

## **1.0 Title**

### **Public Interest Disclosure Internal Reporting Policy & Associated Procedures**

## **2.0 Background**

This policy establishes an internal reporting system for the reporting of disclosures of corrupt conduct, serious maladministration, privacy contravention, serious and substantial waste of public money, or breaches of the Government Information (Public Access) Act by Northern New South Wales Local Health District or its staff.

## **3.0 Purpose**

The Northern New South Wales Local Health District (NNSWLHD) will not tolerate corrupt conduct, serious maladministration, privacy contraventions, serious and substantial waste of public monies, or government information contraventions. The NNSWLHD is committed to the aims and objectives of the Public Interest Disclosures Act 2022 (NSW) [the PID Act]. It recognises the value and importance of contributions of staff to enhance administrative and management practices and strongly supports disclosures being made by employees (including contractors, sub-contractors, and volunteers) who report wrongdoing covered under the PID Act.

This policy establishes an internal reporting system for the reporting of disclosures of wrong doings under the PID Act by NNSWLHD or its staff. The system enables such internal disclosures to be made without the fear of reprisal.

This policy is designed to complement normal communication channels between supervisors and staff. Employees are encouraged to continue to raise appropriate matters at any time with their supervisors, but as an alternative have the option of making a public interest disclosure in accordance with this policy.

## **4.0 Policy Statement**

This policy:

- is clearly and strongly endorsed by the Chief Executive of the NNSWLHD
- shows the organisation's commitment to high standards of ethical and accountable conduct and confirms that it will not tolerate any form of wrongdoing

- conforms with the Code of Conduct – NSW Health and other relevant ethical codes
- addresses the relevant provisions of the PID Act
- clearly states that staff who come forward and report wrongdoing are helping to promote integrity, accountability and good management within the organisation.

**It also:**

- outlines the organisation's broader responsibilities under the PID Act, such as recording and reporting on reports of wrongdoing
- is supported by procedures based on the Ombudsman's guidelines
- should be read in conjunction with other relevant policies or procedures, such as the MoH Public Interest Disclosures policy, organisation's Code of Conduct and Grievance policy, which are available on the LHD's intranet site.

## **5.0 Monitoring and Evaluation**

The Chief Executive and Chief Executive's Unit are responsible for monitoring the implementation of, and adherence to this policy.

The NNSWLHD Audit and Risk Committee in consultation with key stakeholders are responsible for the evaluation of this policy.

The Internal Audit Manager is responsible for the review of this policy every two (2) years.

## **6.0 Policy & Procedures**

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## 6.1 ESTABLISHING AND MAINTAINING PROCEDURES

### 6.1.1 Key Responsibilities

The NNSW LHD has a strong commitment to:

- creating a climate of trust, where staff are comfortable and confident about reporting wrongdoing
- encouraging staff to come forward if they have witnessed what they consider to be wrongdoing within the organisation
- keeping the identity of the staff member disclosing wrongdoing confidential, wherever possible and appropriate
- protecting staff who make disclosures from any adverse action motivated by their report
- dealing with reports thoroughly and impartially and if some form of wrongdoing has been found, taking appropriate action to rectify it
- keeping staff who make reports informed of their progress and the outcome
- encouraging staff to report wrongdoing within the organisation, but respecting any decision to disclose wrongdoing outside the organisation – provided that the disclosure outside the organisation is made in accordance with the provisions of the PID Act
- ensuring managers and supervisors at all levels in the organisation understand the benefits of reporting wrongdoing, are familiar with this policy, and aware of the needs of those who report wrongdoing
- providing adequate resources, both financial and human, to:
  - encourage reports of wrongdoing
  - protect and support those who make them
  - provide training for key personnel
  - investigate allegations
  - properly manage any workplace issues that the allegations identify or create
  - correct any problem that is identified
  - re-assess / review the policy each year to ensure it is still relevant and effective.

### **6.1.1a The Chief Executive is responsible for ensuring that:**

- the NNSWLHD has an internal reporting policy
- the staff of the NNSWLHD are aware of the contents of the policy and the protection under the PID Act for people who make public interest disclosures
- the NNSWLHD complies with the policy and its obligations under the PID Act, and
- the policy delegates a number of staff members as being responsible for receiving public interest disclosures.

### **6.1.1b Management Responsibility**

Management are encouraged to report known and suspected wrongdoing within the organisation. They are reminded that this policy is just one of several relating to grievances and complaints, which are all available on the LHD's intranet site.

