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Public Interest Disclosures Reporting Policy

NSW Treasury

Internal Policy & Procedure Document

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Message from the Secretary

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

Following the machinery of government changes in 2019, NSW Treasury inherited new functions and with these, new responsibilities in how Treasury manages its expanded mandate within the NSW public service. Accordingly, we have updated our *Public Interest Disclosures Reporting Policy* to better reflect how Treasury operates with an expanded remit.

It is critical that we maintain a high performing, but equally important, ethical work environment. As part of our commitment to operating a world class organisation, we have revamped our policy to support staff and other public officials who report suspected wrongdoing within Treasury. Staff and other public officials who are prepared to raise their concerns about corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention are one of the most important and accurate sources of information for identifying and addressing serious problems within an organisation.

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

An ethical work environment gives people confidence that allegations will be taken seriously and will receive an appropriate response. Treasury is committed to protecting staff and other public officials who make these disclosures and appropriately addressing the issues raised.

Michael Pratt AM

Secretary

December 2020

Policy Statement and Objective

The key objective of the PID Act is to encourage and facilitate the disclosure, in the public interest, of corrupt conduct, maladministration, serious and substantial waste of public money, and Government Information (Public Access) Act contraventions in the public sector by:

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

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

All Treasury staff and **other public officials** should act in an honest and proper manner in the workplace (consistent with the principles laid down in Treasury's [Code of Ethics and Conduct](#)). This includes a duty to report incidents of corruption, maladministration, serious and substantial waste of public money and government information contravention. It is recommended that all staff and **other public officials** also refer to Treasury's [TIPP 5.09 Fraud and Corruption Control policy](#) which outlines Treasury's approach to the prevention and identification of potential and actual instances of fraud and corruption.

This policy has been developed in accordance with the provisions of the PID Act and is supported by procedures based on the NSW Ombudsman's guidelines. The policy establishes a reporting system that aims to protect and support Treasury staff and other public officials who may wish to come forward with disclosures relating to:

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

This policy conforms to the NSW Public Service Commission's [Code of Conduct and Ethics for NSW government sector employees](#).

This policy enables such disclosures to be made to the Disclosures Coordinators or Disclosures Officers, as an alternative to reporting to the Secretary of Treasury.

This policy is designed to complement normal communication channels between managers, supervisors, staff and other public officials. Staff members and other public officials are therefore encouraged to continue to raise appropriate matters at any time with their managers or supervisors. However, not all disclosures to your manager or supervisor are protected disclosures in accordance with the PID Act. See section 3 as to when a report will be protected under the PID Act.

The Secretary endorses this policy and confirms Treasury's commitment to high standards of ethical and accountable conduct. Any form of wrongdoing will not be tolerated. Treasury staff and other public officials who come forward and report wrongdoing provide a vital public service to the people of NSW in promoting integrity, accountability and good management within a key government agency.

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

Organisational commitment

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

In this context, Treasury has a commitment to:

- creating a climate of trust, where staff and other public officials are comfortable and confident about reporting wrongdoing
- encouraging staff and other public officials to come forward if they have an honest belief on reasonable grounds of wrongdoing within the organisation
- keeping the identity of the staff member or other public official disclosing wrongdoing confidential, wherever possible and appropriate
- protecting staff and other public officials who make disclosures from any adverse action motivated by their report
- dealing with reports thoroughly, impartially and in a timely manner and if some form of wrongdoing has been found, taking appropriate action to rectify it
- keeping staff and other public officials who make reports informed of their progress and the outcome
- encouraging staff and other public officials to report wrongdoing within Treasury, but respecting any decision to disclose wrongdoing outside Treasury – provided that disclosure outside Treasury is made in accordance with the provisions of the PID Act
- ensuring staff and other public officials at all levels in the organisation understand the benefits of reporting wrongdoing, are familiar with this policy, and are aware of the needs of, and protections afforded to, those who report wrongdoing
- providing adequate resources, both financial and human, to:
 - encourage reports of wrongdoing;
 - protect and support those who make reports of wrongdoing;
 - provide training regarding wrongdoing and reporting wrongdoing;
 - investigate allegations of wrongdoing;
 - properly manage any workplace issues that the allegations of wrongdoing identify or create;
 - correct any wrongdoing that is identified; and
 - reassess / review this policy regularly to ensure it is still relevant and effective.

