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Purpose

Museums of History NSW (MHNSW) and State Records NSW staff agency (staff agency) is required to have a Public Interest Disclosure (PID) Policy under section 42 of the *Public Interest Act 2022* (PID Act).

We take reports of serious wrongdoing seriously. We are committed to promoting a ‘speak up’ culture where public officials are encouraged and feel comfortable to report any conduct that they reasonably believe involves wrongdoing. The integrity of the staff agency relies upon our staff, volunteers, contractors and subcontractors speaking up when they become aware of any wrongdoing.

This policy sets out:

- how we will support and protect people who come forward with a report of serious wrongdoing
- how we will deal with reports in alignment with our responsibilities under the PID Act
- how to make a report, and to whom reports can be made
- the protections which are available to reporters under the PID Act.
- the names and contact details for the nominated disclosure officers in the staff agency
- the roles and responsibilities of staff agency workers who hold particular roles under the PID Act
- what information you will receive once you have made a voluntary PID
- procedures for managing the risk of detrimental action and reporting detrimental action
- record-keeping and reporting requirements

This policy also documents our commitment to building a speak up culture which includes having in place a framework that facilitates public interest reporting of wrongdoing by:

- protecting those who speak up from detrimental action
- imposing duties on agencies who receive reports of wrongdoing to take appropriate action to investigate or otherwise deal with them.

Background

A public interest disclosure (PID) is an allegation of corruption, maladministration, serious and substantial waste or breach of the *Government Information (Public Access) Act 2009* (GIPA Act) made by a public official and about a public official. The PID Act provides legal protection against reprisals that may be taken against public officials who make a PID. Under Part 4 of the Act, the Museums of History New South Wales Executive Staff Agency is required to have a policy specifying how PIDs will be received, assessed and dealt with.

This policy is designed to complement normal communication channels. Workers are encouraged to raise matters of concern at any time with their supervisors, but also have the option of making a report about a public interest issue in accordance with this policy and the Act.

The MHNSW Chief Executive Officer (CEO), nominated disclosure officers, and managers within the staff agency have specific responsibilities under the PID Act. This policy provides information on how people in these roles will fulfil their responsibilities. Other public officials who work in and for the public sector, but do not work for the staff agency may use this policy if they want information on who they can report wrongdoing to within MHNSW and State Records NSW (SRNSW).

Scope

This policy applies to all MHNSW Executive Staff Agency workers and any other public official in NSW who is entitled to make a disclosure or report under the PID Act.

This policy does **not** apply to:

- people who have received services from MHNSW or SRNSW and want to make a complaint about those services
- people, such as contractors, who provide services to MHNSW or SRNSW but are not employees of the staff agency.

This means that this policy does not apply to any disclosure, report or complaint made by a person who is not a public official in NSW. The relevant Complaints Handling Policy provides guidance for persons seeking to make a disclosure, report or complaint, who are not a public official in NSW or otherwise covered under the PID Act.

Policy

1. Reporting Serious Wrongdoing

1.1. Reports, complaints and grievances

When a public official reports suspected or possible wrongdoing in the public sector, their report will be a PID if it has certain features which are set out in the PID Act.

Some internal complaints or internal grievances may also be PIDs, as long as they have the features of a PID. If an internal complaint or grievance is a report of serious wrongdoing, we will consider whether it is a PID. If it is a PID, we will deal with it as set out in this policy, but we will also make sure the appropriate policies located in the Related Policies section are followed.

It is important that the receipt of a PID is quickly recognised to ensure that the person who has made the report receives any protections they are entitled to under the PID Act.

All wrongdoing and misconduct should be reported, not only reports of serious wrongdoing that is defined under the PID Act. We have processes in place to deal with these appropriately even if they are not a PID.

1.2. When will a report be a PID?

There are three types of PIDs in the PID Act. These are:

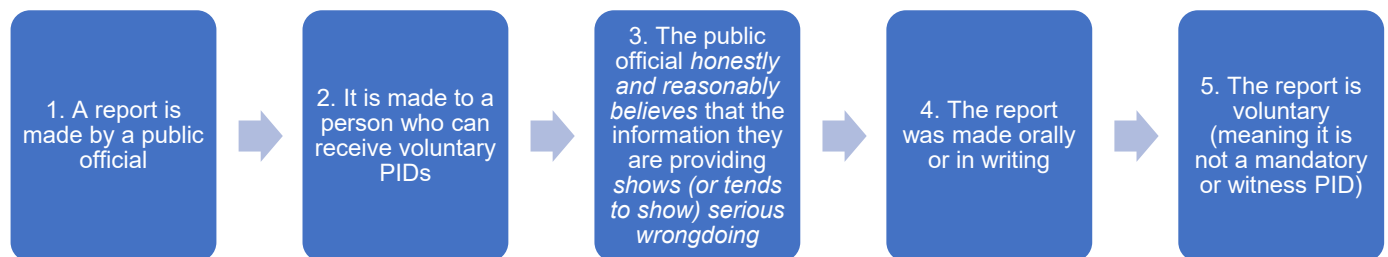
1. *Voluntary PID*: This is a PID where a report has been made by the public official because they decided, of their own accord, to come forward and disclose what they know. It is often referred to as whistleblowing.

2. **Mandatory PID:** This is a PID where the public official has made a report about serious wrongdoing because they have a legal obligation to make that report, or because making that report is an ordinary aspect of their role or function in an agency.
3. **Witness PID:** This is a PID where a person discloses information during an investigation of serious wrongdoing following a request or requirement of the investigator.

You can find more information about mandatory and witness PIDs in the Ombudsman's guidelines '[Dealing with mandatory PIDs](#)' and '[Dealing with witness PIDs](#)'.

Voluntary PIDs

This policy primarily deals with the management of voluntary PIDs. A report is a voluntary PID if it has the following five features, which are set out in sections 24 to 27 of the PID Act:



Reporters will not be expected to prove that what they report actually happened or is serious wrongdoing. Reporters *do* have to honestly believe, on reasonable grounds, that the information being reported shows or tends to show serious wrongdoing.

