

Message from our Secretary

It is important for me and the leadership team to provide a safe, supportive and protective environment in which to report wrongdoing.

I am committed to high standards of ethical and accountable conduct. This policy emphasises the importance of providing support to internal reporters in accordance with the requirements of the [Public Interest Disclosure Act 1994 \(PID Act\)](#).

We are strongly committed to:

- creating a climate of trust, where employees are comfortable and feel supported to report wrongdoing
- keeping the identity of the employee disclosing the wrongdoing confidential, where this is possible and appropriate
- protecting employees from any adverse action resulting from making a report of wrongdoing
- dealing with reports of wrongdoing in a prompt, thorough and impartial way and if some form of wrongdoing has been found, take appropriate action
- keeping employees who make reports of wrongdoing informed of their progress and the outcome
- encouraging employees to report wrongdoing within the Department but respect any decision to disclose wrongdoing outside the Department in accordance with the provisions of the PID Act
- ensuring people leaders at all levels understand the benefits of reporting wrongdoing, are familiar with this policy, and are aware of the needs and concerns of those who report wrongdoing
- to review the policy and internal reporting framework periodically to ensure it is relevant and effective.

Under the PID Act, I have the responsibility for ensuring that:

- there is an internal reporting policy
- employees are aware of the contents of the policy and the protections under the PID Act for people who make a disclosure
- the Department complies with this policy and the authority's obligations under the PID Act
- the policy delegates at least one employee as being responsible for receiving public interest disclosures.

With that, you have my assurance that I am committed to my obligations. I look to every one of you to embrace the importance of ethical conduct and compliance, and to perform work to the highest standards. If you do encounter behaviour you feel requires reporting look to the information within this policy or you can contact me directly.

1. Purpose of this policy

This policy provides an internal reporting system for employees to report wrongdoing without fear of reprisal. This policy is designed to complement normal communication channels between people leaders and employees by setting out:

- who can report wrongdoing in the Department
- what should be reported
- how reports of wrongdoing will be dealt with.

You are encouraged to raise a matter of concern at any time with your people leader, but also have the option of making a report about a public interest issue in accordance with this policy.

The PID Act establishes a system to encourage public officials to report serious wrongdoing and to ensure they are supported when reports of wrongdoing are made. The PID Act protects reporters of wrongdoing against reprisal action when a report of wrongdoing is made.

2. To whom this policy applies

This policy applies across all departmental operations and to all departmental employees, consultants and contractors. It also applies to the operations and employees, consultants and contractors of all Department Cluster entities that have employees in or through the Department.

The PID Act requires that a report must be made by a public official. A public official (without limitations) includes:

- ongoing employees, whether full-time or part-time
- temporary or casual employees
- consultants
- contingent labour
- employees of contractors providing services to the Department
- other people who perform official public functions whose conduct might be investigated by an investigating authority, including volunteers.

The policy also applies to public officials of another public authority who report wrongdoing relating to the Department.

3. What to report

You should report any suspected wrongdoing, or any activities or incidents you see that you believe are wrong.

Your report will be treated as a public interest disclosure if it meets the criteria under the PID Act and is about the five categories of wrongdoing listed below:

- Corrupt conduct
- Maladministration
- Serious and substantial waste of public money
- Breach of the [Government Information \(Public Access\) Act 2009 \(GIPA Act\)](#)

- Local government pecuniary interest contravention.

The person making the disclosure must be a public official and honestly believe on reasonable grounds that the information shows or tends to show suspected wrongdoing. Reports by employees are not public interest disclosure if they:

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

Corrupt conduct

Corrupt conduct is the dishonest or partial exercise of official functions by a public official. For example, 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
- being influenced by a member of the public to use their position in a way that is dishonest, biased or breaches the public trust.

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. It is more serious than a technical breach of policy or procedures. For example, this could include:

- making a decision or taking action that is unlawful
- inaction or failing to make determinations in accordance with the official policy for no apparent reason or an improper motive
- refusing to grant a licence for reasons that are not related to the merits of the application.