As part of Treasury's ongoing commitment, this policy will be reviewed by Treasury every two years.

Procedure

1. Responsibilities

This policy applies to, and places responsibilities upon, people at all levels within Treasury. It applies to all Treasury staff and other public officials, including:

- permanent employees, whether full-time or part-time
- temporary or casual employees
- consultants
- individual contractors working for the organisation
- people who exercise functions on behalf of Treasury entities. Examples may include mediators engaged by the Office of the Small Business Commission, Precinct's contracted third party property manager, and others
- any other public official¹

Treasury staff and other public officials are encouraged to report known or suspected incidences of corrupt conduct, maladministration, serious and substantial waste of public money, or government information contravention in accordance with this policy.

Public officials play an important role in contributing to a workplace where known or suspected wrongdoing is reported and dealt with appropriately. All staff and other public officials are encouraged to:

- report all known or suspected wrongdoing and support those who have made reports of wrongdoing
- if requested, assist those dealing with the report of wrongdoing, including supplying information on request, cooperating with any investigation and maintaining confidentiality
- treat any staff member or person dealing with a report of wrongdoing with courtesy and respect
- respect the rights of officers the subject of reports

Staff and other public officials must not:

- take any detrimental action, such as discrimination, victimisation, intimidation or harassment, against anyone who has made a report (see section 13 of this policy)
- make false or misleading reports of wrongdoing

Additionally, the behaviour of all staff and other public officials involved in the reporting process are obliged to adhere to Treasury's [code of conduct](#). A breach of the code could result in disciplinary action.

¹ In this policy the term 'public official' has the meaning given to it in the PID Act.

2. What should be reported to Treasury

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

2.1 Corrupt conduct

Corrupt conduct is any conduct that adversely affects (or could adversely affect) either directly or indirectly, the honest or impartial exercise of official functions by any public official or authority. Corrupt conduct also includes any conduct of a public official that constitutes or involves the dishonest or partial exercise of official functions.

This could include:

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

2.2 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.

This could include:

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

2.3 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.

This could include:

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

2.4 Contravention of the GIPA Act

A contravention of the GIPA Act could include:

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

2.5 Other wrongdoing

Although reports about the previous four categories of conduct can attract the specific protections of the PID Act, you should report all activities or incidents that you believe are wrong. However, not all reports of other wrongdoing will be protected disclosures in accordance with the PID Act.

For example, these could include:

- harassment or unlawful discrimination
- reprisal action against a person who has reported wrongdoing
- practices that endanger the health or safety of others (including staff and/or the public)

These types of issues should be reported to a manager or supervisor, in line with *Treasury's* policies.

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

- [Internal Grievance Procedures](#)
- [Fraud and Corruption Control Policy](#)
- [Recruitment and Selection](#)

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

3. When will a report be protected?

Treasury will support all staff and other public officials who report wrongdoing in line with the PID Act. For a report to be considered a protected disclosure, it has to meet all of the requirements under the PID Act. These requirements are:

