

# Finalisation and follow-up

## 1. Objectives

- To provide clear advice to organisations about implementing finalisation strategies with involved parties at the conclusion of the reporting process.
- To assist organisations to take appropriate follow-up action with internal reporters and subject officers.

## 2. Why is this important?

Finalisation of the reporting process is important because:

- if the involved parties have not already been informed of the action taken or proposed as a result of the investigation, the finalisation process provides an opportunity to convey all relevant information
- it formalises the end of the formal PID process (but not the protections available under the PID Act)
- it indicates to the involved parties the level of support and ongoing contact that will be available
- it enables the organisation to obtain feedback from the parties about their experience which may indicate ways in which the processes could be improved
- it allows the involved parties an opportunity to move forward in the knowledge that an outcome has been fairly determined.

*Whistling While They Work* research indicated that a minority of organisations formally use 'exit strategies'.

A survey conducted as part of the *Whistling While They Work* Research asked internal reporters about what procedures were used to formally mark the end of their involvement in the whistle blowing process. Of reporters, 35.2 per cent said that no procedure was utilised; 4.7 per cent met with a manager; 7.9 per cent received a formal letter or communication and 13.8 per cent nominated some other procedure<sup>1</sup>. The research concluded that formal procedures marking the end of their involvement are under-utilised.

## 3. Legal and management obligations

### 3.1 PID Act

Section 27 of the *Public Interest Disclosures Act 1994* (PID Act) requires organisations to notify reporters within six months of their PID being made, about any action taken or proposed in response to their report of wrongdoing. If the PID was referred to an investigative authority under section 25 of the PID Act, the requirement to notify the internal reporter within six months is also transferred.

While there is no legal obligation on organisations to formally notify reporters of the finalisation of a matter, we recommend that reporters should be given appropriate information regarding the outcome. See **Guideline D2: Information, advice and feedback to internal reporters** for more information about what we recommend reporters should be told at the conclusion of an investigation.

## 4. Issues to consider

### 4.1 Finalising the matter

At the conclusion of the investigation the reporter and any officer(s) the subject of investigation should be separately provided with information about the outcome of the investigation.

While it is recommended that this information is given in person, it is recognised that this cannot always be achieved, particularly where one of the parties is regionally located. At a minimum however, the parties should each be advised verbally of the outcome. This information should then be formally conveyed in writing.

Communication channels will have been clearly established early in the process and contact with each of the parties should have been regular throughout the process, with all relevant information about the investigation conveyed appropriately. The finalisation of the investigation, including the action taken, will therefore be conveyed to the parties as part of the normal communication process.

When the investigation is nearing completion indicate this to each of the involved parties during a regular communication update. Any impending change in active support and what this signifies for each of the parties should be clearly articulated. It is not uncommon that internal reporters find the experience of making a PID a traumatic one, and prior notice that the process is formally ending will allow time to prepare for the change in any level of support.

If possible, consider holding a 'closing conference' with each of the parties where you can canvass not only the outcome of the investigation, but also discuss other relevant information as detailed in Table 1.

<sup>1</sup> 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, p. 95.