Management are encouraged to support those who have made disclosures, as well as protect and maintain their confidentiality. They must not victimise or harass anyone who has made a disclosure.

### **6.1.1c Employee Responsibility**

#### **All Staff Members Including Visiting Medical Officers:**

This policy applies to:

- permanent employees, whether full-time or part-time
- temporary or casual employees
- consultants
- individual contractors working for the LHD.

The policy may also apply to other people who perform public official functions and their conduct and activities could be investigated by an investigating authority. This can include volunteers and those contracted to work for an organisation.

Staff are encouraged to report known and suspected wrongdoing within the organisation. They are reminded that this policy is just one of several relating to grievances and complaints, which are all available on the LHD's intranet site.

Staff are encouraged to support those who have made disclosures, as well as protect and maintain their confidentiality. They must not victimise or harass anyone who has made a disclosure.

### **6.1.2 Mandatory Training Requirements**

The PID Act mandates that the Chief executives, people managers and disclosure officers are to receive training in relation to their specific responsibilities. Training must be completed by 31 March 2024 and then once every three years thereafter. People managers who commence with NNSWLHD after 31 March 2024 must complete the module as part of their orientation and within 28 days of commencement, and then once every three years thereafter.

#### **Module 1 Public Interest Disclosures Training for People Managers**

To support training for people managers, an e-learning module, is available in My Health Learning. The module is flagged as mandatory training for NNSWLHD people managers. Staff who may have people management responsibilities from time to time, but not as an ongoing role, such as staff who may be placed in a short-term acting manager role to cover leave or vacancy, are encouraged to self-enrol and complete this training as part of their professional development.

#### **Module 2 Public Interest Disclosures Training for Disclosure Officers**

A module specifically for disclosures officers, is also available in My Health Learning. Disclosure officers may self-enrol in this module, or this may be done as a bulk enrolment by a Learning Management System (LMS) administrator from NNSWLHD.

### **6.1.3 Reporting on compliance with mandatory training**

NNSWLHD Internal Audit Unit must report completion rates for mandatory training at least annually to the NNSWLHD's executive team and the Audit and Risk Committee.

## **6.2 REPORTING WRONGDOING**

### **6.2.1 What should be reported?**

You should report any wrongdoing you see within the NNSWLHD. Reports about the five categories of serious wrongdoing, corrupt conduct, serious maladministration, serious and substantial waste of public money, privacy contravention and government information contravention will be dealt with under the PID Act as public interest disclosures and according to this policy.

#### **a. Corrupt conduct**

Corrupt conduct is the misuse of public office, which commonly involves the dishonest or partial use of power or position, resulting in one person being advantaged over another.

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
- a member of the public influencing a public official to use his/her position in a way that is dishonest, biased or breaches public trust.

For more information about corrupt conduct, see the NSW Ombudsman's guideline on what can be reported.

#### **b. Serious Maladministration**

Serious 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.

For example, this could include:

- making a decision and/or taking action that is unlawful
- refusing to grant someone a licence for reasons that are not related to the merits of their application.

For more information about maladministration, see the NSW Ombudsman's guideline on what can be reported.

#### **c. Privacy Contravention**

The privacy contravention refers to a violation or breach of privacy laws and regulations which are in place to protect an individual's personal information. It occurs when a public sector agency or private organisation fails to handle personal information in accordance with established privacy principles and laws.

This breach could involve unauthorised access, use or disclosure of personal or health data, or any action that compromises an individual's privacy.

#### **d. Serious and substantial waste of public money**

Serious and substantial waste is the uneconomical, inefficient or ineffective use of resources, whether authorised or unauthorised, that could result in the serious and substantial loss of public funds or resources.

For example, this could include:

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

For more information about serious and substantial waste, see the NSW Ombudsman's guideline on what can be reported.

#### **e. Government information contravention**

A government information contravention is a failure to properly fulfil functions under the Government Information (Public Access) Act 2009 (GIPA Act) or State Records Act 1998 (NSW).

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.
- Intentionally disposing of records that must be retained under the State Records Act 1998 (NSW)
- Systemic issues with the record keeping system resulting in information not being stored appropriately

For more information about government information contravention, see the NSW Ombudsman's guideline on what can be reported.

#### **f. Other wrongdoing**

Although reports about the previous five categories of conduct can attract the specific protections of the PID Act, you should report all activities or incidents that you believe are wrong.

For example, these could include:

- harassment or unlawful discrimination
- reprisal action against a person who has reported wrongdoing
- practices that endanger the health or safety of staff or the public.