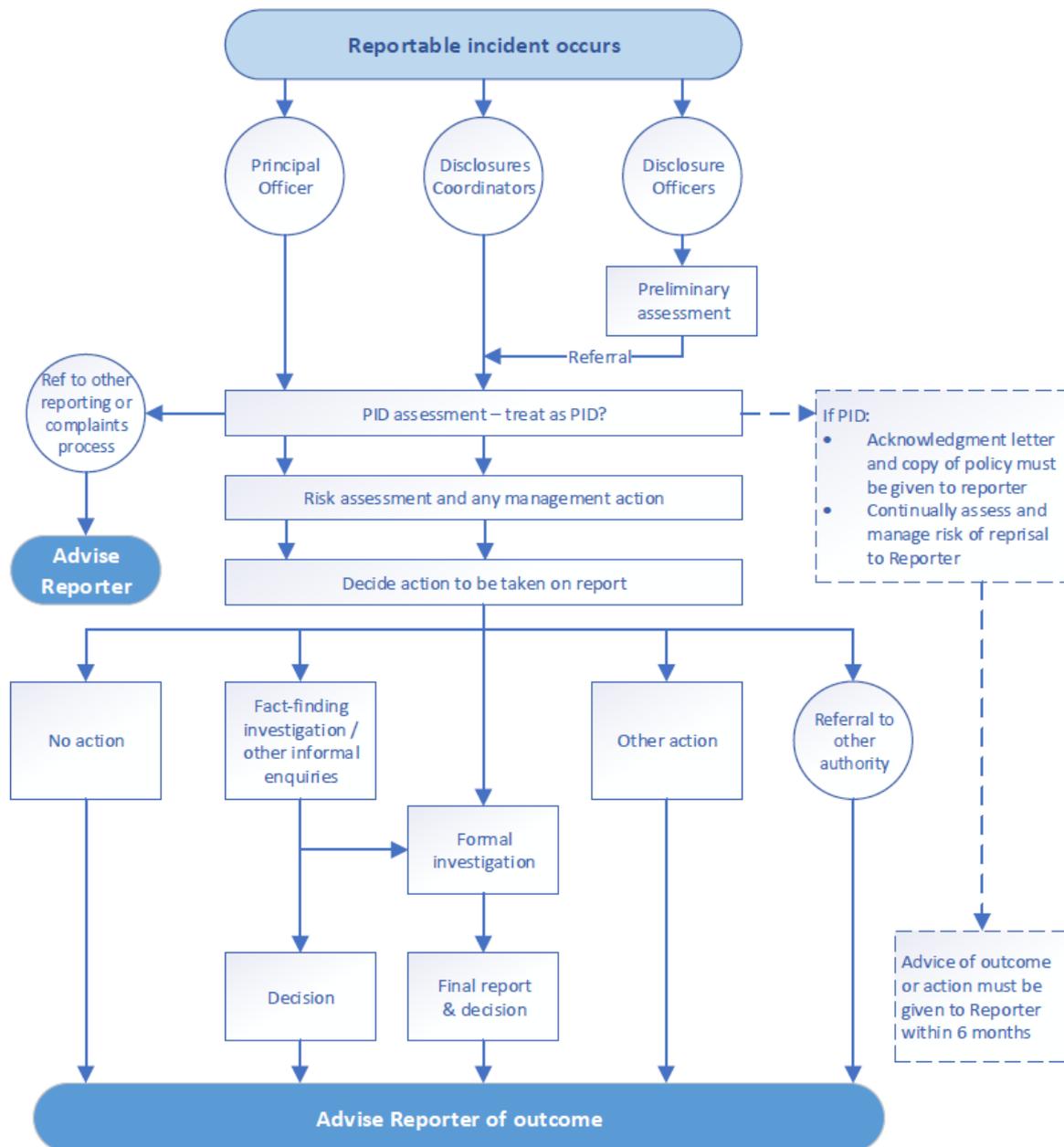
- The person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing²
- The report has to be made to one or more of the following:
 - a position nominated in this policy (i.e. the Secretary or a Disclosures Coordinator or Disclosures Officer – see sections 7.2, 7.3 and 7.4 of this policy, respectively)
 - the principal officer of, or officer who constitutes, any public authority
 - one of the investigating authorities nominated in the PID Act – see section 10 of this policy

Reports by staff and other public officials will not be considered to be protected disclosures if they:

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

² An assertion by a public official of what the official believes in connection with a disclosure is, in the absence of evidence to the contrary, evidence of the belief asserted and that the belief is an honest belief. The assertion need not be express and can be inferred from the nature or content of the disclosure.

Reporting procedure



4. How to make a report

As noted above, for a report to be a protected disclosure under the PID Act, it should be made to either the Principal Officer (the Secretary), a Disclosures Coordinator or a Disclosures Officer (see sections 7.2, 7.3 and 7.4 of this policy, respectively, for the identity and responsibilities of these officers).

You can report wrongdoing in writing or verbally. You are encouraged to make a report in writing as this can help to avoid any confusion or misinterpretation. Please download the [Internal Report form](#)

from the NSW Ombudsman's website. The staff member or other public official making the disclosure should keep a copy of the report.

If a report is made verbally, the person receiving the report must make a comprehensive record of the disclosure and ask the person making the disclosure to sign this record. Please download the [Internal Report – Record of Initial Discussion](#) form from the NSW Ombudsman's website. The staff member or other public official making the disclosure should keep a copy of this record.