Even though reports do not have to prove the serious wrongdoing happened or provide evidence, a mere allegation with no supporting information is unlikely to meet this test.

If we make an error and fails to identify that a voluntary PID has been made, the reporter will still be entitled to protections under the PID Act.

If you make a report and believe that we have made an error by not identifying that you have made a voluntary PID, you should raise this with a nominated disclosure officer. If you are still not satisfied with this outcome, you can seek an internal review or for the matter to be conciliated. You may also contact the NSW Ombudsman. Further information on rights to internal review and conciliation is found in Section 6 of this policy.

1.3. Who can make a voluntary PID?

Any public official can make a voluntary PID. You are a public official if you are:

- Any staff agency worker
- a person employed in or by a NSW public sector agency or otherwise in the service of an agency
- a person having public official functions or acting in a public official capacity whose conduct or activities an integrity agency is authorised by another Act or law to investigate
- an individual in the service of the Crown
- a statutory officer
- a person providing services or exercising functions on behalf of an agency, including a contractor (e.g. contingent worker), intern or volunteer (NB: this does not refer to contractors who are providing a service **to** MHNSW or SRNSW)
- an employee, partner or officer of an entity that provides services, under contract, subcontract or other arrangement, **on behalf of** an agency or exercises functions of an agency, and are involved

in providing those services or exercising those functions. (NB: this does not refer to contractors who are providing a service **to** MHNSW or SRNSW)

- a judicial officer
- a Member of Parliament (MP), including a Minister
- a person employed under the *Members of Parliament Staff Act 2013*.

A public official can make a PID about serious wrongdoing relating to *any* agency, not just the agency they are working for. This means that the staff agency can receive PIDs from public officials outside of the agency. It also means that you can make a PID to any agency, including an integrity agency like the Independent Commission Against Corruption (ICAC) and the NSW Ombudsman. Appendix 2 of this policy has a list of integrity agencies.

1.4. What is serious wrongdoing?

Reports must be of one or more of the following categories of *serious wrongdoing* to be a voluntary PID (in addition to having the other features set out in section 1.2). Serious wrongdoing is defined in the PID Act as:

- *corrupt conduct* — such as a public official accepting a bribe
- *serious maladministration* — such as an agency systemically failing to comply with proper recruitment processes when hiring staff
- *a government information contravention* — such as destroying, concealing or altering records to prevent them from being released under a Government Information Public Access application
- *a local government pecuniary interest contravention* — such as a senior council staff member recommending a family member for a council contract and not declaring the relationship
- *a privacy contravention* — such as unlawfully accessing a person's personal information on an agency's database
- *a serious and substantial waste of public money* — such as an agency not following a competitive tendering process when contracting with entities to undertake government work.

When you make your report, you do not need to state what category of serious wrongdoing you are reporting or that you are reporting serious wrongdoing.

1.5. Who can I make a voluntary PID to?

For a report to be a voluntary PID, it must be made to certain public officials.

1.5.1. Making a report to a public official who works for the staff agency

You can make a report inside the staff agency to:

- The MHNSW **Chief Executive Officer**
- a **disclosure officer**— a list of nominated disclosure officers, parameters for nominating disclosure officers and their contact details can be found at Appendix 1 of this policy
- Your **manager** — this is the person who directly, or indirectly, supervises you or that you report to. You may have more than one manager. Your manager will make sure that the report is communicated to a disclosure officer on your behalf or may accompany you while you make the report to a disclosure officer.
- Via the '**Speak Up**' Hotline

1.5.2. Making a report to a recipient outside of the staff agency

You can also make your report to a public official in another agency (meaning an agency you do not work for) or an integrity agency. These include:

- the *head of another agency* — this means the head of any public service agency
- an *integrity agency* — a list of integrity agencies is located at Appendix 2 of this policy
- a *disclosure officer for another agency* — ways to contact disclosure officers for other agencies is located in an agency's PID policy which can be found on their public website
- a *Minister or a member of a Minister's staff* but the report *must be made in writing*.

If you choose to make a disclosure outside of the staff agency, it is possible that your disclosure will be referred back to us so that appropriate action can be taken.

1.5.3. Making a report to a Member of Parliament or journalist

Disclosures to MPs or journalists are different to other reports. You can only disclose a report of wrongdoing as a voluntary PID to an MP or journalist in the following circumstances:

- You must have first made substantially the same disclosure (described here as a 'previous disclosure') to someone who can receive disclosures.
- The previous disclosure must be substantially true.
- You did not make the previous disclosure anonymously.
- You did not give a written waiver of your right to receive information relating to your previous disclosure.
- You did not receive the following from us:
 - notification that we will not investigate the serious wrongdoing and will also not refer the previous disclosure to another agency, or
 - the following information at the end of the investigation period:
 - notice of our decision to investigate the serious wrongdoing
 - a description of the results of an investigation into the serious wrongdoing
 - details of proposed or recommended corrective action as a result of the previous disclosure or investigation.

Investigation period means:

- six months from the previous disclosure being made, or
- after 12 months if you applied for an internal review of the agency's decision within six months of making the disclosure.

If all the above requirements are met, your disclosure to an MP or journalist may be a voluntary PID.

1.6. What form should a voluntary PID take?

You can make a voluntary PID:

- *in writing* — this could be an email or letter to a person who can receive voluntary PIDs.
- *orally* — have a private discussion with a person who can receive voluntary PIDs. This can be face-to-face, via telephone or virtually.
- *anonymously* — write an email or letter or call a person who can receive PIDs to make a report without providing your name or anything that might identify you as the maker of the report. A report will only be considered anonymous if there is no reasonable or practical way of communicating with the person making the report. Even if you choose to remain anonymous, you will still be protected under the PID Act. It may be difficult, however, for us to investigate the matter(s) you have disclosed if we cannot contact you for further information.
- *Via the Speak Up hotline* – these include phone, online, email and post

1.7. What should I include in my report?

You should provide as much information as possible so we can deal with the report effectively. The type of information you should include is:

- date, time and location of key events
- names of person(s) involved in the suspected wrongdoing, their role, title and how they are involved
- your relationship with the person(s) involved, such as whether you work closely with them
- your explanation of the matter you are reporting
- how you became aware of the matter you are reporting
- possible witnesses
- other information you have that supports your report.

