

Internal reporting policy and procedures

1. Objectives

- To communicate the importance of internal reporting policies and procedures.
- To provide guidance to public authorities on how to develop and implement their internal reporting policies and procedures.

2. Why is this important?

An internal reporting policy is a critical starting point for authorities to clearly demonstrate their commitment to supporting the reporting of wrongdoing by staff and properly handling such matters. This commitment should be formally adopted as an organisational policy and widely communicated to staff.

An internal reporting policy should be supported by comprehensive procedures. It is important that managers in particular – as well as the disclosures coordinator, principal officer, disclosures officers and people appointed to support reporters – are aware of their specific obligations in relation to reports of wrongdoing. *Guideline E2: Roles and responsibilities* provides further information on the roles of these key players.

Research has demonstrated the importance of developing comprehensive policies, procedures and practices to ensure clarity and consistency in handling reports of wrongdoing.

The *Whistling While They Work* research¹ showed that:

- Organisations with comprehensive procedures for reporting wrongdoing were more likely to have staff who were aware of the procedures, had positive attitudes towards reporting wrongdoing, reported wrongdoing they believed to be serious, and were treated better by managers and co-workers when they did report.
- Organisations with a high proportion of staff who are aware of their organisation's policies or procedures for reporting wrongdoing are more likely to have a higher rate of wrongdoing being reported, positive staff attitudes towards reporting wrongdoing and higher staff trust that reporting will be looked on positively by management.

3. Legal and management obligations

3.1 PID Act

a) Policy and procedures

Under section 6D of the *Public Interest Disclosures Act 1994* (PID Act), public authorities are required to have a policy that provides for its procedures for receiving, assessing and dealing with public interest disclosures (PIDs). In formulating their policy, the public authority must have regard to the NSW Ombudsman's guidelines and the model internal reporting policies linked to this guideline.

The public authority's policy must provide that a written acknowledgement of the receipt of the disclosure, along with a copy of the policy, be provided to a reporter within 45 days of their making a PID. In some circumstances, such as when the disclosure is made by a public official performing their day-to-day functions or under a statutory or other legal obligation, the policy may provide that an acknowledgement letter is not required. See *Guideline D2: Information, advice and feedback to reporters*.

b) 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 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

Under the *Premier's Memoranda 96–1* and the *Code of Conduct and Ethics for Public Sector Executives*, all state government agencies must adopt an internal reporting policy to protect staff who make PIDs.

3.3 Local government requirements

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.

The Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW provide that code of conduct complaints that are made as PIDs are to be managed in accordance with the requirements of the PID Act, the council's internal reporting policy and the NSW Ombudsman's guidelines.

4. What does this mean for public authorities?

4.1 What to include in an internal reporting policy

When developing this policy, the authority is required by the PID Act to have regard to the NSW Ombudsman's guidelines and the model internal reporting policies for state government and local government. These model policies contain the recommended contents of an internal reporting policy, with many sections able to be used as a template and replicated.

The model policies also provide advice about where an authority should modify the policy to suit its individual practices and needs – such as organisational structure, size and geographical dispersion.

Guidance is also provided – although no pro forma text – on what should be included in the introductory sections of the policy to demonstrate the organisational commitment to internal reporting and PIDs as part of an ethical and accountable culture. Part of committing to such a culture entails working on and developing a statement of values that is meaningful and relevant to the authority.

The statement of values should be signed by the principal officer of the authority, signalling a commitment that is both personal and on behalf of all staff.

An authority should identify which positions have specific roles and responsibilities under the internal reporting policy, and reflect these in the supporting procedures and formal position statements. All authorities should nominate a disclosures coordinator to receive, assess and act as a central point for managing reports of wrongdoing.

While the PID Act requires internal reporting policies to include that a copy of the policy and a written acknowledgement be provided to a person reporting wrongdoing within 45 days of the report being made, authorities should acknowledge the report much sooner in practice. We recommend that a commitment is included in the policy to have this information provided to the reporter as soon as practicable, and preferably within two

working days from the date they make their report. In some circumstances, such as when the disclosure is made by a public official performing their day-to-day functions or under a statutory or other legal obligation, the policy may provide that an acknowledgement letter is not required. See further *Guideline D2: Information, advice and feedback to reporters*.

A checklist has been included in this guideline to assist with evaluating internal reporting policies and identify any areas that need improvement.

4.2 Embedding your policy and procedures

Internal reporting policies and procedures should not stand in isolation. A simple, consolidated set of procedures relating to organisational accountability, integrity and case-handling should be developed which integrate the roles and responsibilities for receiving, assessing and dealing with PIDs with related policies and systems.

This means that the internal reporting policy and any procedures should be consistent with all related policies – including codes of conduct and policies relating to grievances, complaint handling, investigations, or reporting matters to investigating authorities. Cross reference and link to these documents within the policy and procedures where relevant.

An internal tracking and assessment system will help ensure that all reports – whether PIDs, grievances or other complaints – made by staff are dealt with in the most appropriate manner, and that the appropriate support and protection mechanisms are triggered for reporters. Keeping good records not only ensures compliance with obligations under the *State Records Act 1998*, it also enables an authority to recognise a pattern or see the bigger picture where a series of reports are made.

Consulting on the policy with internal and external stakeholders – including divisions within an authority that deal with related issues, management and unions – will encourage all parties to think through the issues and can provide constructive input to the reporting system.