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

5. Anonymous reports

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

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

6. Maintaining confidentiality

Treasury understands that many staff and other public officials will want their report to remain confidential. This can help to prevent any action being taken against you for reporting wrongdoing.

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

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

If you report wrongdoing, you should only discuss your report with those dealing with it. This will include the relevant Disclosures Officer to whom you made the report (if applicable), the Disclosures Coordinators or the Secretary.

In addition, any Treasury staff member or other person engaged by Treasury who has made a report of wrongdoing must ensure they maintain the confidentiality of the reported wrongdoing. If confidentiality cannot be maintained, you should discuss this with the Disclosures Coordinators, or the relevant Disclosures Officer to whom you made the report (if applicable) or the Secretary.

7. Who can receive, assess and/or deal with a report within Treasury and their responsibilities?

You are encouraged to report general wrongdoing to your manager or supervisor. However, the PID Act requires that, for a report to be a protected disclosure, it must be made to an officer of a public authority in accordance with the organisation's disclosure procedures (with some exceptions). For Treasury, this means this policy.

This section 7 and section 8 of this policy apply to reports which are made by Treasury staff or other public officials, and reports which are referred to Treasury by investigating authorities or other public

authorities. Section 8 of this policy provides further information regarding the process for assessing reports.

7.1 Officers receiving a report

The responsibilities of officers receiving a report, whether they are the Secretary, a Disclosures Coordinator or a Disclosures Officer, include:

- keeping the identity of the reporter and anyone who is the subject of a report confidential, if this is possible
- when requested by a person wishing to report wrongdoing, arranging to meet with them privately and discreetly – if necessary, away from the workplace
- assisting the person to put their report in writing or ensuring that any reports received orally are documented, dated and signed by the person
- advising the reporter to only discuss the matter with authorised people and not alert anyone who is the subject of a report that a disclosure has been made about them
- explaining to the reporter what will happen in relation to the information received
- dealing with the reporter and any disclosures impartially
- when meeting with the reporter, discussing all points raised by the reporter and asking the reporter to sign the internal report.
- supporting the reporter and taking steps to protect them from discrimination, victimisation, intimidation or harassment or any other form of reprisal

7.2 The Secretary (the Principal Officer)

The Secretary is the principal officer of Treasury for the purpose of the PID Act.

You can report wrongdoing directly to the Secretary. The Secretary has ultimate responsibility for maintaining the reporting system and workplace reporting culture, and ensuring Treasury complies with the PID Act.

When the Secretary receives or assesses a report, their responsibilities are those set out at sections 7.1 and 8 of this policy.

If the Secretary receives a report, in addition to the responsibilities outlined at section 7.1 of this policy, the Secretary also has responsibility for referring any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the Independent Commission Against Corruption (ICAC).

Irrespective of whether the Secretary receives or assesses a report, the Secretary also has the following responsibilities:

- ensuring that Treasury has a policy that provides for its procedures for receiving, assessing and dealing with public interest disclosures (this policy) and that staff and other public officials are made aware of the contents of this policy and the protections under the PID Act
- establishing and maintaining a working environment that encourages staff and other public officials to report wrongdoing
- establishing an effective reporting system to appropriately deal with reports of wrongdoing, support staff and other public officials who report, and ensure reprisals are not taken against them
- ensuring adequate resources, both financial and human, are dedicated towards achieving these outcomes
- providing adequate resources to any support person appointed to assist a reporter
- providing adequate resources to any person appointed to investigate a report

- effectively managing the workplace situation, or ensuring that the workplace situation is effectively managed, if reprisal is threatened or does take place
- taking appropriate action against anyone who threatens or takes reprisal against a person for reporting wrongdoing

Contact details for the Secretary:

Mr Michael Pratt AM
 Treasury Secretary
 52 Martin Place
 SYDNEY 2000.
 Email: michael.pratt@treasury.nsw.gov.au
 Phone: 9228 5440

7.3 Disclosures Coordinators

The Disclosures Coordinators have a central role in dealing with reports made by staff and other public officials. The Disclosures Coordinators receive, assess, and refer reports to the people within Treasury or externally (in consultation with the Secretary) who can deal with them appropriately.