See Appendix 3 for the Public Interests Disclosures – Internal Report Form

1.8. What if I am not sure if my report is a PID?

You should report all wrongdoing you become aware of regardless of whether you think it is serious wrongdoing. It is important for us to understand what is or may be occurring.

We are then responsible for making sure your report is handled appropriately under the PID Act, or if it is not a PID, in line with our other procedures. Even if your report is not a PID, it may fall within another one of the agency's policies for dealing with reports, allegations or complaints.

1.9. Deeming that a report is a voluntary PID

In certain circumstances it may be determined that a report is a voluntary PID even if the report does not otherwise have all the features of a voluntary PID. This is known as the 'deeming power'.

By deeming that a report is a voluntary PID, it ensures that reporters are provided with protections under the PID Act. If you make a report that has not met all the requirements of a voluntary PID, you can refer your matter to one of the workers below to request that they consider deeming your report to be a voluntary PID.

A decision to deem a report to be a voluntary PID is at the discretion of the MHNSW Chief Executive Officer or delegate (see below). For more information about the deeming power, see the Ombudsman's guideline ['Deeming that a disclosure is a voluntary PID'](#).

Staff agency delegates with deeming power:

- Director, Strategy and External Relations
- Head of Governance

1.10. Who can I talk to if I have questions or concerns?

Please contact the Governance Team who can provide further information on Public Interest Disclosures. All questions and concerns are treated confidentially. The Governance team can be contacted via:

Email: governance@mhnsw.au

Phone: 0404 151 933 (Head of Governance)

In person: our staff are regularly located at the Western Sydney Records Centre and The Mint

All disclosure officers and Managers are required to receive formal PID training and should also be able to answer or appropriately refer any questions you might have.

2. Protections

2.1. How is the maker of a voluntary PID protected?

When you make a voluntary PID you receive special protections under the PID Act.

We are committed to taking all reasonable steps to protect you from detriment as a result of having made a PID. We are also committed to maintaining your confidentiality as much as possible while the PID is being dealt with.

We will not tolerate any type of detrimental action being taken against you because you have made a report, might make a report or are believed to have made a report.

The maker of a voluntary PID is protected in the following ways:

- Protection from detrimental action
 - A person cannot take detrimental action against another person because they have made a voluntary PID or are considering making a PID. Detrimental action includes bullying, harassment, intimidation or dismissal.
 - Once we become aware that a voluntary PID by a person employed or otherwise associated with the staff agency that concerns serious wrongdoing relating to the staff agency has been made, we will undertake a risk assessment and take steps to mitigate the risk of detrimental action occurring against the person who made the voluntary PID.
 - It is a criminal offence for someone to take detrimental action against a person because they have made or may make a voluntary PID. It is punishable by a maximum penalty of 200 penalty units or imprisonment for five years or both.
 - A person may seek compensation where unlawful detrimental action has been taken against them.
 - A person can apply for a court order (injunction) where detrimental action is threatened or has occurred (for example, an order to prevent dismissal or to require reinstatement).

Note that a person who makes a PID can still be subject to reasonable management action (such as ordinary performance reviews and performance management). Provided such action is not taken because of the PID, it is not detrimental action under the PID Act.

- Immunity from civil and criminal liability

Some public officials are often subject to a duty of confidentiality that prevents them disclosing certain information that they obtain or become aware of at work. Sometimes, in order to make a PID, public officials will need to breach or disregard such confidentiality duties. If that happens, a public official cannot be disciplined, sued or criminally charged for breaching confidentiality.

- Confidentiality

Public officials and agencies must not disclose information tending to identify a person as the maker of a voluntary PID unless doing so is permitted by the PID Act.

- Protection from liability for own past conduct

The Attorney General can give the maker an undertaking that a disclosure of their own past conduct will not be used against them if a person discloses their own wrongdoing or misconduct while making a report. This undertaking can only be given on application by an integrity agency to the Attorney General.

2.2. Protections for the people who make mandatory and witness PIDs

Apart from PIDs that are made voluntarily by public officials, there are other types of reports that are recognised as PIDs under the PID Act:

- *A mandatory PID*: This is a PID where the public official has made the report about serious wrongdoing because they have a legal obligation to make that report, or because making that report is an ordinary aspect of their role or function in an agency.
- *A witness PID*: This is a PID where a person discloses information during an investigation of serious wrongdoing following a request or requirement of the investigator.

Protections for makers of mandatory and witness PIDs are detailed in the table below.

Protection	Mandatory PID	Witness PID
Detrimental action — It is an offence to take detrimental action against a person based on the suspicion, belief or awareness that a person has made, may have made or may make a PID.	✓	✓
Right to compensation — A person can initiate proceedings and seek compensation for injury, damage or loss suffered as a result of detrimental action being taken against them.	✓	✓
Ability to seek injunction — An injunction can be sought to prevent the commission or possible commission of a detrimental action offence against a person. For example, an order to prevent dismissal or to require reinstatement.	✓	✓
Immunity from civil and criminal liability — a person will not incur civil or criminal liability if the person breaches a duty of confidentiality while making a disclosure. This means that legal action cannot be taken against a person for: <ul style="list-style-type: none">• breaching a duty of secrecy or confidentiality, or• breaching another restriction on disclosure.	✓	✓

3. Reporting detrimental action

If you experience adverse treatment or detrimental action, such as bullying or harassment, you should report this immediately. You can report any experience of adverse treatment or detrimental action directly to us, or to an integrity agency. A list of integrity agencies is located at Appendix 2 of this policy.

To report any experience of adverse treatment or detrimental action internally to us you should contact any disclosure officer listed in Appendix 1 or the staff agency Chief Executive Officer.

