

Roles and responsibilities

1. Objectives

- To identify the key people in an organisation's internal reporting system.
- To outline the roles and responsibilities of those key people.

2. Why is this important?

An ethical organisational culture – one that encourages staff to report wrongdoing internally, responds to reports of wrongdoing appropriately and supports internal reporters – is a shared responsibility between:

- Leadership – the 'tone at the top' and a belief that leaders can be trusted to do the right thing and support organisational systems for dealing with reports of wrongdoing.
- Management – managers and supervisors setting the right example for staff and encouraging ethical behaviour.
- Staff – staff committed to doing the right thing and peers supporting those who report wrongdoing.
- Disclosure officers, coordinators and managers – experts trained and skilled in handling reports of wrongdoing who can support the organisation in fulfilling its obligations under the *Public Interest Disclosures Act 1994* (PID Act).

3. Legal and management obligations

3.1 PID Act

a) Responsibilities of heads of public authorities

Section 6E of the PID Act provides that the head of a public authority is responsible for ensuring that:

- the public authority has an internal reporting policy
- the staff of the public authority are aware of the contents of the policy and the protections under the PID Act for people who make public interest disclosures (PIDs)
- the public authority complies with the policy and its obligations under the PID Act
- the policy designates at least one staff member as being responsible for receiving PIDs.

3.2 State government requirements

The *Code of Conduct and Ethics for Public Sector Executives* provides a framework for ethical decision-making by executives and sets out the values and behaviours expected of all state public employees in NSW. The code is underpinned by the ethical principles of integrity, impartiality, responsiveness to the public interest, accountability and honesty. It states that executives have special responsibilities for demonstrating ethical behaviour by virtue of their positions of authority, and high levels of accountability for decision-making and leadership. Implementing the provisions of the PID Act is one element of this commitment.

Also, the *Model Contract of Employment for the Chief and Senior Executive Service* obliges chief and senior executives to ensure employees are aware of the procedures for making PIDs and of the protection provided by the PID Act. Chief executives are also required to ensure the satisfactory introduction and operation of internal reporting systems (including PIDs).

3.3 Local government requirements

The *Local Government Act 1993* requires councils to adopt a code of conduct that incorporates the provisions of the *Model Code of Conduct for Local Councils in NSW*. This model code sets the minimum requirements of conduct for council officials in carrying out their functions. It is underpinned by the key principles of integrity, leadership, selflessness, impartiality, accountability, openness, honesty and respect. In addition to stating the purpose and aims of the PID Act, the model code also states that – when dealing with a complaint that is or could be a PID – officers must comply with the confidentiality provisions of the Act.

Also, the Standard Contract of Employment for *general managers* and *senior staff (other than general managers)* of local councils in NSW requires these officers to facilitate Council staff awareness of the procedures for making PIDs and of the protection provided by the PID Act. General managers are also required to maintain satisfactory operation of Council's reporting systems (including PIDs).

3.4 Occupational health and safety and duty of care requirements

Reporting wrongdoing can be a difficult process and, if not properly managed, can result in stressful interactions with colleagues and managers. Stress is a serious workplace concern and may result in a staff member sustaining a serious injury.

Organisations have obligations under occupational health and safety legislation to ensure their staff have a safe and healthy working environment. Section 8 of the *Occupational Health and Safety Act 2000* states that this duty extends to ensuring that systems of work and the working environment are safe and without risks to health, providing staff with information to ensure their health and safety, and providing adequate facilities for the welfare of staff. Contravening occupational health and safety obligations is a serious offence that attracts significant penalties for the individuals or corporations involved (s.12, 27).

Organisations also have a duty of care under common law to provide a safe workplace for their staff. This means that managers and supervisors are responsible for taking all reasonable steps to prevent inappropriate behaviour at work – which includes harassment, bullying, discrimination and victimisation. Organisations have been successfully sued for compensation for breaching this duty of care where the staff member has become ill or suffered injury – physically or psychologically – as a result.

4. What does this mean for your organisation?

4.1 Outlining responsibilities

Your organisation should identify the staff who are responsible for:

- ensuring that your organisation meets its statutory obligations under the PID Act
- supporting staff who make or are the subject of a report of wrongdoing.

Your internal reporting policy and supporting procedures should contain a description of the roles and responsibilities for all staff involved in receiving, assessing and dealing with PIDs. This will depend on factors such as the size and governance framework of your organisation.

The rest of this section outlines some of the key responsibilities for:

- *all staff*
- *staff reporting wrongdoing*
- *staff who can receive a report* (including disclosures officers)
- *staff assessing a report*
- *principal officers*
- *managers and supervisors*

- *disclosures coordinators*
- *disclosures managers* (for principal departments)
- *support people*, and
- staff who are the *subject of a report*.