Serious and substantial waste of public money

Serious and substantial waste is the uneconomical, inefficient, or ineffective use of resources that could result in losing or wasting public money. For example, this could include:

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

Breach of the provisions of the GIPA Act

A breach of the GIPA Act is a failure to fulfil functions under that Act. For example, this could include:

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

Local government

Disclosures about local government require that you honestly believe, on reasonable grounds that information shows or tends to show corrupt conduct, maladministration, serious and substantial waste of local government money, government information contravention or local government pecuniary interest contravention by any one or more of the following:

- a local government authority
- a delegate of a local government authority
- a councillor (within the meaning of [Local Government Act 1993](#))
- a member of a county council (within the meaning of *Local Government Act 1993*)
- an employee of a local government authority
- a representative on the board of a joint organisation (within the meaning of the Local Government Act 1993).

If you wish to make a report of wrongdoing about local government this conduct will need to be made to the Deputy Secretary, Local Government Planning and Policy within the Department. This would be an external report as it is under their power as an investigative authority.

Other conduct issues

All other conduct issues should be reported to a people leader or people partner to be dealt with in line with the relevant policy. This might include:

- personal grievances, employment matters and workplace disputes
- bullying, harassment or unlawful discrimination
- workplace health and safety practices.

Matters like these will not be dealt with as public interest disclosures. However, the Department recognises such reports may raise important issues. We will respond to all reports and make every attempt to protect the employee making the report from reprisal.

4. Public interest disclosure officers

The PID Act requires that, for a report to be a public interest disclosure, it must be made to certain public officials. If you wish to contact an officer about a public interest disclosure, you can find the [current listing of Nominated Disclosure Officers on the Intranet](#) on the Public Interest Disclosure page. Some officers have particular responsibilities under the PID Act.

The Secretary

The Secretary has ultimate responsibility for ensuring that the Department complies with the PID Act, including maintaining the internal reporting system and workplace reporting culture. The Secretary can receive reports from employees and has a responsibility to:

- keep the identity of reporters confidential where practical and appropriate, and take steps to protect reporters from reprisal
- assess reports received by or referred to them to determine whether the report should be treated as a public interest disclosure, and to decide how the report will be dealt with

- ensure there are strategies in place to support and protect the identity of reporters and manage workplace conflict that may arise in relation to a report
- make decisions following an investigation or appoint an appropriate decision-maker
- take appropriate remedial action where wrongdoing is substantiated, or systemic problems are identified
- refer actual or suspected corrupt conduct to the Independent Commission Against Corruption (ICAC)
- refer any evidence of a reprisal offence to the Commissioner of Police or the ICAC
- create and maintain accurate records relevant to the report and retain in the corporate records system.

Public interest disclosure coordinator

The PID disclosure coordinator has a central role in the internal reporting system to receive and assess reports of wrongdoing, and their team is the primary point of contact for the reporter. The disclosure coordinator has a responsibility to:

- assess reports to determine whether a report should be treated as a public interest disclosure, and how the report will be dealt with
- ensure that the rights of any officer will be respected
- coordinate the Department's response to a report
- acknowledge reports write to the reporter within 15 business days of the matter being reported advising whether it will be managed under this Policy
- ensures their team provides regular updates and feedback to the reporter
- assess whether it is possible and appropriate to keep the reporter's identity confidential
- assess the risk of reprisal and workplace conflict related to or likely to arise out of a report and develop risk strategies with relevant Managers from the business area to manage any risk identified
- provide or coordinate support to employees involved in the reporting or investigation process, including protecting the interests of any officer the subject of a report
- ensure that managers and supervisors at all levels understand the benefits of reporting suspected wrongdoing, are familiar with this policy and aware of the needs of those who make a report
- provide training for employees
- ensure the Department complies with the PID Act
- report on our obligations under the PID Act to the NSW Ombudsman every six months and provide statistical information in our annual report
- create and maintain accurate records relevant to the report and retain in the corporate records system.