4. General Support

We will provide support for workers who have made a report. This includes:

- Allocating a key contact person who will take steps to protect their interests
- Providing contact details for the NSW Ombudsman
- Providing contact details for the Employee Assistance Program (EAP)

- Other support may be available depending on the circumstances of the disclosure

5. How we will deal with voluntary PIDs

5.1. Receiving a report

When a manager or disclosure officer at the staff agency receives a report which is a voluntary PID, or looks like it may be a voluntary PID, they will refer the report (in writing) to the CEO and Chief Disclosure Officer (Director, Strategy and External Relations) as soon as possible after receipt.

The Chief Disclosure Officer will nominate an appropriate contact person for the reporter and will commence the process for acknowledging a report. The nominated contact may be any disclosure officer.

5.2. Acknowledging a report

Unless made anonymously, when a person has made a report which is a voluntary PID, or looks like it may be a voluntary PID, they will receive the following information:

- Within five business days you will receive an acknowledgment in writing that the report has been received. This acknowledgement will:
 - state that the report will be assessed to identify whether it is a PID
 - state that the PID Act applies to how we will deal with the report
 - provide clear information on how you can access this PID policy
 - provide you with details of a nominated contact person and available supports.
- If the report is a voluntary PID, we will inform you as soon as possible how we intend to deal with the report. This may include:
 - that we are investigating the serious wrongdoing
 - that we will refer the report to a different agency (if appropriate) to deal with the voluntary PID. If we do this, we will provide you with details of this referral.
 - if we decide to not investigate the report and to not refer it to another agency for it to be investigated, we will tell you the reasons for this decision. We will also notify the NSW Ombudsman of this decision.
- If we decide to investigate the serious wrongdoing, your nominated contact will provide you with updates on the investigation at least every three months. During this time, if you would like more frequent updates, you should contact your nominated contact person who was nominated when you made the report. This communication method may be via email, by phone discussions or virtually via Teams and may be determined at the time of the reporting.
 - If we investigate the serious wrongdoing, we will provide you with the following information once the investigation is complete:
 - a description of the results of the investigation — that is, we will tell you whether we found that serious wrongdoing took place.
 - information about any corrective action as a result of the investigation/s — this means we will tell you what action we took in relation to the person who engaged in the serious wrongdoing or if the serious wrongdoing was by our agency, what we have put in place to address that serious wrongdoing.
 - Corrective action following an investigation could include taking disciplinary action against someone or changing the practices, policies and procedures that we have in place which led to the serious wrongdoing.

- There may be some details about both the findings made as a result of the investigation and the corrective action taken that cannot be revealed to you. We will always balance the right of a person who makes a report to know the outcome of that report, with other legal obligations we have.
- If you have made an anonymous report, in many cases we may not be able to provide this information to you.

See Appendix 4 for a PID acknowledgement letter template.

5.3. Dealing with a voluntary PID

Once a report that may be a voluntary PID is received the Chief Disclosure Officer will look at the information contained in the report to see if it has the features of a voluntary PID. This assessment is undertaken to identify whether the report is a voluntary PID or another type of disclosure, and to make sure that the right steps are followed. If the report is assessed as a voluntary PID, we will ensure that we comply with the requirements in the PID Act.

Report not a voluntary PID

If the report is not a voluntary PID, it will still need to be dealt with in a manner consistent with the appropriate policy listed under the 'Related Policies' section of this policy, or through an alternate process.

Where a report is not a voluntary PID, your nominated contact will let you know that the PID Act does not apply to the report and how the concerns raised in your report will be dealt with.

If you are not happy with this assessment or otherwise disagree with it, you can raise it with the person who has communicated the outcome with you or a disclosure officer. You may also request an internal review or a conciliation. we can, but do not have to, request that the NSW Ombudsman conciliate the matter.

See Appendix 5 for a letter template.

Cease dealing with report as voluntary PID

We may stop dealing with a report as voluntary PID if it is later determined to not actually be a voluntary PID (meaning it does not have all the features of a PID).

Once we determine a report is not a voluntary PID we will:

- state that the report has been re-assessed and is not voluntary PID
- advise the maker that we have ceased dealing with the report as a voluntary PID
- state that the PID Act outlines what features a voluntary PID must have and provide details on which features the report did not meet
- if appropriate, provide information on how we may deal with the report under alternate methods or policies
- provide the maker details of a contact person and available supports
- provide details of how to request an internal review

Where the report is a voluntary PID

The Chief Disclosure Officer will oversee the review and management of all voluntary PIDs and may seek assistance from any other disclosure officer, as required, to undertake these duties.

If a report is a voluntary PID:

- In most cases we will conduct an investigation to make findings about whether the serious wrongdoing disclosed in the report occurred, who was involved, who was responsible, and whether

the people, or the agency, engaged in serious wrongdoing. Investigations are conducted in accordance with the *MHNSW Investigation Policy/Procedure*.

- There may also be circumstances where we decide that the report should be referred to another agency, such as an integrity agency. For example, reports concerning possible corrupt conduct may be required to be reported to the ICAC in accordance with section 11 of the *Independent Commission Against Corruption Act 1988*.
 - Before referring a matter, we will discuss the referral with the other agency, and we will provide you with details of the referral and a contact person within the other agency.
- There may be circumstances where we believe an investigation is not warranted — for example, if the conduct has previously been investigated.
 - If we decide not to investigate a report and to not refer the matter to another agency, we must let you know the reasons for this and notify the NSW Ombudsman.
- Referral to another agency may include where we have received a PID about another agency.

5.4. How we will protect the confidentiality of the maker of a voluntary PID

We understand that people who make voluntary PIDs may want their identity and the fact that they have made a report to be confidential.

Under the PID Act, information tending to identify a person as the maker of a voluntary PID (known as identifying information) is not to be disclosed by a public official or an agency.