Your organisation may wish to consider including these responsibilities in the performance agreements and position descriptions of staff.

4.2 All staff

The responsibilities of all staff include:

- reporting known and suspected wrongdoing within your organisation
- not making false or misleading reports of wrongdoing
- keeping the identity of internal reporters and anyone who is the subject of a report confidential
- assisting those dealing with a report, including supplying any information on request
- supporting staff who report wrongdoing
- not taking reprisals against another staff member that they suspect has reported wrongdoing
- notifying their manager or supervisor immediately of any suspicions they have that reprisal to an internal reporter is occurring or has been threatened.

4.3 Staff reporting wrongdoing

The responsibilities of staff reporting wrongdoing include:

- only discussing the matter with authorised people and not alerting anyone who is the subject of a report that a PID has been made
- when they report, raising any concerns that they have about reprisals or workplace conflict with the person assessing their report or the disclosures coordinator
- assisting those assessing and dealing with the report, including supplying any information on request
- if needed, seeking support from their support officer, manager or supervisor, the disclosures coordinator or any external organisations and services
- at any time after they have reported, notifying their manager or supervisor, the disclosures coordinator or principal officer immediately of any suspicions they have that reprisal is occurring or has been threatened.

4.4 Staff who can receive a report (including disclosures officers)

Your internal reporting policy should identify which position holders are responsible for receiving reports of wrongdoing, in addition to your principal officer. The policy should nominate disclosures officers to receive and forward reports to the disclosures coordinator for assessment. The disclosures coordinator themselves should be an alternative reporting pathway for staff under the policy.

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

- keeping the identity of the internal reporter and anyone who is the subject of a report confidential, where this is practical and appropriate
- when requested by a person wishing to report wrongdoing, arranging to meet with them privately and discreetly – if necessary away from the workplace
- assisting the person to put their report in writing or ensuring that any reports received orally are documented, dated and signed by the person
- forwarding reports to the disclosures coordinator or principal officer for assessment
- ensuring that written acknowledgement of the report and a copy of your organisation's internal reporting policy is given to the internal reporter as soon as possible, and preferably within two working days of the report being made – while the PID Act requires organisations' internal reporting policies to provide for an acknowledgement within 45 days of the report being made, we recommend that in practice organisations should do so much sooner
- advising the internal reporter to only discuss the matter with authorised people and not alert anyone who is the subject of a report that a PID has been made about them
- explaining to the internal reporter what will happen in relation to the information received
- advising the internal reporter to notify the disclosures coordinator or principal officer immediately of any suspicions they have that reprisal is occurring or has been threatened against them
- helping the internal reporter to communicate with the disclosures coordinator, principal officer or their support person if they are having difficulty doing this directly.

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

4.5 Staff assessing a report

Your internal reporting policy should nominate the positions that are responsible for assessing what should happen in response to a report of wrongdoing. Reports received by nominated disclosures officers should generally be referred to the disclosures coordinator or principal officer for assessment.

The responsibilities of staff assessing a report include:

- determining whether or not the report is a PID
- deciding how the report will be dealt with, whether it is a PID or not
- providing the principal officer with written advice about the initial assessment and the decision about how the report will be dealt with
- ensuring that written advice about how the report will be dealt with is given to the internal reporter as soon as possible, and preferably within 10 working days of the report being made
- in consultation with the internal reporter, assessing the likelihood of their identity remaining confidential in the workplace if the report is investigated

- keeping the identity of the internal reporter and anyone who is the subject of a report confidential, where this is practical and appropriate
- if it is not possible to maintain confidentiality, developing a strategy for supporting the internal reporter and preventing reprisals – and giving the internal reporter an opportunity to discuss this proposal
- in consultation with the internal reporter, assessing the likelihood of them being exposed to reprisal or workplace conflict
- in consultation with the internal reporter, appointing a support person to assist them – someone who is not an investigator or someone with management responsibility for deciding the response to the report
- providing advice to the internal reporter's manager or the principal officer on the systems and strategies that should be established to minimise any risk of reprisal that the internal reporter faces
- reminding all managers that they have an obligation to notify the disclosures coordinator or principal officer immediately of any suspicions they have or allegations they receive that reprisal to an internal reporter is occurring or has been threatened.

4.6 Principal officers

Your organisation should identify who is its principal officer under the PID Act. For business units or related entities within a principal department, this may be the director general of the principal department or the chief executive of the related entity. For local government, this is the general manager or the mayor when the report concerns the general manager.