These types of issues should be reported to a supervisor, in line with relevant NNSWLHD's policies such as bullying and harassment or grievance policies.

Even if these reports are not dealt with as public interest disclosures, the NNSW LHD will consider each matter and make every attempt to protect the staff member making the report from any form of reprisal.

#### **6.2.2 When will a report be protected?**

The NNSWLHD will support any staff who reports wrongdoing. For a report to be considered a public interest disclosure, it has to meet all of the requirements under the PID Act. These requirements are:

- The report is made by a public official
- The person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing. Examples of types of wrongdoing are included in Section 6.2.1 above.

- Is made in writing or verbally
- The report has to be made to one or more of the following:
  - a manager/supervisor of the public official making the report
  - the head of any NSW Government agency
  - a disclosure officer of any NSW Government agency
  - a disclosure officer of NNSWLHD (See section 6.2.7 for list of officers)
  - an integrity agency
  - in writing to a Minister or Minister's office
  - to a journalist or Member of Parliament (MP) in very limited circumstances
  - a position nominated in this policy – see below under Who can receive a report within the NNSWLHD
  - one of the investigating authorities nominated in the PID Act – see below under Who can receive a report outside of the NNSWLHD

Reports by staff will not be considered to be public interest disclosures if they:

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

### **6.2.3 Types of reports**

- ***Voluntary' public interest disclosure***

A voluntary public interest disclosure (PID) is a report of known, or suspected, serious wrongdoing made by a public official who is not under a legal obligation to make that report, and it is not an ordinary part of their role to report the wrongdoing.

- ***'Mandatory' public interest disclosure***

There are some public officials who have a legal duty to report certain types of serious wrongdoing, there are others (public officials) who hold a position where it is an ordinary requirement of their role or function to report serious wrongdoing. When a NSW Health public official makes a report about serious wrongdoing because of these obligations they may meet the criteria of a 'mandatory PID'.

The PID Act makes it a legal duty for people managers who received a voluntary PID to convey that PID to a disclosure officer. When people managers do this, they have made a mandatory PID.



- ***‘Witness’ public interest disclosure***

When investigating allegations of wrongdoing, irrespective of whether the matter is a PID, investigators may ask a witness (public official or not) to provide information. A disclosure will be considered a witness PID when information is provided to an investigator about witnessing a serious wrongdoing.

When an investigator interviews a witness during an investigation of serious wrongdoing, the witness is to be informed that the information they provide will be protected under the PID Act and will be considered a witness PID.

#### **6.2.4 How to make a report**

You can report wrongdoing in writing or verbally. You are encouraged to make a report in writing as this can help to avoid any confusion or misinterpretation. Please provide an alternate address other than your work address for correspondence and a mobile phone number or alternate number where we can discreetly contact you.

If a report is made verbally, the person receiving the report must make a comprehensive record of the disclosure and ask the person making the disclosure to sign this record. The staff member should keep a copy of this record.

If you are concerned about being seen making a report, ask to meet in a discreet location away from the workplace.

#### **6.2.5 Can a report be anonymous?**

There will be some situations where you may not want to identify yourself when you make a report. Although these reports will still be dealt with by the NNSW LHD, it is best if you identify yourself. This allows us to provide you with any necessary protection and support, as well as feedback about the outcome of any investigation into the allegations.

It is important to realise that an anonymous disclosure may not prevent you from being identified. If we do not know who made the report, it is very difficult for us to prevent any reprisal action. It may also be very difficult to investigate the matter as we may require further information and sometimes the lack of information may result in an inability to complete an investigation.

#### **6.2.6 Maintaining confidentiality**

The NNSWLHD realises many staff will want their report to remain confidential. This can help to prevent any action being taken against you for reporting wrongdoing.

We are committed to keeping your identity, and the fact you have reported wrongdoing, confidential. However, there may be situations where this may not be possible or appropriate. We will discuss with you whether it is possible to keep your report confidential.

If confidentiality cannot be maintained, we will develop a plan to support and protect you from risks of reprisal. You will be involved in developing this plan.

If you report wrongdoing, you should only discuss your report with those dealing with it. This will include the *Disclosures Co-ordinator* and the Chief Executive [*the Principal Officer*].

## **6.2.7 Who can receive a report within the NNSWLHD?**

### **a. Chief Executive**

You can report wrongdoing directly to the Chief Executive. He/she is responsible for:

- Promoting a workplace culture which encourages and supports staff who report serious wrongdoing
- deciding if a report is a public interest disclosure
- determining what needs to be done next, including referring it to other authorities
- deciding what needs to be done to correct any problem that has been identified
- complying with reporting requirements for allegations or findings of detrimental action, and
- compliance with annual reporting requirements to the NSW Ombudsman.