There are certain circumstances under the PID Act that allow for the disclosure of identifying information. These include:

- where the person consents in writing to the disclosure
- where it is generally known that the person is the maker of the voluntary PID because of their voluntary self-identification as the maker
- when the public official or MHNSW reasonably considers it necessary to disclose the information to protect a person from detriment
- where it is necessary the information be disclosed to a person whose interests are affected by the disclosure
- where the information has previously been lawfully published
- when the information is disclosed to a medical practitioner or psychologist for the purposes of providing medical or psychiatric care, treatment or counselling to the individual disclosing the information
- when the information is disclosed for the purposes of proceedings before a court or tribunal
- when the disclosure of the information is necessary to deal with the disclosure effectively
- if it is otherwise in the public interest to disclose the identifying information.

We will not disclose identifying information unless it is necessary and authorised under the PID Act.

We will put in place steps to keep the identifying information of the maker and the fact that a report has been made confidential. It may not be possible for us to maintain complete confidentiality while we progress the investigation, but we will do all that we practically can to not unnecessarily disclose information from which the maker of the report can be identified. We will do this by:

- limiting the number of people who are aware of the maker's identity or information that could identify them

- if we must disclose information that may identify the maker of the PID, we will still not disclose the actual identity of the maker of the PID, unless we have their consent to do so.
- we will ensure that any person who does know the identity of the maker of a PID is reminded that they have a legal obligation to keep their identity confidential.
- we will ensure that only authorised persons have access to emails, files or other documentation that contain information about the identity of the maker.
- we will undertake an assessment to determine if anyone is aware of the maker's identity and if those persons have a motive to cause detrimental action to be taken against the maker or impede the progress of the investigation.
- We will provide information to the maker of the PID about the importance of maintaining confidentiality and advising them how best to protect their identity, for example, by telling them not to discuss their report with other staff

If confidentiality cannot be maintained or is unlikely to be maintained, MHNSW will:

- advise the person whose identity may become known
- update the agency's risk assessment and risk management plan
- implement strategies to minimise the risk of detrimental action
- provide additional supports to the person who has made the PID
- remind persons who become aware of the identifying information of the consequences for failing to maintain confidentiality and that engaging in detrimental action is a criminal offence and may also be a disciplinary matter.

5.5. How we will assess and minimise the risk of detrimental action

We will not tolerate any detrimental action being taken by any person against a person who has made a PID, investigators, witnesses or the person the report is about.

We will assess and take steps to mitigate detrimental action from being taken against the maker of a voluntary PID, the person whose conduct is the subject of a PID, investigators and witnesses.

We will take steps to assess and minimise the risk of detrimental action by:

- explaining that a risk assessment will be undertaken, and a risk management plan will be created (including reassessing the risk throughout the entirety of the matter)
- providing details of the unit/role that will be responsible for undertaking a risk assessment
- explaining the approvals for risk assessment and the risk management plan, that is, rank or role of the person who has final approval
- explaining how the agency will communicate with the maker to identify risks
- listing the protections that will be offered, that is, the agency will discuss protection options with the maker which may including remote working or approved leave for the duration of the investigation
- outlining what supports will be provided.

Detrimental action against a person is an act or omission that causes, comprises, involves or encourages detriment to a person or a threat of detriment to a person (whether express or implied). Detriment to a person includes:

- injury, damage or loss
- property damage
- reputational damage
- intimidation, bullying or harassment
- unfavourable treatment in relation to another person's job

- discrimination, prejudice or adverse treatment
- disciplinary proceedings or disciplinary action, or
- any other type of disadvantage.

Detrimental action does not include:

- lawful action taken by a person or body to investigate serious wrongdoing or other misconduct
- the lawful reporting or publication of a finding of serious wrongdoing or other misconduct
- the lawful making of adverse comment, resulting from investigative action
- the prosecution of a person for a criminal offence
- reasonable management action taken by someone in relation to a person who made or may make a PID. For example, a reasonable appraisal of a PID maker's work performance.

5.6. How we will deal with allegation of a detrimental action offence

If we become aware of an allegation that a detrimental action offence has occurred or may occur, we will:

- take all steps possible to stop the action and protect the person(s)
- take appropriate disciplinary action against anyone that has taken detrimental action
- refer any evidence of a detrimental action offence to the Commissioner of Police and the ICAC or the Law Enforcement Conduct Commission (whichever is applicable)
- notify the NSW Ombudsman about the allegation of a detrimental action offence being committed.

Section 3 above outlines who you should report experiences of adverse treatment or detrimental action, such as bullying or harassment. You should report this immediately.

When an allegation of detrimental action is received we will update the maker, and receiver of detrimental action monthly and offer the supports appropriate on a case by case basis.

5.7. What we will do if an investigation finds that serious wrongdoing has occurred

If, after an investigation, it is found that serious wrongdoing or other misconduct has occurred, we will take the most appropriate action to address that wrongdoing or misconduct. This is also known as corrective action.

Corrective action can include:

- a formal apology
- improving internal policies to adequately prevent and respond to similar instances of wrongdoing
- providing additional education and training to staff where required
- taking employment action against persons involved in the wrongdoing (such as termination of employment, relocation, a caution or reprimand)
- payment of compensation to people who have been affected by serious wrongdoing or other misconduct.

Where deemed appropriate, the findings of investigations will be issued to the following persons or groups:

- The MHNSW Chief Executive Officer;
- Chief Disclosure Officer; and
- Audit and Risk Committee

The MHNSW Chief Executive Officer may determine to make some or all of the investigation reporting and findings available to other MHNSW workers where appropriate and necessary for the management of any recommendations.

The Governance team is responsible for creating an action plan to address any recommendations in the findings and ensuring these occur. This will be regularly reported to the MHNSW Chief Executive Officer and Audit and Risk Committee. The maker will be notified of the proposed or recommended corrective actions via email, by phone discussions or virtually via Teams.

6. Review and dispute resolution

6.1. Internal Review

People who make voluntary PIDs can seek internal review of the following decisions made by us:

- that we are not required to deal with the report as a voluntary PID
- to stop dealing with the report because we decided it was not a voluntary PID
- to not investigate the serious wrongdoing and not refer the report to another agency
- to cease investigating the serious wrongdoing without either completing the investigation or referring the report to another agency for investigation.