When the Disclosures Coordinators receive or assess a report, their responsibilities are those set out at sections 7.1 and 8 of this policy.

Irrespective of whether the Disclosures Coordinators receive or assess a report, their responsibilities also include:

- ensuring that the reporter is kept regularly informed about the progress of the matter, in accordance with this policy
- in consultation with the Secretary, assessing whether a report requires a ‘desk top audit’ or a preliminary investigation or if enough evidence has been provided to authorise a full investigation
- in consultation with the Secretary, deciding whether an audit or investigation is to be conducted by a senior and experienced staff member within Treasury or engaging an external investigator

If a Disclosures Coordinator becomes aware that reprisal against a reporter is threatened or is taking place or has taken place, his or her responsibilities include:

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

The Disclosures Coordinators are also responsible for ensuring that Treasury meets its broader obligations under the PID Act and *Public Interest Disclosures Regulation 2011* (NSW), including:

- implementing a reporting policy that provides procedures for receiving, assessing and dealing with protected disclosures
- reporting annually (within 4 months after the end of each reporting year) on the Treasury's obligations under the PID Act for submission to the Minister responsible for the Treasury and providing a copy of this report to the Ombudsman
- reporting bi-annually (within 30 days after the end of the 6 month period to which the report relates) providing statistical information on the Treasury's compliance with its obligations under the PID Act for each 6 month period ending on 30 June and 31 December in any year and providing a copy of this report to the Ombudsman

The people fulfilling the role of Disclosures Coordinators within Treasury are the people holding the following titles. They should be accessible to staff and other public officials and appropriately trained in their responsibilities

- Principal Solicitor - Information Access and Governance Unit, Office of General Counsel (Primary Contact)
- General Counsel, Office of General Counsel (Alternate Contact)
- Deputy General Counsel, Transactions & Governance – Office of General Counsel (Alternate Contact)

Contact details for the Disclosures Coordinators:

Mr Tim Jap

Principal Solicitor - Information Access and Governance Unit, Office of General Counsel
52 Martin Place, SYDNEY 2000.

Email: Tim.Jap@treasury.nsw.gov.au

Phone: 9228 4077

7.4 Disclosures Officers

Disclosures Officers have the responsibilities outlined at section 7.1 of this policy.

Disclosures Officers are responsible for receiving, forwarding and acting upon reports made in accordance with the policy. Disclosures Officers will:

- if a report of wrongdoing is received by a Disclosures Officer, perform a preliminary assessment of the report and provide this preliminary assessment to the Disclosures Coordinators or the Secretary within 5 working days. Following this, the Disclosures Officer has no further responsibilities in respect of progressing the report
- advise the reporter to notify a Disclosures Coordinator or the Secretary immediately of any suspicions they have that reprisal is occurring or has been threatened against them
- help the reporter to communicate with a Disclosures Coordinator, the Secretary or the reporter's support person if needed

People fulfilling the following positions within Treasury are identified as Disclosures Officers for the purposes of this policy. They should be accessible to staff and other public officials and appropriately trained in their responsibilities:

- All Deputy Secretaries
- All members of the Treasury Leadership Team except the General Counsel
- All Executive Directors except the General Counsel
- Director, Audit and Risk

- Director, Human Resources
- Director, Executive and Ministerial Services
- Associate Director, Ministerial Services
- Associate Director, Audit and Risk
- Senior Information Access and Governance Officer

7.5 Managers and supervisors

Managers and supervisors play an important role in managing the immediate workplace of those involved in or affected by the reporting process.

Managers and supervisors should be aware of the reporting policy and are responsible for creating a local work environment where staff and people engaged by Treasury are comfortable and confident about reporting wrongdoing.

