receive disclosures.
- The previous disclosure must be substantially true.
- You did not make the previous disclosure anonymously.
- You did not give a written waiver of your right to receive information relating to your previous disclosure.
- You did not receive the following from the agency to whom the disclosure was previously made:
    - notification that the agency 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 agency'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 of the above requirements are met, your disclosure to an MP or journalist may be a voluntary PID.

6.6 What form should a voluntary PID take?

You can make a voluntary PID:

- ***in writing*** – this could be an email or letter to a person who can receive voluntary PIDs.
- ***orally*** – have a private discussion with a person who can receive voluntary PIDs. This can be face-to-face, via telephone or virtually. (There is an exception when making a disclosure to a Minister or a member of the Minister's staff: those disclosures must be in writing).
- ***anonymously*** – this is defined in the PID Act to mean that, taking into account the circumstances of the disclosure and the material accompanying the disclosure, there is no reasonably practicable means of communicating with the maker of the disclosure about the disclosure (whether or not the maker's name is known). Accordingly, you can disclose 'anonymously' by not providing any contact address or any other information that would enable the agency to find your contact details (such as your name), and by telling the recipient of your disclosure that you do not wish to be contacted or provided with any information about your disclosure. However, you should be aware that if you make an anonymous disclosure this may affect the agency's ability to investigate or otherwise deal with the matter.

6.7 What should I include in my report?

You should provide as much information as possible so we can deal with the report effectively. The type of information you should include is:

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

6.8 What if I am not sure if my report is a PID?

Even though the specific PID Act protections may not apply, we still encourage you to report any wrongdoing that you become aware of, or government information or privacy contraventions at other agencies, regardless of whether you think the conduct involved is serious.

We will make sure your report is handled appropriately under the PID Act, or if it is not a PID, in line with our other procedures for the kind of matters you raise.

Even if your report is not a PID, it may fall within another one of our policies for dealing with reports, allegations or complaints.

Policies that may be relevant to reports by or about IPC staff are:

- IPC Code of Conduct
- IPC Corporate Complaints Handling Policy

- IPC Fraud Control Policy and Framework
- IPC Gifts and Benefits Policy
- IPC Managing Workplace Issues.

6.9 Deeming that a report is a voluntary PID

The Information Commissioner, the Privacy Commissioner, or their nominated delegate can, in certain circumstances, determine that a report made to them is a voluntary PID, even if the report does not otherwise have all the features of a voluntary PID. This is known as the 'deeming power'.

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

If you make a report that has not met all the requirements of a voluntary PID, you can make a request to the Information Commissioner (for reports made to the IPC or Information Commissioner as an integrity agency) or to the Privacy Commissioner (for reports made to the Privacy Commissioner) that they consider *deeming* your report to be a voluntary PID.

A decision to deem a report to be a voluntary PID is at the discretion of the Information Commissioner or the Privacy Commissioner. For more information about the deeming power, see the NSW Ombudsman's guideline 'Deeming that a disclosure is a voluntary PID' or refer to the Ombudsman's website.

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

If you have any concerns or questions about making a report of wrongdoing you can contact:

- for IPC staff: your manager or the IPC's Disclosure Coordinator (refer to Annexure A for contact details)
- NSW Ombudsman's Office – pidadvice@ombo.nsw.gov.au.

7. Protections

7.1 How is the maker of a voluntary PID protected?

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

We are committed to taking all reasonable steps to protect you from detriment as a result of having made a PID.

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

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 PID. Detrimental action includes bullying, harassment, intimidation or dismissal.
    - Once we become aware that a voluntary PID by a person employed or otherwise associated with the IPC that concerns serious wrongdoing relating to the IPC has been made, the IPC will undertake a risk assessment and take steps to mitigate the risk of detrimental action occurring against the person who made the voluntary PID.

- It is a criminal offence for someone to take detrimental action against a person because they have made or may make a voluntary PID. It is punishable by a maximum penalty of 200 penalty units or imprisonment for five years or both.
- A person may seek compensation where unlawful detrimental action has been taken against them.
- A person can apply for a court order (injunction) where detrimental action is threatened or has occurred (for example, an order to prevent dismissal or to require reinstatement).
- Note that a person who makes a PID can still be subject to reasonable management action (such as ordinary performance reviews and performance management), provided such action is not taken because of the PID then it is not detrimental action under the PID Act.