We will ensure internal reviews are conducted in compliance with the PID Act.

If you would like to make an application for an internal review, you must apply in writing within 28 days of being informed of our decision. Your internal review application should state the reasons why you consider our decision should not have been made. You may also submit any other relevant material with your application.

Internal review requests should be sent to a nominated disclosure officer via email. Internal reviews will be conducted within 28 days of receiving a review request and will be undertaken by an appropriate person appointed by the MHNSW Chief Executive Officer.

6.2. Voluntary dispute resolution

If a dispute arises between us and a person who has made a report which is, or may be, a voluntary PID, we may request the NSW Ombudsman to conciliate the dispute. Conciliation is a voluntary process and will only be suitable for disputes where we and the maker of the report are willing to resolve the dispute.

7. Other agency obligations

7.1. Record-keeping requirements

We must keep full and accurate records with respect to all information received in connection with the PID Act. This ensures that we comply with our obligations under the *State Records Act 1998*.

All records are stored in our recordkeeping management system, Content Manager. This ensures the creation, maintenance and accessibility of records over time. Appropriate security and access controls will be placed on individual records to prevent unauthorised access, removal, use, alteration, concealment, disclosure, or unlawful destruction or deletion of records, information, and data

The relevant Records Management policy outlines our commitment to implementing and maintaining a records management program that ensures sound recordkeeping.

7.2. Reporting of voluntary PIDs and our annual return to the Ombudsman

Each year will provide an annual return to the NSW Ombudsman which includes:

- information about voluntary PIDs received by us during each return period (yearly with the start date being 1 July)
- action taken by us to deal with voluntary PIDs during the return period
- how we promoted a culture in the workplace where PIDs are encouraged.

The required information will be collected, collated and prepared by the Governance team and stored in accordance with the record-keeping methods outlined in section 7.1.

7.3. How we will ensure compliance with the PID Act and this policy

Reviews of this PID policy will be undertaken by the Governance Team at least every 2 years, and more frequently if changes in legislation, policies or other Codes of Practice require amendment of this policy.

To ensure continuous compliance with the PID Act we maintain a Compliance Register which includes the *Public Interest Disclosures Act 2022*. This register identifies a description of the compliance obligations of the Act, risks of non-compliance, a description of risk environment and controls and who is responsible for the activities or functions. This register is reviewed by the Department of Enterprise, Investment and Trade legal team to ensure currency.

The PID Policy and our compliance with the PID Act is bi-annually reported to at MHNSW Audit and Risk Committee meetings as part of the Fraud, Ethics, Corruption & Complaints reporting.

Roles and Responsibilities

Certain people within MHNSW have responsibilities under the PID Act.

- Head of Agency: is the Chief Executive Officer of MHNSW and is responsible for
 - fostering a workplace culture where reporting is encouraged
 - receiving disclosures from public officials
 - ensuring there is a system in place for assessing disclosures
 - ensuring we comply with this policy and the PID Act
 - ensuring that we have appropriate systems for:
 - overseeing internal compliance with the PID Act
 - supporting public officials who make voluntary PIDs, including by minimising the risk of detrimental action
 - implementing corrective action if serious wrongdoing is found to have occurred
 - complying with reporting obligations regarding allegations or findings of detrimental action
 - complying with yearly reporting obligations to the NSW Ombudsman
 - Make decisions following any investigation or appoint an appropriate decision-maker;
 - Refer actual or suspected corrupt conduct to the ICAC; and
 - Refer any evidence of a reprisal offence under section 20 of the Act to the NSW Police or the ICAC
 - Undertake PID training as required
- Chief Disclosure Officer: The Chief Disclosure Officer is responsible for:
 - receiving reports from public officials
 - receiving reports when they are passed on to them by managers
 - receiving reports when they are passed on to them by disclosure officers
 - ensuring reports are dealt with appropriately, including by referring the matter to the appropriate complaint unit (if relevant)
 - ensuring that any oral reports that have been received are recorded in writing
 - providing advice about the system and the internal reporting policy
 - Undertake PID training as required
- Disclosure Officers: The Disclosure Officers are responsible for:

- receiving reports from public officials
 - receiving reports when they are passed on to them by managers
 - ensuring reports are dealt with appropriately, including by referring the matter to the appropriate complaint unit (if relevant)
 - ensuring reports are passed onto the Chief Disclosure Officer (where appropriate)
 - ensuring that any oral reports that have been received are recorded in writing
 - providing advice about the system and the internal reporting policy
 - Undertake PID training as required
- Managers: Managers should be aware of this policy and are responsible for creating a local work environment where workers are comfortable about reporting wrongdoing. They will:
 - Receive any reports from persons that report to them or that they supervise
 - passing on reports they receive to a disclosure officer
 - Undertake PID training as required
 - All Workers: All workers are obliged to:
 - report suspected serious wrongdoing or other misconduct
 - use their best endeavours to assist in an investigation of serious wrongdoing if asked to do so by a person dealing with a voluntary PID on behalf of the staff agency
 - treat any person dealing with or investigating reports of serious wrongdoing with respect.
 - All employees must not take detrimental action against any person who has made, may in the future make, or is suspected of having made, a PID.