Disclosure officers

Disclosure officers are additional points of contact within the internal reporting system. They can provide advice about the system and the internal reporting policy, receive reports of wrongdoing and assist employees in making reports. Disclosure officers have a responsibility to:

- document in writing any reports received verbally, and have the document signed and dated by the reporter
- arrange for employees to make reports privately and discreetly, if necessary, away from the workplace
- discuss with the reporter any concerns they may have about reprisal or workplace conflict
- forward reports to the disclosure coordinator for assessment
- create and maintain accurate records relevant to the report and retain in the corporate records system.

5. Employee responsibilities

Any people leader who receives a report that they believe may be a public interest disclosure is obliged to assist the employee in making the report to a public interest disclosure official.

People leaders

People leaders play an essential role in managing the immediate workplace of those involved in or affected by the internal reporting process. People leaders should be aware of the internal reporting policy and are responsible for creating a work environment where employees are comfortable and confident about reporting wrongdoing.

People leaders have a responsibility to:

- encourage employees to report known or suspected wrongdoing within the organisation and support employees when they do
- identify reports made to them during their work which could be a public interest disclosure, and assist the employee in making the report to a disclosure officer
- implement management strategies in consultation with the disclosure coordinator, to minimise the risk of reprisal or workplace conflict in relation to a report
- notify the disclosure coordinator immediately if they believe an employee is being subjected to reprisal as a result of reporting wrongdoing
- create and maintain accurate records relevant to the report and retain in the corporate records system.

All employees

We all play an essential role in contributing to a workplace where known or suspected wrongdoing is reported and dealt with appropriately. We all have an obligation to:

- report all known or suspected wrongdoing and support those who have made reports of wrongdoing

- assist those dealing with the report, including supplying information on request, cooperating with any investigation and maintaining confidentiality
- treat any employee or person dealing with a report of suspected wrongdoing with courtesy and respect
- respect the rights of officers the subject of reports
- create and maintain accurate records relevant to the report and retain in the corporate records system.

We must not:

- victimise or harass anyone who has made a report
- victimise or harass anyone subject to a report
- make false or misleading reports of suspected wrongdoing.

All employees are also obliged to adhere to the Code of Ethics and Conduct (the Code).

6. How to report

You can also report suspected wrongdoing in writing. You are encouraged to make a report in writing, as this can help to avoid any confusion or misinterpretation. To assist you in the reporting, it is recommended that you use the secure and confidential [Internal Reporting Form](#) available on the DPIE intranet.

If a report is made verbally, the person receiving the report will create a comprehensive record of the report and ask the person making the report to sign this record. The reporter should keep a copy of this record.

Anonymous reports

There will be some situations where you may not want to identify yourself when you make a report. These reports will still be dealt with by the disclosure coordinator. Identifying yourself allows us to provide you with any necessary protection and support, as well as feedback about what action is to be taken or has been taken to deal with the issues raised in the report or the outcome of any investigation.

It is important to realise that an anonymous report may not prevent you from being identified. If we do not know who made the report, it is challenging to prevent any reprisal action. You can make an anonymous report using the secure and confidential [Internal Reporting Form](#) available on the DPIE intranet.

Reports to external agencies

You can also make a public interest disclosure to:

- an investigating authority
- a Member of Parliament or a journalist, but only in the limited circumstances outlined below.

Investigating authorities

The PID Act lists several investigating authorities in NSW to which suspected wrongdoing can be reported. Each investigating authority can deal with a particular type of suspected wrongdoing. In

certain circumstances, it may be preferable to make a report of wrongdoing to an investigating authority, for example, a report about the Secretary.

The relevant investigating authorities are:

- the Independent Commission Against Corruption (ICAC) – for reports about corrupt conduct
- the NSW Ombudsman - for reports about maladministration
- the Auditor-General Audit Office of New South Wales – for reports about serious and substantial waste of public monies
- the Information Commissioner – for reports about a breach of the GIPA Act
- the Deputy Secretary, Local Government Planning and Policy within the Department of Planning, Industry and Environment – for reports about local government authorities. This would be an external report as it is under their power as an investigative authority.