- ***Immunity from civil and criminal liability***
  - Some public officials are (often) subject to a duty of confidentiality that prevents them disclosing certain information that they obtain or become aware of at work. Sometimes, in order to make a PID, public officials will need to breach or disregard such confidentiality duties. If that happens, a public official cannot be disciplined, sued or criminally charged for breaching confidentiality.
- ***Confidentiality***
  - Public officials and agencies must not disclose information tending to identify a person as the maker of a voluntary PID, unless doing so is permitted by the PID Act.
- ***Protection from liability for own past conduct***
  - The Attorney General can give the maker an undertaking that a disclosure of their own past conduct will not be used against them if a person discloses their own wrongdoing or misconduct while making a report. This undertaking can only be given on application by an integrity agency to the Attorney General.

7.2 Protections for people who make mandatory and witness PIDs

Apart from PIDs that are made voluntarily by public officials, there are other types of reports that are recognised as PIDs under the PID Act:

- ***mandatory PID*** – where the public official has made the report about serious wrongdoing because they have a legal obligation to make that report, or because making that report is an ordinary aspect of their role or function in an agency
- ***witness PID*** – where a person discloses information during an investigation of serious wrongdoing following a request or requirement of the investigator.

Protections for reporters 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.	✓	✓

Protection	Mandatory PID	Witness PID
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.	✓	✓

8. 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 us, or to an integrity agency. A list of integrity agencies is located at Annexure B of this policy.

9. General support

If you are a PID reporter, your contact officer is the best person to contact, should you have any questions or concerns. Your contact officer will be recorded in the correspondence received confirming whether your matter is a PID report. The contact officer is tasked with keeping you up to date in relation to your PID.

Alternatively, you can contact the NSW Ombudsman if you have questions about the PID Act and reporting generally. The NSW Ombudsman's PID Unit can be contacted by email: pidadvice@ombo.nsw.gov.au or by phone: (02) 9286 1010.

If you are member of a union or association such as the Public Service Association (PSA), they also may be able to provide you with assistance and advice.

If you are an IPC employee, you can access support independent to the IPC, via the Employee Assistance Provider. Further details can be found here: DCS Intranet – Safety & Wellbeing.

10. Roles and responsibilities

Certain people have responsibilities under the PID Act, either as a designated 'integrity agency' or as a 'public official' or staff of the IPC, for the purposes of being disclosure officers.

10.1 Information Commissioner

The head of agency for the IPC is the Information Commissioner who is responsible for:

- fostering a workplace culture where reporting is encouraged
- receiving disclosures from public officials
- ensuring there is a system in place for assessing disclosures
- ensuring the IPC complies with this policy and the PID Act
- ensuring that the IPC has appropriate systems for:
    - assessing disclosures
    - receiving reports of wrongdoing under the provisions of the PID Act

- 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 Information Commissioner is also specified as an integrity agency under the PID Act and is responsible for:

- receiving disclosures from public officials
- assessing whether disclosures are government information contraventions
- supporting public officials who make voluntary PIDs, including by minimising the risk of detrimental action
- determining what action to take, including making recommendations to another agency, if serious wrongdoing is found to have occurred.

10.2 Privacy Commissioner

The Privacy Commissioner is specified as an integrity agency under the PID Act and is responsible for:

- receiving disclosures from public officials
- assessing whether disclosures are privacy contraventions
- supporting public officials who make voluntary PIDs, including by minimising the risk of detrimental action
- determining what action to take, including making recommendations to another agency, if serious wrongdoing is found to have occurred.

10.3 Disclosure Coordinator

The IPC's Director, Regulatory Advice & General Counsel is the Disclosure Coordinator. The Disclosure Coordinator is responsible for:

- receiving reports from public officials
- receiving reports passed on to them by managers
- ensuring that any oral disclosures that have been received are recorded in writing
- ensuring reports are dealt with appropriately
- taking all necessary and reasonable steps to ensure that the identity of persons who make disclosures, and the persons the subject of disclosures, are kept confidential
- supporting public officials who make disclosures and actively protecting them from victimisation, harassment or any other form of reprisal
- preparing the annual return to the NSW Ombudsman.

10.4 Managers

Managers are responsible for:

- receiving reports from persons that report to them or that they supervise, and

- passing on reports they receive to the Disclosure Coordinator.

10.5 IPC Staff

All IPC staff are expected to:

- read this policy and undertake regular training
- report suspected serious wrongdoing or other misconduct
- use their best endeavours to assist in an investigation of serious wrongdoing if asked to do so by a person dealing with a voluntary PID on behalf of the IPC
- treat any person dealing with or investigating reports of serious wrongdoing with respect.

IPC staff must not take detrimental action against any person who has made, may in the future make, or is suspected of having made, a PID.