Delegations

- Nil

Legislation

- *Government Information (Public Access) Act 2009*
- *Independent Commission Against Corruption Act 1988*
- *Historic Houses Act 1980*
- *Ombudsman Act 1974*
- *Privacy and Personal Information Act 1998*
- *Public Finance and Audit Act 1983*
- *Public Interest Disclosures Act 1994*
- *Public Interest Disclosure Regulation 2011*
- *State Records Act 1988*

Related Policies

- PP22/56 Code of Conduct
- PP22/62 Gifts, Benefits & Hospitality
- PP22/63 Grievance Handling
- PP22/88 Complaints Handling Policy
- PP23/16 Conflicts of Interest Procedure
- PP23/15 Managing Fraud and Corruption Events Procedure
- PP22/63 Grievance Policy
- PP22/76 Records Management Policy

- PP23/XX Investigation Policy/Procedure (under development)

Other related documents

- NSW Ombudsman Public Interest Disclosure Guidelines
- NSW Ombudsman Model internal reporting policy - State government

Definitions

- Corrupt conduct is defined in the *Independent Commission Against Corruption Act 1988* (s.7, 8 & 9). Corrupt conduct includes the dishonest or partial exercise of official functions by a public official. It also includes conduct such as taking or offering bribes, public officials dishonestly using influence, blackmail, fraud and election bribery.
- Maladministration is defined in the Act as 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.
- Chief Executive Officer means the Chief Executive Officer of MHNSW.
- Public official means an individual who is an employee of, or otherwise in the service of, a public authority, as defined in section 4A of the Act.
- Public authority means any public authority whose conduct or activities may be investigated by an investigating authority (such as ICAC, the Ombudsman, the Auditor-General, the Information Commissioner), as defined in section 4 of the Act.
- Manager means any employee who directly or indirectly supervises staff agency workers or to whom other MHNSW workers report. Manager is fully defined at s14 of the PID Act.

Superseded Documents

This policy replaces:

- PP22/73 former MHNSW Public Interest Disclosures policy

Revision history

Version	Date issued	Notes	By
1	01/10/2023	New MHNSW PID Policy to comply with the new PID Act. Based on the NSW Ombudsman Model Policy	Head of Governance

Review date

The next review date will be September 2025.

Contact

This policy is available on our public facing website as well as on the Intranet (Workspace). A copy of the policy is also available to all workers on commencement of employment. A hard copy of the policy can be requested from the Governance team.

If you require further information about this policy, how public interest disclosures will be handled and the PID Act you can:

- contact the Governance Team via email governance@mhnsw.au
- confidentially contact a nominated disclosure officer within the staff agency (see Appendix 1)

- contact the PID Advice Team within the NSW Ombudsman by phone: (02) 9286 1000 or email: pidadvice@ombo.nsw.gov.au, or
- access the NSW Ombudsman's PID guidelines which are available on its website.

If you require legal advice with respect to the PID Act or your obligations under the PID Act, you may need to seek independent legal advice.

Appendices

- **Appendix 1** – Names and contact details of disclosure officers
- **Appendix 2** – List of integrity agencies
- **Appendix 3** – Public Interests Disclosures – Internal Report Form
- **Appendix 4** – PID Acknowledgement letter template
- **Appendix 5** – Report Acknowledgement letter template (deemed not a PID)
- **Appendix 6** – Public Interests Disclosures – Internal Report Process

Appendix 1 – Who Can I Make a PID to –Contacts

Nominating Disclosure Officer – Principles

Our disclosure officers are chosen based on the following principles. Nominate Disclosure Officers:

- have received the appropriate PID training
- are geographically located across a number of our sites

Workers who may receive voluntary PIDs

Head of Agency: Mary Darwell, Chief Executive Officer
Email: mary.darwell@mhnsw.au
Phone: TBA

Disclosure Officers: Martyn Killion, Executive Director State Records NSW
Email: Martyn.Killion@mhnsw.au
Phone: 0411 130 625

Danielle Toga, Director, Corporate Services
Email: Danielle.Toga@mhnsw.au
Phone: 0408 688 910

Kathryn Natoli, Director, Strategy & External Relations
Email: kathryn.natoli@mhnsw.au
Phone: 0421 576 283

Penny Stannard, Director, Collections
Email: penny.stannard@mhnsw.au
Phone: 0439 183 921

Susan Sedgwick, Director, Museum Operations & Visitor Services
Email: susan.sedgwick@mhnsw.au
Phone: 0408 467 236

Ben Alexander, Director, Commercial Services
Email: ben.alexander@mhnsw.au
Phone: 0405 505 209

Rebecca Bushby, Director, Programming, Production & Audience
Email: rebecca.bushby@mhnsw.au
Phone: 0450 856 781

Ellena Foster Constable, Head of Governance
Email: Ellena.Constable@mhnsw.au
Mobile: 0404 151 933

Joy Hiley, Head of People & Culture
Email: Joy.Hiley@mhnsw.au

Mobile: 0451 484 104

All staff agency Mangers

Any employee who directly or indirectly supervises or to whom other workers report.

Appendix 2 – List of integrity agencies

Integrity agency	What they investigate	Contact information
The NSW Ombudsman	Most kinds of serious maladministration by most agencies and public officials (but not NSW Police, judicial officers or MPs)	Telephone: 1800 451 524 between 9am to 3pm Monday to Friday Writing: Level 24, 580 George Street, Sydney NSW 2000 Email: info@ombo.nsw.gov.au
The Auditor-General	Serious and substantial waste of public money by auditable agencies	Telephone: 02 9275 7100 Writing: GPO Box 12, Sydney NSW 2001 Email: governance@audit.nsw.gov.au
Independent Commission Against Corruption	Corrupt conduct	Telephone: 02 8281 5999 or toll free on 1800 463 909 (callers outside Sydney) between 9am and 3pm, Monday to Friday Writing: GPO Box 500, Sydney NSW 2001 or faxing 02 9264 5364 Email: icac@icac.nsw.gov.au
The Inspector of the Independent Commission Against Corruption	Serious maladministration by the ICAC or the ICAC officers	Telephone: 02 9228 3023 Writing: PO Box 5341, Sydney NSW 2001 Email: oiicac_executive@oiicac.nsw.gov.au
The Law Enforcement Conduct Commission	Serious maladministration by the NSW Police Force or the NSW Crime Commission	Telephone: 02 9321 6700 or 1800 657 079 Writing: GPO Box 3880, Sydney NSW 2001 Email: contactus@lecc.nsw.gov.au
The Inspector of the Law Enforcement Conduct Commission	Serious maladministration by the LECC and LECC officers	Telephone: 02 9228 3023 Writing: GPO Box 5341, Sydney NSW 2001 Email: oilc executive@oilc.nsw.gov.au
Office of the Local Government	Local government pecuniary interest contraventions	Email: olg@olg.nsw.gov.au
The Privacy Commissioner	Privacy contraventions	Telephone: 1800 472 679 Writing: GPO Box 7011, Sydney NSW 2001 Email: ipcinfo@ipc.nsw.gov.au
The Information Commissioner	Government information contraventions	Telephone: 1800 472 679 Writing: GPO Box 7011, Sydney NSW 2001 Email: ipcinfo@ipc.nsw.gov.au