The Chief Executive must make sure there are systems in place in the NNSWLHD to support and protect staff who report wrongdoing.

They are also responsible for referring actual or suspected corrupt conduct to the Independent Commission Against Corruption under section 11 of the ICAC Act.

The Chief Executive's contact details are available on the NNSWLHD's intranet.

### **b. Disclosures Co-ordinator**

The Disclosures Coordinator (Chief Audit Executive) has a central role in the management of reports made by staff. They receive them, assess them, and refer them to the staff within the NNSWLHD who can deal with them appropriately. The Chief Executive endorsement is required on all assessments prior to being referred for actioning by an appropriate staff member. The Internal Audit Manager's contact details are available on the NNSWLHD's intranet.

### **c. Disclosures Officers**

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 Internal Audit Unit and ensuring that any verbal reports that have been received are recorded in writing.

Mandatory training on how to recognise and manage a public interest disclosure will be provided to all Disclosure Officers.

NNSWLHD Disclosure Officers are listed below and an up-to-date list can be found on the intranet page.

<b>Position</b>	<b>Work Location</b>
Chief Executive	Crawford House
Internal Audit Manager	Off-Site
Board Chair	Off-Site
Board Members	Off-Site
Director of Workforce	Crawford House
General Manager	Lismore Base Hospital
General Manager	Tweed Valley Hospital
Executive Officer/Director of Nursing	Ballina Hospital
General Manager	Grafton Hospital
Executive Officer/Director of Nursing & Midwifery	Casino Hospital
Director of Nursing & Midwifery	Maclean Hospital
Nurse Manager	Nimbin Multi-Purpose Service
Nurse Manager	Kyogle Hospital
Nursing	Byron Central Hospital
Nurse Manager	Bonalbo MPS
Nurse Manager	Urbenville MPS
Executive Officer/Director of Nursing	Murwillumbah District Hospital
Manager	Murwillumbah Community Health
Manager Child and Family	Kingscliff Health One
Manager Child and Family	Pottsville Health One
Director of Nursing & Midwifery	Evans Head Health One
Director of Nursing & Midwifery	Coraki Health One
Clinical Co-ordinator	Indigo House – Lismore
Manager IPARVAN	Yamba Health One
Program Manager Palliative Care	Iluka Community Health Services
Nurse Manager	Riverlands Drug & Alcohol Centre
Physiotherapist	Aruma Dental Clinic – Grafton
Manager	Carol Centre – St Vincent's Hospital Lismore
Manager	Child and Family Services – Goonellabah
Clinical Co-ordinator	New Street – Ballina

The names and contact details for all the above positions are available on the NNSWLHD's intranet site.

The NNSWLHD must notify the Ministry of Health of any updates or amendments to their Disclosure Officers within five working days.

#### **d. People Managers**

All staff members who have other staff members report directly (or indirectly) to them have a responsibility for encouraging staff to report known or suspected wrongdoing and to provide support for those staff when they make or are suspected of making a disclosure.

Under the PID Act, people managers are obliged to:

- receive and pass on voluntary PIDs to a listed Disclosures Officer that they receive from staff who report to them, or staff they supervise
- ensure staff are protected from detrimental action when they have either made or are suspected of making a voluntary PID, by:
  - maintaining confidentiality, and offering support through programs such as the Employee Assistance Program
  - implementing local management strategies to minimise the risk of reprisal or workplace conflict in relation to the report
  - notifying disclosure officers if they consider a staff member is being subjected to reprisal as a result of reporting serious wrongdoing.

#### **e. Staff members**

Any NNSWLHD staff member who has knowledge of, or who has witnessed, serious wrongdoing is encouraged to make a report about the wrongdoing.

Where a report of wrongdoing has been made, all staff are required to:

- support those who have made reports of wrongdoing
- assist the people manager and/or Disclosure Officer, if requested, including providing information about the request, cooperating with any investigations and maintaining confidentiality
- respect the rights of people who are the subject of reports and treat them fairly
- treat any staff member or other person dealing with a report of wrongdoing with courtesy and respect
- not take reprisal action against any individual in relation to a report of wrongdoing
- Staff must not:
  - victimise or harass anyone in connection with a report
  - knowingly make false or misleading reports of wrongdoing.