4.3 Communicating the policy

An internal reporting policy should be user-friendly and easy for all staff to understand. This is particularly important when discussing the available legislative protections for reporters.

The policy should also be readily available to all staff and members of the public. It is a public document under the *Government Information (Public Access) Act 2009* (GIPA Act) and should, at a minimum, be available on an authority's website.

However, no policy will be read by staff unless it is clearly communicated to them and supported by senior management. Heads of authorities have a statutory responsibility to ensure that staff are aware of the contents of the policy and the protections under the PID Act. Develop a communication strategy for raising the awareness of staff and managers about the policy and procedures for making and receiving reports of wrongdoing.

Also consider what training will be provided about the internal reporting policy, particularly for staff with specific responsibilities under the policy – such as managers and supervisors, disclosures officers, support officers, principal officer and

disclosures coordinator. The internal reporting policy should also be discussed in induction, code of conduct or ethics training. See *Guideline A3: Awareness and training*.

Checklist

Ensuring an internal reporting policy is best practice

This checklist assists authorities to evaluate their internal reporting policy against best practice and to identify any areas for improvement. An internal reporting policy should include the following:

- A clear outline of the purpose and the objectives of the *Public Interest Disclosures Act 1994* (PID Act).
- A strong statement of leadership and management opposition to serious wrongdoing and support for an ethical and accountable culture, the reporting of wrongdoing and reporters.
- A statement of commitment by the authority that appropriate action will be taken to deal with reports of wrongdoing.
- Information about the roles and responsibilities the principal officer, disclosures coordinator, disclosures officers, managers, reporters and staff who are the subject of reports.
- Advice to staff responsible for dealing with reports of wrongdoing that they will be properly resourced and supported.
- Adequate description of all categories of serious wrongdoing.
- The need for the reporter to honestly believe on reasonable grounds that their report shows or tends to show one of the categories of conduct covered by the PID Act policy.
- A list of positions within the authority who staff can report wrongdoing to.
- Advice on whether reports have to be made in writing and whether reporters need to identify themselves.
- Detail about the external reporting pathways available to staff, such as the NSW Ombudsman, Independent Commission Against Corruption, Auditor-General, Office of Local Government and Information Commissioner.
- An explanation that for the PID Act to apply to a report made to a Member of Parliament (MP) or journalist a staff member must have reasonable grounds for believing that the disclosure is substantially true and be able to prove the disclosure is in fact substantially true.
- Information on how both the reporter and the subject of a report will be supported.
- A statement of commitment by the authority to the importance of maintaining confidentiality, where possible and appropriate.
- Information on the feedback that will be given to reporters.
- Information on how any risks to reporters will be assessed and managed.
- Information on preventing and dealing with reprisal action threatened or taken against a reporter.
- Information about the sanctions for making false or misleading reports.
- Advice on where staff who may be thinking of reporting wrongdoing can seek further information.
- Cross references and links to related policies, including code of conduct and any external agency reporting, complaint-handling, investigations or grievance policies
- Plain language that is easy for staff to read and understand.

5. Your questions answered

What is the difference between our authority's internal reporting policy and its supporting procedures?

Policies regulate, direct and control actions and conduct. An internal reporting policy should provide an overarching framework for how reports of wrongdoing in an authority – including PIDs – are to be made, assessed and dealt with. The policy will often be the first point of call for staff who are considering reporting, and should give them the confidence that they can proceed.

Procedures tell staff how to, and who will, implement the policy. They are specific and factual. Consider tailoring your procedures to a specific audience – such as managers and supervisors, disclosures officers, support people, the principal officer and disclosures coordinator.

My authority is a business unit within a principal department that continues to operate somewhat independently. Should we have our own internal reporting policy or can we adopt the internal reporting policy of our principal department?

This is a decision that should be made by the director general of the principal department in consultation with business units. It predominately depends on whether the business unit is a separate public authority under the PID Act.

If your business unit requires a stand-alone policy, you may need to have your internal reporting policy signed off by the director general of the principal department as a policy of the department.

Remember that the principal officer of your business unit for the purposes of the PID Act may be your principal department's director general. If this is the case, make sure that your business unit's internal reporting policy explicitly nominates your chief executive as a person who can receive PIDs. This will ensure that any staff who report their concerns to your chief executive will still receive the protections of the PID Act.

See *Guideline B4: Reporting pathways*.

6. Additional resources

- *Guideline A3: Awareness and training*
- *Guideline B4: Reporting pathways*
- *Guideline D2: Information, advice and feedback to reporters*
- *Guideline E2: Roles and responsibilities*
- *Model internal reporting policy - state government*
- *Model internal reporting policy - local government*
- *Government Information (Public Access) Act 2009*
- *Public Interest Disclosures Act 1994*
- *State Records Act 1998*
- *Premier's Memoranda 96–1*
- *Code of Conduct and Ethics for Public Sector Executives*
- *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*
- *The Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW*

Endnote

- ¹ Brown, AJ (ed.) 2008, *Whistleblowing in the Australian public sector: Enhancing the theory and practice of internal witness management in public sector organisations*, ANU E Press, Canberra, pp. 251–257; Roberts, P, Brown, AJ & Olsen, J 2011, *Whistling while they work: A good-practice guide for managing internal reporting of wrongdoing in public sector organisations*, ANU E Press, Canberra, pp. 27–29.

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