



**Personal Injury  
Commission**

# **Public Interest Disclosure Policy**

**(13 February 2024)**

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# 1. Introduction

The Personal Injury Commission (Commission) is an independent statutory tribunal within the NSW justice system that resolves disputes between people injured in motor accidents and workplaces in NSW, insurers and employers.

This policy provides guidance on how public officials may report serious wrongdoing and the action that the Commission may take in response, under the *Public Interest Disclosures Act 2022* (PID Act). The Commission is an 'agency' under the PID Act and bound by this legislation.

The PID Act sets out the system under which people working within the NSW public service, including individuals who are engaged as volunteers, contractors, and subcontractors, can come forward and report serious wrongdoing in a way that minimises the risk of detrimental action.

The key objective of the PID Act is to encourage the disclosure, in the public interest, of corrupt conduct, maladministration of a serious nature, serious and substantial waste of public monies, government information contraventions and privacy contraventions by:

- improving established procedures for reporting disclosures
- protecting people from detrimental actions simply because they have reported a disclosure
- providing for disclosures to be properly investigated and dealt with.

The Commission encourages all our people (who are public officials under the PID Act) to disclose serious wrongdoing in or affecting the Commission or public sector generally where they become aware of it. We promote a culture in which Public Interest Disclosures (PIDs) are encouraged and protect public officials, witnesses and other persons from detriment or liability that might arise as a result of Public Interest Disclosures.

The Commission will take all disclosures seriously and will handle them in accordance with the PID Act and the Commission's policies and procedures.

## 2. Scope

This policy applies to all our people and people who work with the Commission including:

- the President, Deputy Presidents, Acting Deputy President, Division Heads, Principal, Senior and General Members, Merit Reviewers, Mediators and Medical Assessors
- ongoing employees, whether full time or part time, temporary and casual employees

- individual contractors, subcontractors and consultants working on behalf of the Commission, employees of contractors providing services on behalf of the Commission
- other people who perform public official functions whose conduct and activities could be investigated by an investigating authority, including volunteers
- public officials of another public authority who report wrongdoing relating to the Commission.

### 3. Important definitions

Term	Definition
Agency Head	The President is the Agency Head for the purposes of the PID Act
Detrimental Action	Detrimental Action is an act that causes disadvantage, damage, loss, or injury to a person, their property, reputation etc as defined under Part 3 Division 2 of the PID Act (ss 32-39). For example: detrimental action includes bullying, harassment, intimidation or dismissal. This action may be a threat or actual occurrence of detrimental action.
Disclosure Officer	<p>A person or role responsible for receiving and assessment of a Public Interest Disclosure.</p> <p>For the Commission, the disclosure officers are the:</p> <ul style="list-style-type: none"> <li>• President<sup>1</sup> (as the Agency Head for the Commission) at <a href="mailto:presidentialunit@pi.nsw.gov.au">presidentialunit@pi.nsw.gov.au</a></li> <li>• Principal Registrar for employee Public Interest Disclosures at <a href="mailto:piceo@pi.nsw.gov.au">piceo@pi.nsw.gov.au</a></li> <li>• Chief Executive Officer of the Judicial Commission for Public Interest Disclosures regarding the President at <a href="mailto:judcom@judcom.nsw.gov.au">judcom@judcom.nsw.gov.au</a></li> </ul>
Integrity Agency	<p>An independent government agency that is charged with the functions of overseeing, investigating and/or inquiring into a government agency's exercise of powers, functions etc., defined by s 19 of the PID Act.</p> <p>A PID may be made directly or referred to an Integrity Agency who may investigate or refer a matter back to an Agency to be investigated. They are listed at Appendix 1.</p>

<sup>1</sup> Please note all Personal Injury Commission positions referred to in this Policy have the same meaning as s 5 of the *Personal Injury Commission Act 2020*.

Managers	<p>For the purposes of the PID Act, a Manager means:</p> <ul style="list-style-type: none"> <li>• for public officials: the person to whom a public official reports directly or indirectly, or who supervises them directly or indirectly</li> <li>• for a person providing services or exercising functions for or on behalf of the Commission: the person taken to be the public official who oversees those services or functions, or who manages the relevant contract or volunteering arrangement</li> </ul> <p>In practical terms for the Commission, Manager means:</p> <ul style="list-style-type: none"> <li>• the President for the Deputy Presidents, Acting Deputy Presidents, Division Heads and Principal Registrar</li> <li>• the relevant Division Head for Members, Mediators and Merit Reviewers</li> <li>• the Principal Registrar for Medical Assessors and Directors</li> <li>• the relevant Directors for the employees and third party service providers they manage.</li> </ul>
Public Official	<p>A person who is a:</p> <ul style="list-style-type: none"> <li>• Public service employee employed under the <i>Government Sector Employment Act 2013</i> (GSE Act)</li> <li>• Public Service Senior Executive employed under the GSE Act</li> <li>• Statutory Officer</li> <li>• Judicial Officer</li> </ul> <p>A Public Official also includes any volunteer or officer of an entity engaged under a contract, subcontract or other arrangement that is providing services or exercising functions for, or on behalf of, the Commission.</p> <p>All our people and people who work for the Commission are Public Officials.</p>
Types of PIDs	<ul style="list-style-type: none"> <li>• A <b>Mandatory PID</b> is where a 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.</li> <li>• A <b>Voluntary PID</b> is where a report has been made by a public official because they decided, of their own</li> </ul>