**Table 1: Advice to parties involved in the PID process**

	Internal Reporter	Subject Officer
Information about investigation outcomes	<ul style="list-style-type: none"> <li>• Advise of any problem - systemic or otherwise – that was identified.</li> <li>• Provide enough information to show that adequate and appropriate action was taken and/or is proposed to be taken to address the problems.</li> </ul>	<ul style="list-style-type: none"> <li>• Advise the result of the investigation, including whether the allegations were substantiated.</li> <li>• Where the allegations were substantiated, advise of any management action or disciplinary proceedings or criminal proceedings that will be taken.</li> <li>• Where allegations were not substantiated, advise of any action that may be taken by the organisation as a consequence of investigation.</li> </ul>
Information about the future	<ul style="list-style-type: none"> <li>• Advise whether they will be required as a witness in any further matters, such as disciplinary or criminal proceedings.</li> <li>• Provide reassurance that they are still protected from reprisal under the PID Act.</li> </ul>	<ul style="list-style-type: none"> <li>• If the subject officer suffers any unjustifiable action as a result of the investigation, advise that the organisation will respond to these allegations through existing protocols.</li> </ul>
Establish processes	<ul style="list-style-type: none"> <li>• Confirm the process for reporting any reprisal action arising out of the making of the disclosure that may occur in the future. Be clear about who they should report to – whether it will be their support person, a nominated disclosures officer or someone else.</li> <li>• Discuss whether they would benefit from ongoing contact. Set parameters for any ongoing contact and/or support.</li> </ul>	<ul style="list-style-type: none"> <li>• Advise the subject officer who to notify if they suffer any unjustifiable action arising from the outcome of the investigation.</li> <li>• Establish a support protocol for the subject officer taking into account the management of any disciplinary action.</li> </ul>

## 4.2 Provide reassurance

Reassure internal reporters that the protections of the PID Act still apply to them and outline appropriate procedures for reporting any suspected reprisal action. Similarly, subject officers should also be advised about avenues open to them to report any harassment or bullying that arises from the report of wrong conduct or any subsequent investigation. While subject officers are not covered by the reprisal protections of the PID Act they are still entitled to report grievances within their organisation and for appropriate action to be taken in accordance with internal policies and procedures.

## 4.3 Seek feedback

It is also important to seek the views of the internal reporter and any subject officers about your organisation's PID handling process. This is quite different to seeking feedback on whether parties were satisfied with the outcome of any investigation. If appropriate information is conveyed in a timely manner, the parties are treated with respect, and the process is conducted in a transparent, fair and unbiased manner, those involved may be more likely to accept the outcome, even if the final result is not what they were hoping for.

Therefore, take the opportunity at the closing conversation to ask each party if they were satisfied with how the process was managed. For example, you may wish to seek feedback about their views on the frequency of contact from the organisation throughout the investigation. Also, seek views about whether information was communicated clearly and effectively. Gathering information of this nature allows organisations to constantly refine and improve their PID handling systems and also helps them refine the process to address any identified

problems. See **Guideline A4: Evaluation of policy, processes and practices** for more information on this topic. The feedback provided about the process may indicate to the organisation whether it is likely that the matter will be pursued further.

## 4.4 Right of review

Organisations should advise parties of any right of review available to them. A right of review may not be automatically granted and parties should look to their organisation's internal policies which will outline any review mechanism.

In some limited circumstances reports of wrongdoing by staff might be protected by the Act if made to Members of Parliament and journalists. See our **Guideline B5: Reporting to Members of Parliament and Journalists** for further information about when this option may be utilised.

## 4.5 Follow up

Discuss with the internal reporter and the subject officer(s), where appropriate, whether they would benefit from ongoing contact. Based on their response, establish a communication framework tailored to the needs of the staff member, bearing in mind the ability of the organisation to maintain adequate support. Be clear that future contact will be less frequent than during the course of the investigation, and the purpose of the contact will be more as a welfare review rather than providing further information in relation to the PID investigation (as that process would be considered to be finalised from the conclusion of the closing conference).

If future contact is desired, discuss the purpose to be achieved by such contact, frequency of the contact, who will be

contacting them, and when and how the contact will be made. Ongoing contact may be maintained by the staff member's support person, the nominated disclosures officer or possibly a supervisor or other personnel officer. It may be decided, for example, that a telephone call or out of office meeting is required on several occasions during in the first year following the conclusion of the process. At the end of the first year it may be appropriate to reduce the frequency of contact. Alternatively, parties may state their desire to have no ongoing contact with a member of staff. Some may wish to be referred to an external support service such as an Employee Assistance Program (EAP).