### **6.2.8 Who can receive a report outside of the NNSWLHD**

Staff are encouraged to report wrongdoing within the NNSWLHD, but internal reporting is not your only option. If you follow the guidance below, your report can still be a public interest disclosure.

You can choose to make your report to an investigating authority. You can do this first, or at any stage after your initial report to the NNSWLHD. If your report is about the Chief Executive [*Principal Officer*] or the Board Chair you should make it to an investigating authority or to the Secretary, Ministry of Health.

You can also choose to make a report to a Member of Parliament or a journalist, but only in limited circumstances.

#### **a. Investigating Authorities**

The PID Act lists a number of investigating authorities in NSW that staff can report wrongdoing to and the categories of wrongdoing each authority can deal with.

These authorities are:

- the Auditor-General — for serious and substantial waste
- the Independent Commission Against Corruption (ICAC) — for corrupt conduct
- the Ombudsman — for maladministration
- the Police Integrity Commission (PIC) — for police misconduct
- the PIC Inspector — for disclosures about the PIC or its staff
- the Division of Local Government, Department of Premier and Cabinet — for disclosures about local government agencies
- the ICAC Inspector — for disclosures about the ICAC or its staff
- the Information Commissioner — for disclosures about a government information contravention.

You should contact the relevant authority for advice about how to make a disclosure to them.

You should be aware that it is very likely the investigating authority will discuss the case with the NNSWLHD. We will make every effort to assist and cooperate with the investigating authority to ensure the matter is dealt with appropriately and there is a satisfactory outcome. We will also provide appropriate support and assistance to staff who report wrongdoing to an investigating authority.

#### **b. Members of Parliament or journalists**

Disclosures to Members of Parliament (MP) or journalists differ to other reports. Reports of wrongdoing can only be reported as a voluntary public interest disclosure (PID) when:

- the reporter has first made substantially the same disclosure to someone who can receive disclosures
- the previous disclosure is substantially true
- the reporter did not make the previous disclosure anonymously
- the reporter did not give a written waiver of their right to receive information relating to their previous disclosure
- the reporter did not receive the following from the NNSWLHD:
  - notification that NNSWLHD will not investigate the serious wrongdoing and will also not refer the previous disclosure to another agency, or at the end of the investigation period:
    - notice of NNSWLHD 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.

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

### **6.2.9 Feedback to staff who report wrongdoing**

Staff who report wrongdoing will be told what is happening in response to their reports.

When you make a report, you will be given:

- an acknowledgement that your disclosure has been received
- an estimated timeframe for when you will receive further updates
- the name and contact details of the people who can tell you what is happening.

The PID Act requires that you are provided with an acknowledgement letter and a copy of this policy in a timely period. We will attempt to get this information to you within ten (10) working days from the date the Disclosure Co-ordinator receives your report.

After a decision is made about how your report will be dealt with, you will be given:

- information about the action that will be taken in response to your report
- likely timeframes for any investigation (if applicable)
- information about the resources available within NNSWLHD to handle any concerns you may have
- information about external agencies and services you can access for support.

This information will be given to you within ten (10) working days from the date you make your report.

During any investigation, you will be given:

- information about the ongoing nature of the investigation
- information about the progress of the investigation and reasons for any delay
- advice if your identity needs to be disclosed for the purposes of investigating the matter, and an opportunity to talk about this.

At the end of any investigation, you will be given:

- enough information to show that adequate and appropriate action was taken and/or is proposed to be taken in response to your disclosure and any problem that was identified
- advice about whether you will be involved as a witness in any further matters, such as disciplinary or criminal proceedings.

#### **6.2.10 Protection against reprisals**

The PID Act provides protection for people reporting wrongdoing by imposing penalties on anyone who takes detrimental action substantially in reprisal for them making the public interest disclosure.

The NNSWLHD will not tolerate any reprisal action against staff who report wrongdoing. The criminal penalties that can be imposed include imprisonment or fines. Detrimental action is also misconduct that justifies disciplinary action. People who take detrimental action against someone who has made a disclosure can also be required to pay damages for any loss suffered by that person.

Detrimental action means action causing, comprising or involving any of the following:

- injury, damage or loss
- intimidation or harassment
- property damage
- reputational damage
- discrimination, disadvantage or adverse treatment in relation to employment
- dismissal from, or prejudice in, employment
- disciplinary proceedings.

#### **a. Responding to reprisals**

The NNSWLHD will act to protect staff who report wrongdoing from reprisals.

A documented PID risk assessment must be undertaken for all voluntary and witness PIDs by either the Disclosure Officer who received the voluntary PID, or by the investigator who interviewed the witness. A documented PID risk assessment may also be done for any mandatory PIDs where there are concerns regarding the potential for reprisal action.