Principal officers are responsible for:

- establishing and maintaining a working environment that encourages staff to report wrongdoing
- establishing an effective internal reporting system to appropriately deal with reports of wrongdoing, support staff who report, and ensure reprisals are not taken against them
- establishing an internal reporting policy that contains a clear statement signed by the principal officer indicating your organisation is committed to the highest standards of ethical and accountable conduct and will support staff who report wrongdoing
- ensuring that staff are aware of the policy and the protections of the PID Act through effective communication and training
- ensuring that an experienced and skilled disclosures coordinator is responsible for receiving and dealing with reports of wrongdoing in your organisation
- ensuring adequate resources, both financial and human, are dedicated towards achieving these outcomes.

If wrongdoing is reported to the principal officer under s.8(1)(b) of the PID Act, this person has the responsibilities outlined for 'Staff receiving a report'. In addition to these general responsibilities, the principal officer must also refer actual or suspected corrupt conduct to the Independent Commission Against Corruption (ICAC).

The principal officer is responsible for assessing any reports that they receive in accordance with the responsibilities for 'Staff assessing a report'.

Irrespective of whether the principal officer receives or assesses a report, their responsibilities include:

- keeping the identity of the internal reporter and anyone who is the subject of a report confidential, where this is practical and appropriate
- ensuring that they are advised of any decisions made about a report and, if further action is recommended, given regular progress updates and a report of the outcome
- providing adequate resources to any person appointed to investigate a report or to support an internal reporter
- ensuring that appropriate systems and strategies are established to minimise any risk of reprisal that the internal reporter faces
- ensuring that the workplace situation is effectively managed, particularly if there is conflict or reprisal is threatened or takes place
- taking appropriate action against anyone who threatens or takes reprisal against a person for reporting wrongdoing
- taking appropriate remedial action in response to any findings that substantiate the allegations of wrongdoing
- implementing any organisational reform that is necessary to address systemic issues identified.

4.7 Managers and supervisors

Managers and supervisors play a key role in establishing and maintaining a working environment that encourages staff to report wrongdoing and supports those that do. If a staff member has a concern or a report of wrongdoing that may be a PID under the PID Act, managers and supervisors should advise them to raise the matter with a person nominated in your organisation's internal reporting policy to receive PIDs.

If a manager or supervisor is aware that one of their staff has made a report, their responsibilities include:

- keeping the identity of the internal reporter and anyone who is the subject of a report confidential, where this is practical and appropriate
- providing support to the internal reporter, including ensuring that they have access to any necessary professional support
- ensuring that appropriate systems and strategies are established to minimise any risk of reprisal that the internal reporter faces
- notifying the disclosures coordinator or principal officer immediately if they believe a staff member is being subjected to reprisal as a result of reporting wrongdoing
- effectively managing the workplace situation, particularly if there is conflict or reprisal is threatened or takes place
- taking appropriate action against any person who threatens or takes reprisal against a person for reporting wrongdoing.

4.8 Disclosures coordinators

Your organisation should appoint a disclosures coordinator who is responsible for receiving and managing reports of wrongdoing made by staff. This person should have the relevant experience and skills for the position and be given the adequate authority to properly deal with reports. The disclosures coordinator should not be the principal legal officer of your organisation. Principal legal officers may be required to perform duties – such as representing the organisation in legal disputes – that may conflict with their responsibilities as a disclosures coordinator.

When a disclosures coordinator receives or assesses a report, their responsibilities are those for '*Staff receiving a report*' and '*Staff assessing a report*'.

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

- keeping the identity of the internal reporter and anyone who is the subject of a report confidential, where this is practical and appropriate
- continually assessing the likelihood of the internal reporter being exposed to reprisal or workplace conflict
- ensuring that appropriate systems and strategies are established to minimise any risk of reprisals that the internal reporter faces
- ensuring that the internal reporter is kept regularly informed about the progress of the matter
- ensuring that the time frames promised in the acknowledgement letter are adhered to.

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

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

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

- implementing an internal reporting policy that provides procedures for receiving, assessing and dealing with PIDs (s.6D)
- preparing an annual report on your organisation's compliance with the PID Act and providing a copy of this report to the NSW Ombudsman (s.31)
- providing six monthly data to the NSW Ombudsman on your organisation's compliance with the PID Act – which may be via your principal department (s.6CA).

4.9 Disclosures managers (for principal departments)

Structural changes to the New South Wales public sector have led to three distinguishable bodies:

- principal departments
- business units that no longer have a separate legal status to their principal department but continue to operate somewhat independently
- statutory authorities that fall within the cluster of a principal department but are separate legal entities and constitute a public authority under the PID Act.

These arrangements may raise complications for organisations in meeting their obligations under the PID Act. To address this issue, we recommend that each principal department appoint a senior staff member to act as their disclosures manager.