11. How we will deal with voluntary PIDs

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

When the IPC, or the Information Commissioner or Privacy Commissioner (in their capacity as an integrity agency), receives a report which is a voluntary PID, or looks like it may be a voluntary PID, the person who made the report will receive the following information:

- 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 we will deal with the report
    - provide clear information on how you can access this PID policy
    - provide you with details of a contact person and available supports.
- If the report is a voluntary PID, we will inform you as soon as possible how we intend to deal with the report. This may include:
    - that we are investigating the serious wrongdoing
    - that we will refer the report to a different agency (if appropriate) to deal with the voluntary PID. If we do this, we will provide you with details of this referral
    - If we decide to not investigate the report, and to not refer it to another agency for it to be investigated, you will be advised of the reasons for this decision. We will also notify the NSW Ombudsman of this decision.
- If we decide to investigate the serious wrongdoing, we will provide you with updates on the investigation at least every three months. During this time, if you would like more frequent updates, you should contact the contact person who was nominated when you made the report.
- If we investigate the serious wrongdoing, we will provide you with the following information once the investigation is complete:
    - a description of the results of the investigation — that is, we will tell you whether we found that serious wrongdoing took place
    - information about any corrective action as a result of the investigation — for matters involving the conduct of the IPC or a public official who works at the IPC we will tell you what action we have taken or propose to take if an investigation finds that serious wrongdoing or other misconduct occurred. For other matters,

where we find that serious wrongdoing at another agency has occurred, we will only be able to provide information about the recommendations we make to that agency.

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 because 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 a person has made an anonymous report, in many cases we may not be able to provide them with this information.

11.2 How we will deal with voluntary PIDs

Once a report that may be a voluntary PID is received, we will look at the information contained in the report to see if it has the features of a voluntary PID.

This assessment is undertaken to identify whether the report is a voluntary PID, or another type of disclosure, and to make sure that the right steps are followed. If it is a voluntary PID, we will ensure that we comply with the requirements in the PID Act.

Where a report has been made to the Information Commissioner or the Privacy Commissioner, the initial assessment will include consideration of whether the report has been made to either Commissioner in their capacity as an integrity agency, or whether the report has been made to the IPC.

Report not a voluntary PID

Even if the report is not a voluntary PID, it will still need to be dealt with in a manner consistent with our relevant policies and procedures or through an alternate process.

If the report is not a voluntary PID, we will let you know that the PID Act does not apply to the report and how we will deal with the concerns raised in the report.

If you are not happy with this assessment or otherwise disagree with it, you can raise it with the person who has communicated the outcome with you or a disclosure officer, request an internal review or request that the matter be conciliated. We can, but do not have to, request the NSW Ombudsman to conciliate the matter.

Cease dealing with report as voluntary PID

We 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).

Your contact person or the investigator of the matter will provide you the reasons why we have ceased dealing with the report as a voluntary PID. They will also provide you with information regarding any other action which may be proposed. You may request a review of this decision (see section 12 below ‘Review and dispute resolution’).

Importantly, the determination to stop dealing with a voluntary PID matter does not mean the concerns raised will not be addressed though not protected by the PID Act, we will not tolerate any detrimental action taken against you for raising concerns in good faith.

Where the report is a voluntary PID

If the report is a voluntary PID:

- 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 *Independent Commission Against Corruption Act 1988.*
- Before referring a matter, we will discuss the referral with the other agency, and we will provide you with details of the referral and a contact person within the other agency.

If we decide not to investigate a report and not to refer the matter to another agency, we must let you know the reasons for this and notify the NSW Ombudsman.

11.3 How we will protect the confidentiality of the maker of a voluntary PID

We understand that people who make voluntary PIDs may want their identity and the fact that they have made a report to be confidential.

Under the PID Act, information tending to identify a person as the maker of a voluntary PID (known as identifying information) is not to be disclosed by a public official or an agency, except where reasonably permitted by the PID Act.

There are certain circumstances under the PID Act that allow for the disclosure of identifying information. These include:

- where the person consents in writing to the disclosure
- where it is generally known that the person is the maker of the voluntary PID because of their voluntary self-identification as the maker
- where we, having consulted with the maker of the PID, reasonably consider it necessary to disclose the information to protect a person from detriment
- where it is necessary the information be disclosed to a person whose interests are affected by the disclosure
- where the information has previously been lawfully published
- when the information is disclosed to a medical practitioner or psychologist for the purposes of providing medical or psychiatric care, treatment or counselling to the individual disclosing the information
- when the information is disclosed for the purposes of proceedings before a court or tribunal
- when the disclosure of the information is necessary to deal with the disclosure effectively
- if it is otherwise in the public interest to disclose the identifying information.

We will not disclose identifying information unless it is necessary and authorised under the PID Act.