	<p>accord, to come forward and honestly disclose what they know shows, or tends to show on reasonable grounds, serious wrongdoing</p> <ul style="list-style-type: none"> <li>• A <b>Witness PID</b> is where a person discloses information during an investigation of serious wrongdoing following a request or requirement of the investigator.</li> </ul> <p>Further information on the types of PIDs can be found on the NSW Ombudsman's website <a href="#">Home - NSW Ombudsman</a>.</p>
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## 4. Roles and responsibilities

**Disclosure Officers** are responsible for:

- receiving reports from public officials
- receiving reports when they are referred to them by Managers
- ensuring reports are dealt with appropriately, including referring the matter for external investigation where appropriate
- ensuring that any oral reports that have been received are recorded in writing.

**Managers** are responsible for:

- receiving reports from persons that report to them, or persons under their supervision
- considering if the report meets the criteria of serious wrongdoing
- discussing the report with a Disclosure Officer
- referring the report to a Disclosure Officer, if a report is considered to meet the criteria of serious wrongdoing.

**Public Officials (all our people)** are responsible for:

- reporting suspected serious wrongdoing or other misconduct
- using their best endeavours to assist in an investigation of serious wrongdoing if asked to do so by a person dealing with a PID on behalf of the Commission
- treating any person dealing with or investigating reports of serious wrongdoing with respect.

**Public officials must not take detrimental action against any person who has reported, may in the future report, or is suspected of having reported, a PID.**

## 5. Reporting serious wrongdoing

Any serious wrongdoing observed or suspected to be occurring within the Commission or related to the Commission must be immediately reported to the Commission's Disclosure Officers. The types of conduct that may be considered 'serious wrongdoing' include the following:

- Corrupt conduct

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

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

- Serious maladministration

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

- making a decision and/or taking action that is unlawful
- failing to make a decision in accordance with official policy for no apparent reason.

- Serious and substantial waste of public monies

Serious and substantial waste of public monies includes any uneconomical, inefficient or ineffective use of resources, whether authorised or unauthorised, which results in a loss of public funds or resources. For example, this could include:

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

- Government information contravention

A government information contravention is a failure, other than a trivial failure, to exercise or fulfil functions under the:

- *Government Information (Information Commissioner) Act 2009*
- *Government Information (Public Access) Act 2009* (GIPA Act), or

- *State Records Act 1998* (SR Act)

For example, this could include:

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

- Privacy contravention

A privacy contravention is a failure, other than a trivial failure, to exercise or fulfil functions under the *Privacy and Personal Information Protection Act 1998* (PPIP Act) or the *Health Records and Information Privacy Act 2002*. For example, this could include:

- Poor data management processes in place which leads to the disclosure of personal information about a person, or group of persons, to another agency or entity without a lawful reason
- Poor email practices resulting in repeated failures by staff of the agency to ensure emails containing personal information go to the correct recipient
- Failure to ensure legitimately retained health records are restricted to the appropriate part of the business
- An eligible data breach as described in the PPIP Act, for example where personal information held by the Commission is lost because of unauthorised access to the Commission database that is likely to result in serious harm to the affected individual.

## 6. The action we will take

Any serious wrongdoing observed or suspected to be occurring within the Commission or related to the Commission must be immediately reported to the Commission's Disclosure Officers (see above Part 3 – Important Definitions “Disclosure Officers”).

The Commission will first triage whether the disclosure made is a PID of serious wrongdoing or something else. The President, as Agency Head, may also deem a disclosure to be a voluntary PID.

Once the disclosure has been triaged as a PID the Commission will, as soon as reasonably practicable, assess whether the disclosure will be investigated by the Commission or referred to an Integrity Agency.

The Commission will advise the person who made the disclosure of how it intends to deal with the report of serious wrongdoing. If the Commission decides to



investigate the disclosure, the person who made the disclosure will be provided with the outcome of the investigation, including information about any corrective action taken. If a person made an anonymous disclosure this may not be possible, as the Commission may not be able to contact the person making the disclosure to provide this information.

However, the Commission's obligations under the PID Act in dealing with a PID remain the same for an anonymous or named disclosure.

The Commission will apply the principles of procedural fairness throughout the process to those the subject of the PID and/or those against whom findings are made.