The responsibilities of the disclosures manager include:

- performing the role of disclosures coordinator for any central office of the principal department and business units, where appropriate
- ensuring that the positions of disclosures coordinators and disclosures officers within the business units and related entities of the principal department are filled
- coordinating the work of the disclosures coordinators within the business units and related entities of the principal department, where appropriate
- ensuring that the internal reporting policies for each business unit and related entity across the department are kept up-to-date
- preparing an annual report on the compliance of the principal department and its business units with the PID Act and providing a copy of this report to the NSW Ombudsman (s.31), as well as ensuring this report is provided by related entities
- providing six monthly data to the NSW Ombudsman on the compliance of the principal department and its business units with the PID Act (s.6CA), as well as ensuring this data is provided by related entities.

4.10 Support people

When staff report wrongdoing, a person should be appointed to provide support to the internal reporter. A support person should also be made available to anyone who is the subject of the report if appropriate or requested. People internal to your organisation should provide support in addition to external sources of support such as employee assistance services or unions.

The support person should be independent of the investigation and the resulting decision-making process. Their appointment should be made in consultation with the person receiving support.

Your organisation should determine how it will provide support to internal reporters or anyone who is the subject of a report. You may choose to nominate and train 'disclosures support people' or you may draw on already established mentor, peer support officer or confidante networks. These networks may include managers and supervisors, and staff from your Personnel or Human Resources area.

The responsibilities of staff appointed to provide support include:

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

4.11 Staff who are the subject of a report

The responsibilities of staff who are the subject of a report of wrongdoing include:

- only discussing the matter with authorised people
- not seeking to identify the internal reporter
- assisting those dealing with the report, including supplying any information on request
- not taking reprisals against another staff member whom they know or suspect has reported wrongdoing
- if necessary, seeking support from their manager or supervisor or any available external organisations and services.

5. Your questions answered

How do the responsibilities of a principal department and a business unit continuing to operate somewhat independently within a principal department differ and relate to each other?

Principal departments should:

- nominate a disclosures manager to oversee the PID-related work of the department, any business units continuing to operate somewhat independently and all related entities
- nominate a disclosures coordinator for reports of wrongdoing concerning the principal department itself
- collect data on the principal department's PID-related work, seek data on PID-related work from each business unit and report compiled data to the NSW Ombudsman
- ensure that systems are in place to deal with the scenario of the director general receiving a report from a staff member of a business unit within the department.

Business units should:

- nominate a disclosures coordinator for reports of wrongdoing concerning the business unit and to liaise with the principal department's disclosures manager
- collect data on PID-related work and provide data to the disclosures manager of the principal department
- ensure that systems are in place to deal with the scenario of a staff member reporting to the director general in the principal department.

How do the responsibilities differ for local government?

Local councils should nominate a disclosures coordinator to manage reports of wrongdoing made by staff – however, they do not need to nominate a disclosures manager.

Local councils should also ensure that systems are in place to deal with the scenario of the mayor receiving a report from a staff member about the general manager. In this situation, the mayor has the responsibilities outlined for 'Principal officers'.

What are our organisation's responsibilities if the report is not a public interest disclosure?

While some reports of wrongdoing attract the protections of the PID Act, staff should be encouraged to report all wrongdoing and your organisation should ensure that all reports of wrongdoing are dealt with appropriately. The difference with matters under the PID Act is that the public official who made the report is provided with certain statutory protections.

Most organisations will have policies and guidance about what should be reported and how it should be reported. Disclosures officers and other staff who receive reports of wrongdoing under your organisation's internal reporting policy should be trained to refer internal reporters to other appropriate policies if they raise concerns that are not PIDs under the PID Act.

6. Additional resources

- [Model internal reporting policy](#)
- [Model internal reporting policy \(local government\)](#)
- [Local Government Act 1993](#)
- [Occupational Health and Safety Act 2000](#)
- [Public Interest Disclosures Act 1994](#)
- [Code of Conduct and Ethics for Public Sector Executives](#)
- [Model Code of Conduct for Local Councils in NSW](#)
- [Model Contract of Employment for the Chief and Senior Executive Service](#)
- [Standard Contract of Employment for General Managers of Local Councils in New South Wales](#)
- [Standard Contract of Employment for Senior Staff \(Other Than General Managers\) of Local Councils in New South Wales](#)

7. Last updated

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Contact us for more information

Our business hours are: Monday to Friday, 9am–5pm (*Inquiries section closes at 4pm*)

If you wish to visit us, we prefer you make an appointment. Please call us first to ensure your complaint is within our jurisdiction and our staff are available to see you.

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We can arrange an interpreter through TIS or you can contact TIS yourself before speaking to us.