A PID risk assessment template is available from the NNSWLHD intranet.

Reporters are encouraged to immediately notify any experience of adverse treatment or detrimental action directly to the contact person, to another Disclosure Officer within their organisation, to the Ministry of Health via MOH-Compliance@health.nsw.gov.au, or to an integrity agency, such as the NSW Ombudsman or Independent Commission Against Corruption.

All supervisors must report any suspicions they have that reprisal action against a staff member is occurring, or any reports that are made to them, to the *Disclosures Co-ordinator* or the Chief Executive [*Principal Officer*].

If the *Disclosures Co-ordinator* becomes aware of reprisal action against a person who has made a disclosure, they will:

- ensure a senior and experienced member of staff, who has not been involved in dealing with the initial disclosure, will investigate the suspected reprisal
- give the results of that investigation to the Chief Executive [*Principal Officer*] for a decision
- if it has been established that reprisal action is occurring against someone who has made a disclosure, the Principle Officer will take all steps possible to stop that activity and protect the member of staff who made the disclosure
- the Principle Officer will notify the NSW Ombudsman and the MoH of the disclosure, including names of parties involved and the details of the allegations made.
- the Principle Officer will also take appropriate disciplinary or criminal action against anyone proven to have taken or threatened any action in reprisal for making a disclosure.

If you report reprisal action, you will be kept informed of the progress of any investigation and the outcome.

The Chief Executive [*principal officer*] may issue specific directions to help protect against reprisals, including but not limited to:

- issuing warnings to those alleged to have taken reprisal action against the member of staff who made the disclosure
- relocating the member of staff who made the disclosure or the subject officer within the current workplace



- transferring the member of staff who made the disclosure or the staff member who is the subject of the allegation to another position for which he/she is qualified
- granting the member of staff who made the disclosure or the subject officer leave of absence during the investigation of the disclosure.

These directions will only be taken if the member of staff who made the disclosure agrees to it. The *Chief Executive* will make it clear to other staff that this action was taken in consultation with the staff member and with management support and it is not a punishment.

If you have reported wrongdoing and feel that any reprisal action is not being dealt with effectively, contact the Ombudsman or the ICAC – depending on the type of wrongdoing you reported. Contact details for all these investigating authorities are included at the end of this policy.

#### **b. Protection against legal action**

If you make a disclosure in accordance with the PID Act, you will not be subject to any liability and no action, claim or demand can be taken against you for making the disclosure. You will not have breached any confidentiality or secrecy obligations and you will have the defence of absolute privilege in defamation.

#### **6.2.11 Support for those reporting wrongdoing**

The NNSWLHD will make sure that staff who have reported wrongdoing, regardless of whether they have made a public interest disclosure, are provided with access to any professional support they may need as a result of the reporting process such as stress management, counselling services, legal or career advice.

The NSW Ombudsman's Office also has staff who will support those who report wrongdoing. They are responsible for initiating and coordinating support, particularly to those who are suffering any form of reprisal.

All supervisors must notify the *Disclosures Co-ordinator* if they believe a staff member is suffering any detrimental action as a result of disclosing wrongdoing.

#### **6.2.12 Sanctions for making false or misleading disclosures**

It is important that all staff are aware that it is a criminal offence under the PID Act to wilfully make a false or misleading statement when reporting wrongdoing.

### **6.2.13 Support for the subject of a report**

The NNSWLHD is committed to ensuring staff who are the subject of a report of wrongdoing are treated fairly and reasonably. If you are the subject of a report, you will be:

- treated fairly and impartially
- told your rights and obligations under our policies and procedures
- kept informed during any investigation
- given the opportunity to respond to any allegation made against you
- advised of the result of any investigation.

## **6.3 Managing a Public Interest Disclosure**

### **6.3.1 Approaches for managing a disclosure**

When a disclosure has been received, the NNSWLHD may manage the disclosure in one or more of the following ways:

- by investigating the serious wrongdoing in accordance with relevant policy, procedure, laws or Acts
- by conducting an audit, inquiry or assessment or investigation
- by referring the disclosure to an integrity agency
- by referring the disclosure to a person or body authorised by another Act or law to investigate the serious wrongdoing
- by arranging for another agency to carry out tasks on its behalf
- by directing the disclosure to the relevant NSW Health organisation or other NSW Government agency.