We will put in place steps to keep the identifying information of the maker and the fact that a report has been made confidential. It may not be possible for us to maintain complete confidentiality while we progress the investigation, but we will do all that we practically can to not unnecessarily disclose information from which the maker of the report can be identified.

We will do this by:

- limiting the number of people who are aware of the PID reporter's identity or information which could identify the reporter
- not disclosing the actual identity of the reporter of the PID if we must disclose information that may identify the person reporting the PID, unless the circumstances of the disclosure require us to do so
- ensuring that any person who does know the identity of the reporter of the PID is aware of the importance of maintaining confidentiality
- ensuring that only authorised persons have access to emails, files or other documentation that contain information about the identity of the reporter
- undertaking a risk assessment to determine if anyone is aware of the reporter's identity and if those persons have a motive to cause detrimental action to be taken against the reporter or impede the progress of the investigation
- providing information to the reporter of the PID about the importance of maintaining confidentiality and advising them how best to protect their identity, for example, by telling them not to discuss their report with other staff.

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

- advise the person whose identity may become known
- update the risk assessment and risk management plan for the PID
- implement strategies to minimise the risk of detrimental action
- provide additional supports to the person who has made the PID as required
- remind persons who become aware of the identifying information of the consequences for failing to maintain confidentiality and that engaging in detrimental action is a criminal offence and may also be a disciplinary matter.

11.4 How we will assess and minimise the risk of detrimental action

Once we become aware of a voluntary PID that:

- has been made by a member of staff of, or public official associated with, the IPC
- is about serious wrongdoing by the IPC, an IPC staff member or, or by a public official associated with the IPC, or
- otherwise affects, or might affect, the exercise of functions by the IPC, we will assess the risk of detrimental action being taken against someone as a result of the disclosure being made.

Steps to assess and minimise the risk of detrimental action may include:

- undertaking a risk assessment, and creating a risk management plan (including reassessing the risk throughout the entirety of the matter)
- consulting with the PID reporter to identify risks
- outlining what supports will be provided.

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

- injury, damage or loss
- property damage

- reputational damage
- intimidation, bullying or harassment
- unfavourable treatment in relation to another person's job
- discrimination, prejudice or adverse treatment
- disciplinary proceedings or disciplinary action, 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. For example, a reasonable appraisal of a PID maker's work performance.

11.5 How we will deal with allegations of a detrimental action offence

If we become aware of an allegation that a detrimental action offence has occurred or may occur, we will:

- take all steps possible to stop the action and protect the person(s)
- take appropriate disciplinary action against any member of IPC staff that has taken detrimental action
- refer any evidence of a detrimental action offence to the Commissioner of Police and the ICAC or the LECC (whichever is applicable)
- notify the NSW Ombudsman about the allegation of a detrimental action offence being committed.

11.6 What we will do if an investigation finds that serious wrongdoing has occurred

11.6.1 Disclosures about the IPC

If, having conducted an investigation, and it is found that any of the following has occurred:

- serious wrongdoing or other misconduct has occurred
- detrimental action by a public official associated with our office

we will take the most appropriate action to address that wrongdoing or misconduct. This is also known as 'corrective action'.

Corrective action can include:

- a formal apology
- improving internal policies to adequately prevent and respond to similar instances of wrongdoing
- providing additional education and training to staff, where required

- taking employment action against persons involved in the wrongdoing (such as termination of employment, relocation, a caution or reprimand)
- payment of compensation to people who have been affected by serious wrongdoing or other misconduct.

11.6.2 Disclosures about other agencies

Where a PID relates to an agency other than the IPC and is about a government information contravention or a privacy contravention, and it is found that serious wrongdoing or other misconduct has occurred, the Information Commissioner or the Privacy Commissioner (as integrity agencies), may take action including making recommendations to the agency which is the subject of the PID.

12. Review and dispute resolution

12.1 Internal review

If you disagree with any of the following decisions:

- that we do not recognise or deal with your disclosure as a voluntary PID
- that we will not take any further action in relation to your disclosure because we do not recognise it as a voluntary PID
- if the disclosure relates to the IPC, neither to investigate your disclosure nor refer your voluntary PID to another agency, or to stop investigating your voluntary PID without either completing the investigation or referring the disclosure to another agency for investigation

you should raise this with the contact officer you have been dealing with in our office. If, having discussed the matter with them, you are still not satisfied with this outcome, you may seek an internal review of our action.

We will ensure internal reviews are conducted in compliance with the PID Act. Information from the NSW Ombudsman is available here: Guidance on Dealing with Voluntary PIDs.

