

Evaluation of policy, processes and practices

1. Objectives

- To inform public authorities of the importance of regular evaluation of their public interest disclosure (PID) policies, processes and practices to ensure they are current and comply with legislative requirements and good practice.
- To provide guidance on methods to effectively evaluate PID policies, procedures and practices.

2. Why is this important?

Evaluation is a process that critically examines the authority's internal reporting policy, processes and practices. It involves collecting and analysing information about the PID management system. Ask critical questions to judge the worth of your PID management system.

An evaluation of PID policies, procedures and practices is essential to ensuring accountability and maintaining effective management of internal reporting. As with all policy review processes, regular evaluation will ensure that the policy is current, relevant and meeting statutory requirements. More importantly, it will provide an opportunity to assess the practical implementation of the policy and whether key outcomes are being achieved such as:

- staff feel comfortable raising concerns
- internal reporters are supported and protected
- internal reports are handled appropriately
- appropriate action is taken in response to reports.

3. Legal and management obligations

3.1 PID Act

Section 6D of the *Public Interest Disclosures Act 1994* (PID Act) requires authorities to have a policy that outlines its procedures for receiving, assessing and dealing with public interest disclosures. The Ombudsman has developed a *model internal reporting policy* which authorities must have regard to in formulating their policy. The model policy includes a recommendation that authorities include a review date for their policies.

4. What does this mean for public authorities?

4.1 Benefits of synchronising the evaluation of an authority's policies and procedures

An authority should consider the effectiveness of its internal reporting policies and procedures on a regular basis. All authorities should have a schedule for updating policies, and a review of the PID policy should be included in that review process. Ad hoc policy updates will occur on a needs basis to reflect relevant changes such as legislative amendment or other developments. However a comprehensive, thorough review should be regularly scheduled in order to rectify any inconsistencies that may have arisen from ad hoc changes over time.

The PID policy should indicate the frequency of the review cycle as well as who will be responsible for conducting the reviews. Each policy should preferably be reviewed at least every three years or within one year of a significant restructure of the authority.

If practicable it may be beneficial for the review and evaluation of all complaint handling and grievance related policies to be conducted in the same cycle as the PID policy. Changes made to the internal reporting policy may affect, and be affected by changes to an authority's complaints handling and bullying and harassment policies.

It is beneficial to conduct these reviews during the same period to ensure consistency across all of the policies. It is important to make sure that all of the policies are broadly aligned and that the language clearly distinguishes a grievance from a PID so that staff know the appropriate avenue for them to take.

4.2 What to evaluate

- a) It is essential to ensure that policies are consistent with current legislation and our guidelines on best practice. We recommend using the checklist for ensuring an internal reporting policy is best practice to evaluate the policy and identify any areas for improvement. The checklist is included in *Guideline A2: Internal reporting policy and procedures*.
- b) Authorities may wish to set key performance indicators to monitor performance over time and/or compare the internal divisions of the authority, looking at such things as:
 - the number of PIDs received,
 - the number of PIDs substantiated,
 - the average time it takes from receipt of a PID to finalisation,
 - the proportion of staff indicating they are aware of the internal reporting policy,

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- the proportion of staff indicating that they have taken action when wrongdoing is observed,
- the proportion of staff indicating that they have no fear of reprisal for reporting wrongdoing and
- the proportion of staff who are confident that appropriate action will be taken if they report wrongdoing.

For state government authorities, some of these areas may already be included in the Public Service Commission's People Matter Employee Survey. For more information visit the Public Service Commissioner website.

- c) It may be appropriate to also assess whether the head of the authority and senior management are demonstrating organisational commitment to internal reporting through policy statements, communications and general actions.
- d) Consideration should also be given to the level of staff awareness of the authority's internal reporting policy and whether the authority's communication process adequately informs staff of that policy and related procedures. As the head of an authority has a statutory requirement to ensure that staff are aware of the contents of the policy and protections under the PID Act, any identified problems concerning staff awareness must be addressed. *Guideline A3: Awareness and training* suggests ways to inform staff about how the authority will deal with any internal reports of wrongdoing, for example, by including the PID policy in induction material.
- e) You may also wish to review the positions which have been identified as disclosure officers to ensure that they are still current and relevant and that there are sufficient nominated officers across locations. The intervening years since the last policy review may have seen changes to the authority's structure, and therefore the number of disclosure officers may require review.

The following checklist could be useful for staff evaluating whether the authority has a robust PID management system.