You should contact the relevant investigating 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 the investigating authority may refer information and/or discuss any reports with the Department. We will make every effort to assist and cooperate with the investigating authority to ensure the matter is dealt with appropriately. We will also provide appropriate support and assistance to employees who report wrongdoing to an investigating authority if we are made aware that this has occurred.

Members of Parliament or journalist

To have the protections of the PID Act, employees reporting wrongdoing to a Member of Parliament (MP) or a journalist must have already made substantially the same report to one of the following:

- the Secretary
- the disclosure coordinator or a disclosures officer
- an investigating authority.

The Department or the investigating authority that received your initial report must have:

- decided not to investigate the matter
- determined 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.

Most importantly, to be protected under the PID Act, if you report suspected wrongdoing to an MP or journalist, you will need to be able to prove that you have reasonable grounds to believe that the disclosure you made is true and correct.

If you report wrongdoing to a person or authority that is not listed above or make a report to an MP or journalist without following the steps outlined above, you may not be protected under the PID Act. This may mean you will be in breach of legal obligations and/or our Code for disclosing confidential information.

For more information about reporting wrongdoing outside the Department, contact the disclosure coordinator of the NSW Ombudsman's Public Interest Disclosure Unit. Their contact details are provided at the end of this policy.

7. Advice to employees who report wrongdoing

When a report of wrongdoing is made, the following process will occur.

Initial acknowledgement

When you make a report, you will be contacted by the disclosure coordinator or employee in the Ethics Branch to acknowledge receipt of the report and to advise the name and contact details of the people who can tell you what is happening or handle any concerns you may have. This will occur within two business days.

Acknowledgement and determination

After the disclosure coordinator determines whether the report meets the PID criteria, you will be sent an acknowledgement letter, within 15 working days, which sets out:

- whether your report will be treated as a PID
- you will be provided with a copy of this policy at that time
- the initial actions that will be taken in response to your report
- information about the internal and external resources or services available that you can access for support, including the link to this policy.

If you make a report which meets the requirements of the PID Act, but the report was made under a statutory or legal obligation or incidental to the performance of your day to day functions, you will not receive an acknowledgement letter or a copy of this policy. For example, if you are an account auditor and notice financial irregularities and these are reported as part of your role, you will not receive an acknowledgement letter.

Progress updates

While your report is being dealt with, you will be:

- provided information about the progress of the investigation or other enquiries and reasons for any delay
- the likely timeframes for any investigation or other action
- provided with the contact details of the individual managing any actions, who you can contact about any questions or concerns
- advised of any decision not to proceed with the matter.

Outcome notification

Within 6 months of the report being made, the reporter will be notified of any action taken or proposed to be taken regarding the report.

8. Maintaining confidentiality

Where possible and appropriate we will take steps to keep your identity confidential. We will discuss with you whether it is possible to keep your identity confidential. If confidentiality cannot be

maintained due to the nature of our enquiries, we will develop a plan to support you and protect you from reprisal in consultation with you.

If you report wrongdoing, it is crucial that you only discuss your report with those responsible for dealing with it. This will include the disclosure coordinator or an employee in the Ethics Branch managing the matter. The fewer people who know about your report, before and after you make it, the more likely it will be that we can protect you from any reprisal.

Any employees involved in the investigation or handling of a report, including witnesses, are also required to maintain confidentiality and not disclose information about the process or allegations to any person except for those people responsible for handling the report.

9. Risk of reprisal and workplace conflict

When reports of wrongdoing are made, a risk assessment will be undertaken by the disclosure coordinator to assess the risk of reprisal and any support needed by the reporter. A person subject to a report is referred to as the relevant employee in accordance with the [Government Sector Employment Rules](#) when reviewing reports of wrongdoing.