It is important not to over state the support that the organisation and you as an individual will be prepared and able to provide into the future. A formal management plan and contact schedule that is appropriately devised and adhered to will help to ensure staff feel supported both throughout and after the process. An effective finalisation and follow up process contributes to the organisation's positive reporting environment.

## 5. Your questions answered

### How much is enough follow up support?

The extent of support provided beyond the investigating period to staff who are either the subject or reporter of wrongdoing, will largely be determined on a case by case basis. A number of variable factors will need to be taken into consideration such as the nature of ongoing interactions in the workplace, the level of stress being experienced by the party, wishes of party, the ability of the organisation to meet those needs, and possibly the length and complexity of any investigation undertaken into the report of wrongdoing. The important thing to remember is to clearly and effectively communicate with the involved parties about any plan for future support and then carry out the promised action accordingly.

### Is it enough to relay the outcomes verbally?

The relaying of investigation outcomes in a face to face interview or during a telephone conversation is an important part of the finalisation process. However, it is also essential that organisations follow up with written advice, confirming the outcomes of the investigation and any agreed support protocols for the future. It is also recommended that written advice should not be sent in isolation without firstly discussing the outcomes with each party.

## 6. Additional resources

For more advice on aspects to consider in finalising the investigation process, contact the **Public Interest Disclosures Unit** at the NSW Ombudsman.

### For advice about 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](mailto:icac@icac.nsw.gov.au)  
 Web: [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au)  
 Address: Level 21, 133 Castlereagh Street, Sydney NSW 2000

### For advice about serious and substantial waste:

Auditor-General of the NSW Audit Office  
 Phone: 02 9275 7100  
 Facsimile: 02 9275 7200  
 Email: [mail@audit.nsw.gov.au](mailto:mail@audit.nsw.gov.au)  
 Web: [www.audit.nsw.gov.au](http://www.audit.nsw.gov.au)  
 Address: Level 15, 1 Margaret Street, Sydney NSW 2000

### For advice about police misconduct:

Police Integrity Commission (PIC)  
 Phone: 02 9321 6700  
 Toll free: 1800 657 079  
 Facsimile: 02 9321 6799  
 Email: [contactus@pic.nsw.gov.au](mailto:contactus@pic.nsw.gov.au)  
 Web: [www.pic.nsw.gov.au](http://www.pic.nsw.gov.au)  
 Address: Level 3, 111 Elizabeth Street, Sydney NSW 2000

### For advice about maladministration or police misconduct:

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](mailto:nswombo@ombo.nsw.gov.au)  
 Web: [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)  
 Address: Level 24, 580 George Street, Sydney NSW 2000

### For advice about wrongdoing in local government:

Division of Local Government in the Department of Premier and Cabinet  
 Phone: 02 4428 4100  
 Tel. typewriter (TTY): 02 4428 4209  
 Facsimile: 02 4428 4199  
 Email: [dlg@dlg.nsw.gov.au](mailto:dlg@dlg.nsw.gov.au)  
 Web: [www.dlg.nsw.gov.au](http://www.dlg.nsw.gov.au)  
 Address: 5 O'Keefe Avenue, Nowra, NSW 2541

### For advice about breaches of the GIPA Act:

Information Commissioner  
 Toll free: 1800 463 626  
 Facsimile: 02 8114 3756  
 Email: [oicinfo@oic.nsw.gov.au](mailto:oicinfo@oic.nsw.gov.au)  
 Web: [www.oic.nsw.gov.au](http://www.oic.nsw.gov.au)  
 Address: Level 11, 1 Castlereagh Street, Sydney NSW 2000

## 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.

Level 24, 580 George Street  
Sydney NSW 2000

**Email** [pid@ombo.nsw.gov.au](mailto:pid@ombo.nsw.gov.au)

**Web** [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)

**General inquiries** 02 9286 1000

**Facsimile** 02 9283 2911

**Toll free** (outside Sydney metro) 1800 451 524

**Tel. typewriter** (TTY) 02 9264 8050

Telephone Interpreter Service (TIS): 131 450

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