Checklist for a robust PID management system

INDIVIDUAL

Reporting

- Public officials are competent in identifying and reporting wrongdoing to disclosures officers.
- Public officials are encouraged to report known or suspected wrongdoing within the authority.
- Public officials report known or suspected wrongdoing found in the course of their work.

Treatment of reporters

- Reporters are treated with dignity and respect.

Protection of reporters

- Reporters are confident that their identity and reports of wrongdoing will be kept confidential where practical.
- Reporters identify risks of reprisal in collaboration with the disclosures coordinator.
- Reporters are protected from potential reprisal.
- Reporters and subject officers' safety and wellbeing is paramount.

- Individuals report Work Health and Safety (WH&S) incidents and risks to supervisors.

Communication with reporters

- Reporters receive an acknowledgement letter and a copy of the authority's internal reporting policy within 45 days of making a PID or sooner.
- Reporters are consulted about potential risks of reprisal.
- Reporters receive regular feedback about the progress of their PID.
- Reporters and subject officers are advised of the outcomes of any investigation.

Management of reporters

- Reporters' expectations are managed to ensure they are realistic.
- Reporters and subject officers are provided with support.
- Reporters and subject officers participate in performance management processes as usual.

WORKPLACE

Workplace culture

- There is a positive workplace culture in which public officials are confident making reports of wrongdoing.
- The workplace culture and environment is open, transparent and positive.
- There is a high standard of ethics and professionalism.
- Wrongdoing is minimised and addressed due to a robust internal reporting culture.

Awareness and training

- Public officials are aware of the contents of the internal reporting policy and the protections under the PID Act.
- Public officials receive regular training on how to identify and report wrongdoing.

Facilitation of reports

- Disclosures officers are accessible in every workplace and available to accept reports of wrongdoing.
- Supervisors and managers assist reporters to make the report to disclosures officers authorised to receive PIDs.
- Disclosures officers and disclosures coordinator positions are current and relevant to the needs of the authority.
- Position descriptions reflect the role and responsibilities of disclosures officers and disclosures coordinators.

Confidentiality

- The identity of the reporter and confidentiality of the PID is maintained in the workplace.

PID handling process

- PIDs are handled consistently and in accordance with the internal reporting policy.
- Reports of wrongdoing are acknowledged, investigated and feedback is provided.
- Reports of wrongdoing are correctly assessed to be PIDs or referred to other processes.
- PIDs are properly investigated and dealt with.

Record management

- PID record management is accurate, thorough and transparent.

Risk management

- Risk assessments are developed to identify risks of reprisal against the reporter.
- Risks to the subject officer and authority are also identified.
- Strategies are developed to eliminate or mitigate the risks arising from a PIDs being made.
- Reporters are consulted when assessing risk and developing risk management strategies.

WH&S

- Teams are committed to reporting WH&S incidents and risks.
- Incidents and risk across the workplace are identified and treated.
- Supervisors and managers promote a safe and positive workplace environment for everyone.
- Public officials work together to reduce or eliminate bullying and harassment in the workplace.

Performance management

- Performance management processes continue as usual when PIDs are made.
- Performance issues are addressed promptly and dealt with fairly.

ORGANISATION

Organisational commitment

- The head of the authority and senior management demonstrate organisational commitment to internal reporting through policy statements, communications and actions.
- The internal reporting policy contains a clear statement, signed by the principal officer (endorsed by a Board or Council), that the authority is committed to the highest standards of ethical and accountable conduct and will support staff who report wrongdoing.

Positive organisational culture

- The authority has a positive organisational culture in which public officials are confident in making reports of wrongdoing.
- Stakeholders trust that the authority will manage reports of wrongdoing appropriately.

Internal reporting policy

- The authority has adopted the NSW Ombudsman's Model Internal Reporting Policy or has regard to the Ombudsman's guidelines in formulating an internal reporting policy.
- The internal reporting policy outlines procedures for receiving, assessing and dealing with PIDs.
- The internal reporting policy is posted on the authority's website.
- The policy designates at least one officer of the authority (who may be the principal officer) as being responsible for receiving PIDs on behalf of the authority.

Disclosures officers

- Disclosures officers are competent in identifying and receiving PIDs.

PID management

- The authority complies with legal and statutory requirements in PID management.
- The authority's approach to handling PIDs is systematic, structured and timely.
- The authority complies with the internal reporting policy and the authority's obligations under the PID Act.
- PID management is an integral part of all of the authority's processes.
- Resources in PID management are effectively managed.
- The authority continuously improves PID management through regular reviews and lessons learned.

Risk management

- The risk management system identifies, analyses and evaluates risks to the reporter, subject officer and authority.
- The authority effectively manages risks to reporters, subject officers and the authority that may arise from PIDs.