Depending on the circumstances, the following steps may be taken, and the reporter will be advised:

- relocation of the relevant employee who is the subject of the allegation
- transfer of the relevant employee who is the subject of the allegation
- place the relevant employee upon a leave of absence during the investigation
- in consultation with the reporter, relocation within the current workplace or transfer to another position for which they are qualified can be considered.

10. Protection against reprisals

Any reprisal against any employees who report wrongdoing or are believed to have reported wrongdoing will not be tolerated.

The PID Act provides protections against reprisal:

- for the reporter of the public interest disclosure
- where a person acts against another because they believe or suspect the other person has made or may have made a public interest disclosure, even if they did not.

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.

A person who is found to have committed a reprisal offence may face criminal penalties such as imprisonment and/or fines and may be required to pay the victim damages for any loss suffered because of the detrimental action. Taking detrimental action in reprisal may result in disciplinary

action for misconduct.

It is essential to understand the nature and limitations of the protections provided by the PID Act. It does not protect the reporter from reasonable management action, for example, performance management.

Responding to allegations of reprisal

If you believe that detrimental action has been or is being taken against you or someone else in reprisal for reporting wrongdoing, you should tell the disclosure coordinator, or the Secretary immediately.

If the Secretary or the disclosure coordinator is made aware of or suspects that reprisal is being or has been taken against a person who has made a disclosure, the following steps will be taken:

- Assess the report of reprisal to decide whether it should be treated as a public interest disclosure and whether the matter warrants investigation or if other action should be taken to resolve the issue.
- Allegations of reprisal constitute an offence under the PID Act, so should reach the threshold to be treated as a PID, if there are reasonable grounds for the allegations.
- If the reprisal allegation warrants investigation, ensure this is conducted by a senior and experienced employee.
- If it is established that reprisal is occurring against someone who has made a report, take all steps possible to stop that activity and protect the reporter.
- Take appropriate disciplinary action against anyone proven to have taken or threatened any action in reprisal for making a disclosure.
- Refer any evidence of an offence under section 20 of the PID Act to the ICAC or NSW Police.

If you allege reprisal, you will be kept informed of the progress and outcome of any investigation or other action taken in response to the allegation of reprisal.

If you have reported wrongdoing and are experiencing reprisal, which you believe is not being dealt with effectively, contact the NSW Ombudsman or the ICAC (depending on the type of wrongdoing you reported). Contact details for these investigating authorities are included at the end of this policy.

Protection against legal action

If you make a public interest disclosure, you will not be subject to any legal liability for having made the public interest disclosure, and no action, claim, or demand can be taken against you for having made the public interest disclosure. You will not have breached any confidentiality or secrecy obligations, and you will have the defence of absolute privilege in defamation.

Support for those reporting wrongdoing

Regardless of whether their report is treated as a public interest disclosure, reporters are provided with access to any support they may need. In consultation with you, we may develop a support plan or appoint a person within the Department to support you.

Access to support is available for other employees involved in the internal reporting process. The Employee Assistance Program is a confidential and free support service and you can contact AccessEAP on 1800 818 728 or via info@accesseap.com.au.

11. Employees who are a subject of an allegation

If it is determined an investigation is to be undertaken as a result of a report, we are committed to ensuring that the relevant employee subject to any wrongdoing allegations is treated fairly and reasonably. This includes keeping the identity of the relevant employee confidential, where practical and appropriate.

If you are the relevant employee, you will be:

- advised of the details of the report
- advised of your rights and obligations under our policies and procedures
- treated fairly and impartially
- provided with contact details of the person managing the report so you can contact them with any questions or concerns
- kept informed about the progress of any investigation
- given a reasonable opportunity to respond to any allegation made against you
- told the outcome of any investigation, including any decision made about whether further action will be taken against you
- given a reasonable opportunity to respond to the proposed action.

Where the reported allegations have been investigated and unsubstantiated, support will be provided to the relevant employee. Where possible and practical, steps to keep the details of the allegations and any investigation will be kept confidential.

The relevant employee will have access to the Employee Assistance Program which is a confidential and free support service and you can contact [AccessEAP](mailto:info@accesseap.com.au) via info@accesseap.com.au or on 1800 818 728.