Managers and supervisors have a responsibility to:

- if they receive a report that they believe may be a protected disclosure under the PID Act, refer the staff member or other public official making the report to the Secretary or a Disclosures Coordinator or a Disclosures Officer (see contact details at sections 7.2, 7.3 and 7.4 of this policy). These officers are the only staff within Treasury who can receive a protected disclosure
- encourage staff and other Treasury public officials to report known or suspected wrongdoing within the organisation and support staff and other Treasury public officials when they do
- identify reports made to them in the course of their work which could be protected disclosures, and assist the staff member and other public officials to make the report to an officer authorised to receive protected disclosures under this policy (i.e. the Secretary or a Disclosures Coordinator or Disclosures Officer)
- implement local management strategies, in consultation with a Disclosures Coordinator, to minimise the risk of reprisal or workplace conflict in relation to a report
- notify the Disclosures Coordinators or the Secretary immediately if they believe a *staff member or another public official is being subjected to reprisal as a result of reporting wrongdoing*

8. What happens during and after assessment of a report

Following receipt of a report (either directly from a reporter, from a Disclosures Officer or from an investigating authority or another public authority), the Disclosures Coordinators or the Secretary must undertake an assessment of the report to determine whether or not the report is a protected disclosure and how the report should be progressed.

This assessment should be performed within two weeks of the Disclosures Coordinators or the Secretary having received the report, and (if the report is in respect of a protected disclosure) an assessment as to the allegations and risks must be performed and the actions taken or proposed to be taken must be notified to the reporter within six months of the disclosure being made. The responsibilities of the Disclosures Coordinators and the Secretary, when assessing a report, include:

- determining whether or not the report is a protected disclosure
- deciding how the report should be progressed, depending on whether it is a protected disclosure or not, including referring it to other authorities
- if a Disclosures Coordinator is assessing the report, providing the Secretary with:

- written advice about the initial assessment and the decision about how the report is to be progressed
- advice on the systems and strategies that should be established to minimise any risk of reprisal that the reporter faces
- in consultation with the reporter, assessing the likelihood of their identity remaining confidential in the workplace if the report is investigated
- as far as possible and appropriate, keeping the identity of the reporter and anyone who is the subject of a report confidential
- if it is not possible to maintain confidentiality, developing a strategy for supporting the reporter and preventing reprisals – and giving the reporter an opportunity to discuss this proposal
- in consultation with the reporter, assessing the likelihood of them being exposed to reprisal or workplace conflict
- in consultation with the reporter, appointing a support person to assist them, being someone who is not an investigator or someone with management responsibility for deciding the response to the report
- ensuring that the reporter is advised when an assessment decision has been made about a report and, if further action is recommended, giving regular progress updates and a report of the outcome
- where appropriate and not in breach of confidentiality obligations, providing advice to the reporter's manager on the systems and strategies that should be established to minimise any risk of reprisal that the reporter faces
- where appropriate and not in breach of confidentiality obligations, reminding all managers that they have an obligation to notify a Disclosures Coordinator or the Secretary immediately of any suspicions they have or allegations they receive that reprisal to a reporter is occurring or has been threatened

If the Disclosures Coordinators or the Secretary determines that the report is a protected disclosure in accordance with the PID Act:

- a written acknowledgement and copy of this policy should be provided to the reporter within two working days of their receipt of the report, and must be provided to the reporter within 45 days of the date on which the report was made
- The timeframe for when the reporter will receive further updates, as well as the name and contact details of the people who can tell the reporter what is happening, should also be provided to the reporter together with the above acknowledgement and copy of the policy
- information about the action that has been taken or that will be taken in response to the report must be notified to the reporter within 6 months of the report being made
- the following information should be provided to the reporter within 10 working days of the report being made:
 - likely timeframes for any investigation if undertaken
 - the resources available within Treasury to handle any concerns the reporter may have
 - external agencies and services the reporter can access for support

In addition, one or more of the following actions or steps may be taken in respect of the report:

- no further action to be taken
- further informal enquiries could be made in respect of the report

- the Disclosures Coordinators or the Secretary has up to two weeks from their receipt of the report to ascertain if a decision can be made or if the matter should proceed to formal investigation
- formal investigation
 - if the decision is made to conduct a formal investigation, the reporter and the subject of the report will be notified of this decision within 10 working days
 - the Disclosures Coordinators or the Secretary has up to 5 months (or such period which will permit the reporter to be notified of any actions taken or to be taken within six months of the disclosure being made) to conduct the formal investigation
 - the course of action following the formal investigation will be determined (or approved) by the Secretary within 20 working days after the formal investigation has been completed
 - the conduct of the investigation will depend on the seriousness of the allegation, the weight of evidence, the seniority of the officer involved and the complexities of the issues raised
- referral to other public authorities or investigating authority
 - if during the course of the assessment, the Disclosures Coordinators or the Secretary determines that Treasury is not the appropriate public authority to **investigate** the report or that the matter should be investigated by an investigating authority, the Secretary will, as soon as is practicably practicable, refer the report to another public authority or an investigating authority for assessment
 - any referral will be done as soon as practicable and preferably within 5 working days of **confirmation** from the other public authority or investigating authority that it will accept the referral

The reporter will be notified of the actions or steps to be taken in respect of the report.