Appendix 3 - Public Interests Disclosures – Internal Report Form

To be completed and submitted to a Nominated Disclosures officer or the Disclosures Coordinator

Details of the person making the disclosure (you can make an anonymous reporting by leaving this section blank)		
Name:		
Position:		
Business Unit:		Preferred method of contact
Telephone:		<input type="checkbox"/> Telephone
Email		<input type="checkbox"/> Email
Details of the disclosure		
Description: <ul style="list-style-type: none"> • <i>What happened?</i> • <i>Where did this happen?</i> • <i>When did this happen?</i> • <i>Is it still happening?</i> (Attach additional pages if required)		
How did you become aware of this?		
Name and position of people involved in the wrong doing:	Name	Position
Attach any additional relevant information or indicate where supporting evidence may be found	Supporting Evidence	Attached
Name and position of other people who may have additional information	Name	Position
Statement		
I honestly believe, on reasonable grounds, that the above information shows or tends to show wrongdoing		
Signature of reporter (Do not sign if you want to make an anonymous report)		Date report submitted (must complete)

Appendix 4 – PID Acknowledgement letter template

Insert Date

Our ref:

Contact:

Telephone:

Mr/Ms Firstname Surname

Address 1

Address 2

Suburb State Postcode

Email

Dear Mr/Ms Surname

Internal report of suspected wrongdoing

I am writing in relation to your [letter/email] addressed to [Name], received [date]. You reported [brief description of report].

[or]

I am writing in relation to your conversation with [Name], on [date]. I understand that you reported [brief description of report]

Thank you for coming forward to bring to our attention suspected wrongdoing at the Museums of History New South Wales (MHNSW) staff agency.

I am enclosing a copy of our Public Interest Disclosures Policy for your reference. This is also available on the intranet and our public facing website. As the Chief Disclosure Officer I am responsible for dealing with reports of wrongdoing made by our staff.

I have assessed your report and decided to treat this matter as a public interest disclosure, in accordance with the requirements of the Public Interest Disclosures Act 2022 (the PID Act). The PID Act informs us on how to manage your report.

What we will do with your report

Having received your report, it is now up to us to decide how to deal with this information and to take appropriate action. We expect you to assist us in this process and provide further information you may be aware of, if requested.

We will advise you of what action we have taken or intend to take no later than three months after the date your report was received. Please be aware, however, that we may not be able to provide you with personal or employment related information about those involved in the conduct you have reported.

Protection from reprisal

As you may be aware, under Section 33 of the PID Act it is a criminal offence for someone to take detrimental action against another person which is substantially in reprisal for that person having made a public interest disclosure.

We will take appropriate steps to help protect you from reprisal action that may result from having made a report. If practicable, we will make every effort to keep your identity confidential. Please be aware however that this may not be possible or appropriate in some circumstances. We may be in contact in the near future to discuss whether maintaining confidentiality is possible and appropriate in your case.

To minimise the risk of your identity being disclosed it is important that you only discuss this matter with me, the Chief Disclosure Officer, or someone authorised to deal with this matter. In particular, do not inform any person involved in the alleged wrongdoing that you have made a report about them.

Failure to maintain confidentiality may limit our ability to protect you from reprisal action and could be detrimental to any investigation.

[Optional line where concerns reporter has intentionally breached confidentiality]:

Wilfully disregarding these instructions will be treated as a serious matter and may be a breach of the code of conduct.

Please contact me immediately if you believe someone has taken, or intends to take, detrimental action against you in reprisal for making this report. My phone number is *[direct phone number]*.

Support options

We acknowledge that making a report in the workplace can be difficult, and we appreciate that you have brought this to our attention.

If you are experiencing difficulties or require support you can contact our Employee Assistance Program provider, Converge International, on 1300 687 327. If you require additional support throughout this process, please contact me to arrange a support officer.

You are welcome to call me on *[direct phone number]* if you have any questions about this letter or would like further information about how we will be dealing with your report.

Yours sincerely

[Chief Disclosure Officer]

Appendix 5 – Report Acknowledgement letter template (deemed not a PID)

Insert Date

Our ref:

Contact:

Telephone:

Mr/Ms Firstname Surname

Address 1

Address 2

Suburb State Postcode

email

Dear Mr/Ms Surname

Internal report of suspected wrongdoing

I am writing in relation to your [letter/email] addressed to [Name], received [date]. You reported [brief description of report].

[or]

I am writing in relation to your conversation with [Name], on [date]. I understand that you reported [brief description of report]

Thank you for coming forward to bring to our attention suspected wrongdoing at the Museums of History New South Wales (MHNSW) staff agency.

I am enclosing a copy of our Public Interest Disclosures Policy for your reference. This is also available on the intranet and our public facing website. As the Chief Disclosure Officer I am responsible for dealing with reports of wrongdoing made by our staff.

I have assessed your report and decided to not to treat this matter as a public interest disclosure, in accordance with the requirements of the Public Interest Disclosures Act 2022 (the PID Act). The PID Act informs us on how to manage your report.

This report was deemed not a PID due to [state reasons]. We may determine it appropriate to deal with your report in a manner consistent with an alternative policy or process.

We acknowledge that making a report in the workplace can be difficult, and we appreciate you taking the time to bring this to our attention.

If you are experiencing difficulties or require support you can contact our Employee Assistance Program provider, Converge International, on 1300 687 327.

If you are not happy with this assessment or otherwise disagree with it, you may request an internal review or request that the matter be conciliated. You are welcome to call me on *[direct phone number]* if you have any questions about this letter or would like further information about our management of your report.

Yours sincerely

[Chief Disclosure Officer]

Appendix 6 – Public Interests Disclosures – Internal Report Process