Where a report of serious wrongdoing has been assessed as being either a voluntary, mandatory, or witness public interest disclosure, the NNSWLHD is to:

- conduct a risk assessment (including potential risks for the Manager)
- take steps to mitigate the risk of detrimental action to the person who made the voluntary public interest disclosure (PID) report
- maintain the confidentiality of the person who made the disclosure
- provide feedback on the progress and outcome of any investigation to the voluntary PID maker
- consider providing information on the progress and outcome of the matter.

If a report does not meet the requirements of a PID, the matter is to be managed in accordance with any other applicable NSW Health policy directives.

### **6.3.2 Outcomes from reports of serious wrongdoing**

#### **6.3.2a Finding that serious wrongdoing has occurred:**

If an investigation finds that serious wrongdoing or other misconduct has occurred, the NNSWLHD will take the most appropriate corrective action to address that wrongdoing or misconduct.

Corrective actions may 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 action per NSW Health policy directives such as Managing Misconduct (PD2018\_031) and Service Check Register for NSW Health (PD2021\_017)

#### **6.3.2b A finding that serious wrongdoing is not substantiated**

In some cases, the outcome from an investigation into a report of serious wrongdoing may be that an allegation of wrongdoing is not substantiated. This may be because of one or more of the following:

- there is no evidence that misconduct has occurred
- there is evidence that it did not occur
- the information available is insufficient or inconclusive.

#### **6.3.2c Other outcomes**

The Public Interest Disclosures Act 2022 (NSW) [PID Act] also allows for the NNSWLHD to decide to deal with a voluntary public interest disclosure (PID) by:

- neither investigating the serious wrongdoing itself nor referring it elsewhere for investigation (with the result that there will be no investigation), or
- commencing an investigation and stopping before the investigation is complete, and not referring it elsewhere for investigation (with the result that there will be no completed investigation, and no findings in relation to the serious wrongdoing).

This may occur when the serious wrongdoing has already undergone comprehensive investigation, and is historical, and considered to not to be either practical or in the public interest to investigate.

If the NNSWLHD decides on either of these two outcomes regarding the disclosure, they must notify the NSW Ombudsman with a written explanation for the decision as soon as practicable. Any such notification must also be briefed to the Secretary, NSW Health via email at [MOH-Compliance@health.nsw.gov.au](mailto:MOH-Compliance@health.nsw.gov.au).

### **6.3.3 Internal review of certain decisions**

Under section 60 of the PID Act, a person who has made a report of serious wrongdoing may request an internal review of certain decisions made by the NNSWLHD including a decision:

- that the NNSWLHD is not required to deal with the report as a voluntary PID
- to stop dealing with the report because the NNSWLHD 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.

A reporter who requests an internal review of the decision made relating to their voluntary PID must do so in writing, within 28 days of being informed of the decision, and provide reasons why they consider the decision should not have been made.

When an internal review is requested, the reviewer must consider any relevant material supporting the reporter's request for review. Once a reviewer has considered all the relevant material, they may confirm the decision made by the NNSWLHD; or determine that the disclosure is to be dealt with, or continue to be managed, as a voluntary PID and be managed accordingly.

The person who conducts the internal review is to have had no prior involvement with either managing or determining the outcome of the disclosure.

The outcome of the internal review is to be communicated to the reporter who requested the internal review. While there is no set timeframe for completing the internal review, it is recommended that it be completed within 45 days of the request. Where it cannot be completed within this timeframe, the NNSWLHD will notify the requestor and provide an expected timeframe for finalisation of the review.

### **6.3.4 Voluntary dispute resolution**

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

### **6.3.5 Annual Report to the NSW Ombudsman**

Under the PID Act the NNSWLHD must report the following to the NSW Ombudsman in its annual PID return:

- Information about the voluntary PIDs we have received in the return period and how we dealt with those PIDs
- Information about the measures we have taken to promote a culture in which PIDs are encouraged, and
- Information about purported PIDs that were not assessed as being PIDs.