Subject to this policy and any confidentiality restrictions (including confidentiality obligations owed to the reporter and the subject of a report), the reporter and the subject of the report will be advised in writing of the outcome.

During the period in which the Disclosures Coordinators or the Secretary is assessing a report they will:

- maintain contact with the reporter
- in consultation with the reporter, appoint a support person to assist the reporter
- give regular progress updates to the reporter
- where appropriate and not in breach of confidentiality obligations, provide advice to the reporter's manager on the systems and strategies that should be established to minimise any risk of reprisal that the reporter faces
- where appropriate and not in breach of confidentiality obligations, remind all managers that they have an obligation to notify the Disclosures Coordinators or the Secretary immediately of any suspicions they have or allegations they receive that reprisal to a reporter is occurring or has been threatened

If the report is not a protected disclosure, the Disclosures Coordinators or the Secretary will notify the reporter and will take all required steps to progress the report in accordance with Treasury policies and processes.

Who can receive a report outside of Treasury

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

If you report wrongdoing to a person or an organisation outside of Treasury that is not listed below, you will not be protected under the PID Act. This means that you could be in breach of legal obligations or Treasury's code of conduct by, for example, disclosing confidential information.

For more information about reporting wrongdoing outside Treasury, contact the Disclosures Coordinator or the NSW Ombudsman's Public Interest Disclosures Unit.

9. Reports relating to external public officials

If your report relates to a public official of a public authority other than Treasury, you may report the matter to the principal officer of, or officer who constitutes, any public authority (including investigating authorities), the Secretary or a Disclosures Coordinator or Disclosures Officer of the Treasury in line with this policy, or an officer of the public authority to which the public official the subject of the report belongs. The PID Act does not limit which public authority such a report can be made to; however if a report about another public authority is made to an officer of Treasury, the matter may be referred to that other public authority.

10. Investigating authorities

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

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

- Auditor-General — for serious and substantial waste of public money
- ICAC — for corrupt conduct
- NSW Ombudsman — for maladministration
- Police Integrity Commission — for police misconduct
- Police Integrity Commission Inspector — for disclosures about the Police Integrity Commission or its staff
- Division of Local Government, Department of Premier and Cabinet — for serious and substantial waste of public money in local government agencies
- ICAC Inspector — for disclosures about the ICAC or its staff
- Information Commissioner — for disclosures about a GIPA Act contravention

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

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

11. MPs or journalists

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

To have the protections of the PID Act, staff and other public officials reporting wrongdoing to a MP or a journalist must have already made substantially the same report to one of the following:

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

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

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

Importantly, to be protected under the PID Act, if you report wrongdoing to an MP or a journalist you must have reasonable grounds for believing that the disclosure is substantially true and that it is in fact substantially true.

Support for those reporting wrongdoing

Treasury will make sure that staff and other public officials who have reported wrongdoing, regardless of whether they have made a protected disclosure, are provided with access to any professional support they may need, such as stress management, counselling services or career advice.

Human Resources are responsible for initiating and coordinating support, particularly to those who are suffering any form of reprisal.

The responsibilities of staff appointed to provide support include:

- as far as possible and appropriate, keeping the identity of the reporter confidential
- initiating and coordinating appropriate action to support reporters, particularly those who are suffering any form of reprisal
- advising reporters on the avenues available within Treasury to handle any concerns they may have arising out of the report
- advising reporters on the external organisations and services they can access for support
- ensuring the reporter has access to any necessary professional support
- monitoring the workplace situation for reprisal or conflict
- notifying the Disclosures Coordinator or the Secretary immediately of any suspicions they have that reprisal to a reporter is occurring or has been threatened

All people leaders must notify the Disclosures Coordinator if they believe a staff member or other public official is suffering any detrimental action or reprisal as a result of disclosing wrongdoing.