12. Failure to comply with this policy

Ethical and behavioural standards are set out in the Code, and you are expected to demonstrate those standards while working with the Department. If you fail to meet those standards, action may be taken in accordance with the Code.

It is important to be aware that it is a criminal offence under the PID Act to wilfully make a false or misleading statement when reporting wrongdoing. You will not be supported if you wilfully make false or misleading reports. This may also be a breach of the Code and result in management or disciplinary action.

13. Review

This policy and its effectiveness will be reviewed by the disclosures coordinator every three years from the date the document is approved. The document may be considered earlier in response to changes to legislation, post-implementation feedback or as necessary.

14. Related documents

Legislation that should be read in conjunctions with this policy

Public Interest Disclosure Policy

February 2021



Planning,
Industry &
Environment

- *Independent Commission Against Corruption Act 1988*
- *Local Government Act 1993*
- *Ombudsman Act 1974*
- *Public Finance and Audit Act 1983*
- *Public Interest Disclosure Act 1994*
- *Government Sector Employment Act 2013*
- *Government Information (Public Access) Act 2009*

Other policy documents that should be read in conjunction with this policy:

- *Code of Ethics and Conduct*

Policy metadata

Table 1: Policy metadata

Category	Description
Status	Approved
Date of approval	1 December 2020
Approver	Group Deputy Secretary Legal Services
Group	Legal and Governance
Division	Governance
Policy owner	Director Ethics
Branch	Ethics
Document location	DPIE Intranet and Internet
Next review date	December 2023
Associated procedure	Nil
Any additional applicability	Nil
Superseded document	DPIE - Public Interest Disclosure Policy July 2019 SOPA -Protect Disclosures Policy
Further information	ethics@dpie.nsw.gov.au
Document Reference	DOC20/624966

Version control

Table 2: Version control

Version Number	Date Issued	Changes
1	19 July 2019	Original Policy
2	11 February 2021	Annual review, approval DOC21/34341