A person who reported a PID may seek an internal review of the Commission's PID decision.

If there is evidence to substantiate that a person has made a false or misleading report of serious wrongdoing, misconduct action may be taken.<sup>2</sup>

## **7. Protections and confidentiality**

The Commission is committed to ensuring that when a PID is made (voluntary, witness and/or mandatory), the person who reported it will receive the protections provided under the PID Act.

The Commission will take all reasonable steps to protect the person who reported it from detriment because of reporting a PID. The Commission is also committed to maintaining the confidentiality of the person as much as possible while the PID is being dealt with.

The Commission will not tolerate any type of detrimental action being taken against a person because a report has been made, a report might be made, or an employee is believed to have made a report.

What constitutes detrimental action and the protections available to makers of PIDs are outlined in the PID Act. For example: a person cannot be subject of dismissal because they have reported a PID or are considering reporting a PID. There are also protections for breaching confidentiality where a valid PID is reported.

It is important that public officials including those reporting, those who have witnessed, or are a respondent to allegations of serious wrongdoing, maintain confidentiality and do not discuss or disclose reported matters of serious wrongdoing, unless permitted under the PID Act.

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<sup>2</sup> A breach of the PID Act is a criminal offence and can attract a maximum penalty of 100 penalty units or imprisonment for a maximum of 2 years, or both. See s 84 of the PID Act.

## 8. Other obligations

The Commission has other obligations under the PID Act, including:

- The Commission must keep full and accurate records in relation to information received in connection with the PID Act. The Commission must also comply with the *State Records Act 1998* in relation to the storage, retention and disposal of information.
- The Commission must report a voluntary PID and the action taken to the NSW Ombudsman, during each return period (financial reporting year, from 1 July).
- This policy will be reviewed within 12 months of publication, and thereafter periodically for quality assurance and compliance with the law.

A copy of this policy is available on the Commission's intranets and Commission's public internet website under Policies.

## 9. Appendix 1 – List of integrity agencies

Integrity agency	What they investigate	Contact information
The NSW Ombudsman	Most kinds of serious maladministration by most agencies and public officials (but not NSW Police, judicial officers or MPs)	Telephone: <a href="tel:1800451524">1800 451 524</a> between 9am to 3pm Monday to Friday  Writing: Level 24, 580 George Street, Sydney NSW 2000  Email: <a href="mailto:info@ombo.nsw.gov.au">info@ombo.nsw.gov.au</a>
The Auditor-General	Serious and substantial waste of public money by auditable agencies	Telephone: <a href="tel:0292757100">02 9275 7100</a>  Writing: GPO Box 12, Sydney NSW 2001  Email: <a href="mailto:governance@audit.nsw.gov.au">governance@audit.nsw.gov.au</a>
Independent Commission Against Corruption	Corrupt conduct	Telephone: <a href="tel:0282815999">02 8281 5999</a> or toll free on <a href="tel:1800463909">1800 463 909</a> (callers outside Sydney) between 9am and 3pm, Monday to Friday  Writing: GPO Box 500, Sydney NSW 2001 or faxing <a href="tel:0292645364">02 9264 5364</a>  Email: <a href="mailto:icac@icac.nsw.gov.au">icac@icac.nsw.gov.au</a>
The Law Enforcement Conduct Commission	Serious maladministration by the NSW Police Force or the NSW Crime Commission	Telephone: <a href="tel:0293216700">02 9321 6700</a> or <a href="tel:1800657079">1800 657 079</a>  Writing: GPO Box 3880, Sydney NSW 2001  Email: <a href="mailto:contactus@lecc.nsw.gov.au">contactus@lecc.nsw.gov.au</a>
The Inspector of the Law Enforcement Conduct Commission	Serious maladministration by the LECC and LECC officers	Telephone: <a href="tel:0292283023">02 9228 3023</a>  Writing: GPO Box 5341, Sydney NSW 2001  Email: <a href="mailto:oilc_executive@oilc.nsw.gov.au">oilc_executive@oilc.nsw.gov.au</a>
Office of the Local Government	Local government pecuniary interest contraventions	Email: <a href="mailto:olg@olg.nsw.gov.au">olg@olg.nsw.gov.au</a>
The Privacy Commissioner	Privacy contraventions	Telephone: <a href="tel:1800472679">1800 472 679</a>  Writing: GPO Box 7011, Sydney NSW 2001  Email: <a href="mailto:ipcinfo@ipc.nsw.gov.au">ipcinfo@ipc.nsw.gov.au</a>
The Information Commissioner	Government information contraventions	Telephone: <a href="tel:1800472679">1800 472 679</a>  Writing: GPO Box 7011, Sydney NSW 2001  Email: <a href="mailto:ipcinfo@ipc.nsw.gov.au">ipcinfo@ipc.nsw.gov.au</a>