12. Feedback to staff who report wrongdoing

Staff and other public officials who report wrongdoing will be told what is happening in response to their report.

If you make a report that is a protected disclosure, you will be provided with:

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

This information set out above should be given to you within two working days, and at least the first and second items must be given to you within 45 days, from the date you make your report.

If your report is a protected disclosure, after a decision is made about how your report will be dealt with, subject to any confidentiality restrictions (including confidentiality obligations owed to the subject of a report), you will be given:

- information about the action that has been taken or will be taken in response to your report. This information must be given to you within 6 months of the disclosure being made
- information about the:
 - likely timeframes for any investigation
 - the resources available within Treasury to handle any concerns you may have
 - external agencies and services you can access for support

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

During any investigation, subject to any confidentiality restrictions (including confidentiality obligations owed to the subject of a report), you will be given:

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

At the end of any investigation, subject to any confidentiality restrictions (including confidentiality obligations owed to the subject of a report), you will be given:

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

13. Protection against reprisals

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

Treasury will not tolerate any reprisal action against any staff member or other public official who reports wrongdoing. The criminal penalties that can be imposed include imprisonment or fines. Detrimental action is also misconduct that justifies disciplinary action. People who take detrimental

action against someone who has made a protected disclosure can also be required to pay damages for any loss suffered by that person.

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

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

14. Responding to reprisals

Treasury will act to protect Treasury public officials who report wrongdoing from reprisals.

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

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

All supervisors must report any suspicions they have that reprisal action against a staff member or other public official who made a protected disclosure is occurring, or any reports to that effect that are made to them, to a Disclosures Coordinator or the Secretary.

If a Disclosures Coordinator or the Secretary becomes aware of reprisal action against a person who has made a disclosure, they will:

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

If you report reprisal action against you, subject to any confidentiality restrictions, you will be kept informed of the progress of any investigation and the outcome.

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

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

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

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

15. Protection against legal action

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

16. Sanctions for making false or misleading disclosures

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

17. Support for the subject of a report

Treasury is committed to ensuring staff who are the subject of a report of wrongdoing are treated fairly and reasonably. This includes keeping the identity of any person who is the subject of a report confidential, where this is practical and appropriate.

If you are the subject of a report, you will be:

- treated fairly and impartially
- told your rights and obligations under our policies and procedures
- kept informed during any investigation
- given the opportunity to respond to any allegation made against you
- told the result of any investigation including any decision made about whether or not further action will be taken against you

Where reported allegations of wrongdoing against an employee are wrong, or have been investigated and unsubstantiated, the employee will be supported by Treasury.

The fact of the allegations and any investigation will be kept confidential unless otherwise agreed to by the subject of a report of wrongdoing.

More information

More information on public interest disclosures is available on the NSW Ombudsman's website at [Public Interest Disclosures Guidelines](#). Staff and other public officials can also access advice and guidance from Treasury's Disclosures Coordinator.

18. Resources

Corrupt conduct

Independent Commission Against Corruption (ICAC)

Phone: 02 8281 5999

Toll free: 1800 463 909

Tel. typewriter (TTY): 02 8281 5773

Facsimile: 02 9264 5364

Email: icac@icac.nsw.gov.au

Web: www.icac.nsw.gov.au

Address: Level 7, 255 Elizabeth Street, Sydney NSW 2000

Maladministration

NSW Ombudsman

Phone: 02 9286 1000

Toll free (outside Sydney metro): 1800 451 524

Tel. typewriter (TTY): 02 9264 8050

Facsimile: 02 9283 2911

Email: nswombo@ombo.nsw.gov.au

Web: www.ombo.nsw.gov.au

Address: Level 24, 580 George Street Sydney NSW 2000

Serious and substantial waste of public money

Auditor-General of the NSW Audit Office

Phone: 02 9275 7100

Facsimile: 02 9275 7200

Email: mail@audit.nsw.gov.au

Web: www.audit.nsw.gov.au

Address: Level 15, 1 Margaret Street Sydney NSW 2000

Breaches of the GIPA Act

Information Commissioner

Toll free: 1800 472 679

Facsimile: 02 8114 3756

Email: ipcinfo@ipc.nsw.gov.au

Web: www.ipc.nsw.gov.au

Address: Level 11, 1 Castlereagh Street Sydney NSW 2000