Appendices

Appendix 1 - Flowchart

Appendix 2 – More information

Appendix 1 – Flowchart of internal reporting process

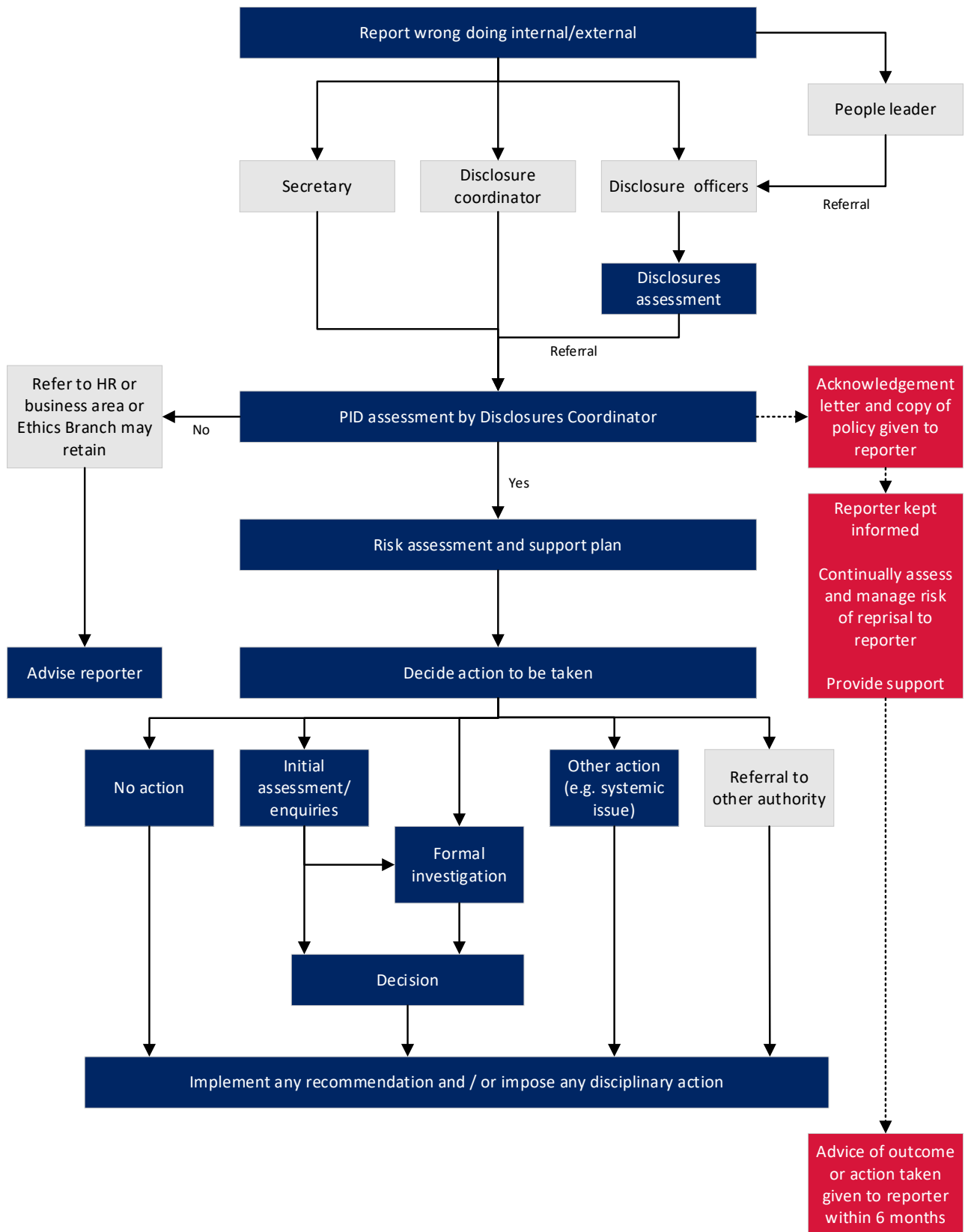


Figure 1 - Flowchart of internal reporting process

Appendix 2 – More Information

More information about public interest disclosures is [available on our intranet](#). You can make a report via [our Internal Reporting Form \(Whispli\)](#).

Employees can also seek advice and guidance from the disclosure coordinator, employees in the Ethics Branch and email ethics@dpie.nsw.gov.au.

The NSW Ombudsman's website at www.ombo.nsw.gov.au also provides relevant information on public interest disclosures.

The contact details for **external investigating authorities** that employees can make a public interest disclosure to or seek advice from are listed below. All contact details were correct when this policy was published.

For disclosures about **corrupt conduct**:

Independent Commission Against Corruption (ICAC)

Phone: 02 8281 5999

Toll-free: 1800 463 909

Tel. typewriter (TTY): 02 8281 5773 Email: icac@icac.nsw.gov.au

Web: www.icac.nsw.gov.au

For disclosures about **maladministration**:

NSW Ombudsman Phone: 02 9286 1000

Toll-free (outside Sydney metro): 1800 451 524

Tel. typewriter (TTY): 02 9264 8050 Email: pid@ombo.nsw.gov.au

Web: www.ombo.nsw.gov.au

For disclosures about **serious and substantial waste**:

NSW Auditor-General, NSW Audit Office Phone: 02 9275 7100

Email: governance@audit.nsw.gov.au

Web: www.audit.nsw.gov.au

For disclosures about **local government authorities**

Deputy Secretary, Local Government, Planning and Policy within the Department of Planning, Industry and Environment. This would be an external report.

Phone: 02 4428 4100

Tel. typewriter (TTY): 02 4428 4209 Email: olg@olg.nsw.gov.au

Web: www.olg.nsw.gov.au

For disclosures about breaches of the **GIPA Act**:

New South Wales Information Commissioner Information and Privacy Commission

Toll-free: 1800 472 679

Email: ipcinfo@ipc.nsw.gov.au