## **7.0 Definitions** *Please refer to Section 6.2.1 for definitions*


## **8.0 References**

<b>For disclosures about corrupt conduct:</b> Independent Commission Against Corruption (ICAC) Phone: 02 8281 5999 Toll free: 1800 463 909 Tel. typewriter (TTY): 02 8281 5773 Facsimile: 02 9264 5364 Email: <a href="mailto:icac@icac.nsw.gov.au">icac@icac.nsw.gov.au</a> Web: <a href="http://www.icac.nsw.gov.au">www.icac.nsw.gov.au</a> Address: Level 7, 255 Elizabeth Street Sydney NSW 2000	<b>For disclosures about maladministration:</b> NSW Ombudsman Phone: 02 9286 1000 Toll free (outside Sydney metro): 1800 451 524 Tel. typewriter (TTY): 02 9264 8050 Facsimile: 02 9283 2911 Email: <a href="mailto:nswombo@ombo.nsw.gov.au">nswombo@ombo.nsw.gov.au</a> Web: <a href="http://www.ombo.nsw.gov.au">www.ombo.nsw.gov.au</a> Address: Level 24, 580 George Street, Sydney NSW 2000
<b>For disclosures about serious and substantial waste:</b> Auditor-General of the NSW Audit Office Phone: 02 9275 7100 Facsimile: 02 9275 7200 Email: <a href="mailto:mail@audit.nsw.gov.au">mail@audit.nsw.gov.au</a> Web: <a href="http://www.audit.nsw.gov.au">www.audit.nsw.gov.au</a> Address: Level 15, 1 Margaret Street, Sydney NSW 2000	<b>For disclosures about breaches of the GIPA Act:</b> NSW Information Commissioner Toll free: 1800 472 679 Facsimile: 02 8114 3756 Email: <a href="mailto:ipcinfo@ipc.nsw.gov.au">ipcinfo@ipc.nsw.gov.au</a> Web: <a href="http://www.ipc.nsw.gov.au">www.ipc.nsw.gov.au</a> Address: Level 11, 1 Castlereagh Street, Sydney NSW 2000

## **9.0 Appendices**

Nil

## 10.0 NNSW LHD Corporate Policy Cover Sheet

<b>COVER SHEET</b> <b>NNSW Local Health District</b> <b><u>CORPORATE</u> Policy</b>	
Name Of Document	<b>Public Interest Disclosure Internal Reporting Policy &amp; Associated Procedures</b>
Type of Document	<b>Policy</b>
Document Number	<b>NNSW-LHD-POL-1186-23</b>
Superseded Document	NNSW-LHD-POL-6653-13
Sites/Services where compliance with this Policy is mandatory.	All Sites
Related Ministry of Health PDs, LHD Documents or Australian Standards:	<ul style="list-style-type: none"> <li>• NSW Health PD 2023_026 Public Interest Disclosures</li> <li>• PD2022_023 Enterprise-Wide Risk Management</li> <li>• NSW Health Risk Matrix</li> <li>• Independent Commission Against Corruption Act 1988 (ICAC Act)</li> <li>• Public Interest Disclosures Act 2022 (NSW)</li> <li>• Government Information (Public Access) Act 2009 (GIPA Act)</li> <li>• Privacy and Personal Information Protection Act 1998</li> <li>• Health Records and Information Privacy Act 2002</li> <li>• NSW Health PD 2015_049 Code of Conduct</li> <li>• NSW Health PD 2016-009 Corrupt Conduct-Reporting to the ICAC</li> <li>• Managing Misconduct PD2018_031</li> </ul>
Risk Management	In the absence of appropriate standards and controls around identifying and correctly reporting corrupt conduct, serious maladministration, a privacy contravention, serious and substantial waste of public money, or breaches of the Government Information (Public Access) Act the NNSW LHD and its staff may be exposed to extreme risk.
Current Risk Rating	Current Risk Rating: <b>H</b>

Targeted Risk Rating	Targeted Risk Rating: <b>X</b>
Date Created	October 2023
<b>Date of Publication</b>	
<b>Next Review Date</b>	January 2027
Aboriginal Health Advisory Committee Registration Number	AHIS20250219-11
Author	Emma Webb – Chief Audit Executive
Clinical Authority	
Management Authority	NNSW LHD Executive Team
Executive Sponsor	<b>Chief Executive</b>
Key Words	Corruption, Maladministration, Serious and Substantial Waste, Public Interest, ICAC, Ombudsman, Disclosures, Detrimental Action, Reprisals.
Summary	<p>This policy establishes an internal reporting system for the reporting of disclosures of corrupt conduct, serious maladministration, serious and substantial waste of public money, a privacy contravention or breaches of the Government Information (Public Access) Act by Northern New South Wales Local Health District (NNSW LHD) or its staff.</p> <p>The NNSW LHD values the important contributions of staff to enhance administrative and management practices and strongly supports disclosures being made by employees who report corrupt conduct, maladministration, or serious and substantial waste of public money, or government information contravention.</p>
Date Approved for Electronic Distribution by NNSW LHD Chief Executive	18/03/2025
Signature NNSW LHD Chief Executive	