WH&S

- The authority protects internal reporters and subject officers as part of its WH&S duty of care obligations.
- The authority monitors and manages complaints, bullying and harassment incidents.

Performance management

- The performance management system resists disruption when PIDs are made.

Business continuity

- The authority maintains business continuity when a PID is made and during the investigation process.

PID reporting

- The head of the authority refers PIDs to the appropriate authorities as required by legislation.
- The authority provides a statistical report to the NSW Ombudsman about the authority's compliance with its obligations under the PID Act.
- The authority also reports on its obligations in its annual report.

Evaluation

- The authority regularly evaluates the PID management system and promotes continual improvement, learning and resilience.

4.3 How to evaluate

An audit of PID handling processes will assist you to gather information to conduct your review of PID handling policies and procedures. Consider the reasons for any identified problems and whether they can be prevented by changing processes.

An audit of PID handling processes may include the following:

- Acknowledgement – are all PIDs acknowledged in accordance with the internal reporting policy?
- Assessment – are purported PIDs and PIDs assessed thoroughly and correctly?
- Confidentiality – has this been adhered to and appropriately managed (where practical and appropriate)?
- Communication – how effectively (including content and timelines) has information been conveyed to involved parties?

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- Decision-making – are appropriate decisions made about whether an investigation should be carried out internally or externally? Is appropriate action taken following inquiries about and/or investigations of PIDs?
- Timeliness – are adequate procedures in place to track the actions taken in relation to internal reports and to ensure that matters do not become unnecessarily delayed?
- Handing of PIDs – was the PID referred where appropriate? If the matter was investigated, was an investigation plan prepared? What was the quality of the internal or external investigation?
- Support – is adequate support provided to reporters and subject officers?
- Record keeping – have accurate, thorough and appropriate records been maintained?
- Risk assessment – was a risk assessment carried out including assessing possible risks to the reporter, the subject officer and the authority?
- Reprisal – have any issues with the reporting and/or investigating of alleged reprisals emerged?
- Finalisation – have involved parties been adequately advised of the outcomes of any investigation?
- Follow up – has any formal plan outlining how the reporter will be managed beyond the investigation, been developed and adhered to?

Interviews or surveys of the head of the authority, senior management, the disclosures coordinator, disclosures officers, investigators and a sample of staff about reporting processes and the implementation of the policy may be an effective evaluation tool. A regular survey of employees can provide valuable information about their awareness of the internal reporting policy and trust in the system for reporting wrongdoing. Authorities may also consider conducting focus groups and including questions in employee exit interviews as evaluation tools.

It is recommended that at the conclusion of a PID investigation a closing conference be held with each party to canvass the outcome of the investigation and discuss other relevant information about the authority's PID handling processes. For further information on the finalisation process see *Guideline D7: Finalisation and follow-up*. Feedback and improvements to the PID process identified by each of the involved parties during the finalisation process should be assessed and where necessary and relevant, refined into the PID policy.

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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Given that changes may be made on an ad hoc basis over time, an evaluation will reveal whether this has resulted in inconsistencies or confusion. A review of case files handled since the last evaluation may reveal deficiencies in the handling of PIDs which can be addressed through policy changes and enhancements. All of the information gathered throughout the evaluation process will help to identify whether the policy is working effectively in practice.

4.4 Who should evaluate

A range of options exist for the conduct of reviews. For example, in some authorities, it may be the disclosures coordinator, management team, or relevant Executive Director who coordinates reviews.

Audit and Risk Committees have an important role in providing assurance on internal audit and the management of risks to an authority's reputation. To ensure an evaluation is perceived as independent and to inform a balanced consideration, we recommend that Audit and Risk Committees be given responsibility for the review of internal reporting arrangements in an organisation, including a proper and regular evaluation of PID policies, procedures and practices.

4.5 Action on evaluation outcomes

Authorities should carefully assess the results of each review and appropriately address any issues that arise. For example, if the review suggests that a significant number of staff are unaware of the policy, emphasis could be placed on producing comprehensive educational materials and training programs, as well as enhancing communication.

Results of the evaluation and any identified outcomes may be reported through established reporting channels, such as to a Board of Directors or included in the authority's Annual Report. Demonstrating that appropriate action is taken in response to reports is key to encouraging staff to report wrongdoing.

5. Additional resources

- *Model internal reporting policy*
- *Model internal reporting policy (local government)*
- *Guideline A2: Internal reporting policy and procedures*
- *Guideline A3: Awareness and training*
- *Public Interest Disclosures Act 1994*