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

Applications for internal review should be sent to:

- Email: PIDdisclosureofficer@ipc.nsw.gov.au
- Mail: GPO Box 7011, Sydney NSW 2001

12.2 Voluntary dispute resolution

In some circumstances, where a dispute arises between the maker of a report and the agency to whom the report has been made, it may be appropriate to conciliate the matter. Conciliation is a voluntary process and will only be suitable for disputes where we and the maker of the report are willing to resolve the dispute.

If a dispute arises, we will consider whether conciliation would be appropriate and, if the maker of the report agrees to conciliate, we will arrange for conciliation. Conciliation may involve an independent conciliator or we may request the NSW Ombudsman to conciliate the dispute.

13. Other agency obligations

13.1 Record-keeping requirements

We must keep full and accurate records with respect to all information received in connection with the PID Act. This ensures that we comply with our obligations under the *State Records Act 1998*.

Information received in connection with a PID report, including all communications regarding reports made in accordance with the PID act, will be stored with appropriate security and access controls applied.

13.2 Reporting of voluntary PIDs and our annual return to the Ombudsman

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

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

13.3 How we will ensure compliance with the PID Act and this policy

The Disclosure Coordinator will ensure that mechanisms are in place for implementing this Policy and for monitoring the effectiveness of this Policy and compliance with the PID Act.

13.4 Review

The PID Policy will be reviewed every two years, or if policy, legislation, or the IPC's control environment changes.

Annexure A — Contact details of disclosure officers for the IPC

Position	Contact information
Head of Agency/Integrity Agency **Information Commissioner / CEO**	**Email:** informationcommissionerPID@ipc.nsw.gov.au **Phone:** 1800 472 679 **Post:** GPO Box 7011, Sydney NSW 2001
Integrity Agency **Privacy Commissioner**	**Email:** privacycommissionerPID@ipc.nsw.gov.au **Phone:** 1800 472 679 **Post:** GPO Box 7011, Sydney NSW 2001
Disclosure Coordinator **Director, Regulatory Advice & General Counsel**	**Email**: PIDdisclosureofficer@ipc.nsw.gov.au **Phone:** 1800 472 679 **Post:** GPO Box 7011, Sydney NSW 2001
Managers	Staff at the IPC may also make a report to their manager

Annexure B — List of integrity agencies

Integrity agency	What they investigate	Contact information
Privacy Commissioner	Privacy contraventions	**Email:** privacycommissionerPID@ipc.nsw.gov.au **Phone:** 1800 472 679 **Post:** GPO Box 7011, Sydney NSW 2001
Information Commissioner	Government information contraventions	**Email:** informationcommissionerPID@ipc.nsw.gov.au **Phone:** 1800 472 679 **Post:** GPO Box 7011, Sydney NSW 2001
NSW Ombudsman	Most kinds of serious maladministration by most agencies and public officials (but not NSW Police, judicial officers or MPs)	**Email**: info@ombo.nsw.gov.au **Phone**: 1800 451 524 between 9am to 3pm Monday to Friday **Post**: Level 24, 580 George Street, Sydney NSW 2000
Auditor-General for NSW	Serious and substantial waste of public money by auditable agencies	**Email**: governance@audit.nsw.gov.au **Phone**: 02 9275 7100 **Post**: GPO Box 12, Sydney NSW 2001
Independent Commission Against Corruption	Corrupt conduct	**Email**: icac@icac.nsw.gov.au **Phone**: 02 8281 5999 or toll free on 1800 463 909 (callers outside Sydney) between 9am and 3pm, Monday to Friday **Post**: GPO Box 500, Sydney NSW 2001
Inspector of the Independent Commission Against Corruption	Serious maladministration by the ICAC or the ICAC officers	**Email**: oiicac_executive@oiicac.nsw.gov.au **Phone**: 02 9228 3023 **Post**: PO Box 5341, Sydney NSW 2001
Law Enforcement Conduct Commission	Serious maladministration by the NSW Police Force or the NSW Crime Commission	**Email**: contactus@lecc.nsw.gov.au **Phone**: 02 9321 6700 or 1800 657 079 **Post**: GPO Box 3880, Sydney NSW 2001
Inspector of the Law Enforcement Conduct Commission	Serious maladministration by the LECC and LECC officers	**Email**: oilecc_executive@oilecc.nsw.gov.au **Phone**: 02 9228 3023 **Post**: GPO Box 5341, Sydney NSW 2001
Office of the Local Government	Local government pecuniary interest contraventions	**Email**: olg@olg.nsw.gov.au

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Information and Privacy Commission NSW
T 1800 IPC NSW (1800 472 679)
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