



New South Wales  
Aboriginal Land Council

## Public Interest Disclosure Policy

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# Public Interest Disclosure Policy

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## Purpose

The NSW Aboriginal Land Council (**NSWALC**) is required to have a Public Interest Disclosure (**PID**) Policy under section 42 of the *Public Interest Disclosures Act 2022* (**PID Act**).

At **NSWALC**, we take reports of serious wrongdoing seriously. We are committed to encouraging staff to 'speak up' and report any conduct that they reasonably believe involves wrongdoing.

The integrity of our organisation relies upon our staff, volunteers, contractors and subcontractors speaking up when they become aware of wrongdoing.

This policy sets out:

- how NSWALC will support and protect you if you come forward with a report of serious wrongdoing
- how we will deal with the report and our other responsibilities under the PID Act
- who to contact if you want to make a report
- how to make a report
- the protections which are available to you under the PID Act.

This policy also documents our commitment to building a speak up culture. Part of that speak up culture is 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.

In NSW, that framework is the PID Act.

This policy should be read in conjunction with the NSWALC's other internal policies accessible via the NSWALC website (<https://alc.org.au/>) or intranet (<http://intranet/Pages/Default.aspx>), including:

- Code of Conduct;
- Fraud and Corruption Policy and Procedure;
- Policy and Procedure for Responding to Complaints ( [https://alc.org.au/wp-content/uploads/2020/01/complaints-guide\\_final.pdf](https://alc.org.au/wp-content/uploads/2020/01/complaints-guide_final.pdf));
- Grievance and Dispute Resolution Policy and Procedure;
- NSWALC Pecuniary Interest Guide;
- Conflicts of Interest Policy and Procedure.

## Accessibility of this policy

This policy is available on NSWALC's publicly available website as well as on the intranet <http://intranet/pp/Pages/default.aspx>

A hard copy of the policy can be requested from the Disclosures Co-ordinator, whose details are contained in Annexure A of this policy.

## Who does this policy apply to?

Under the PID Act, staff of Aboriginal Land Councils are considered public officials.

As a result, this policy applies to the following:

- a person employed in or by NSWALC, whether full time, part time, temporary or casual
- Councillors
- a person providing services or exercising functions on behalf of NSWALC, including a contractor, subcontractor or volunteer

The Disclosures Co-ordinator, and nominated Disclosure Officers and Managers within NSWALC have specific responsibilities under the PID Act. This policy also 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 NSWALC may use this policy if they want information on who they can report wrongdoing to within NSWALC.

## Who does this policy not apply to?

This policy does not apply to:

- consultants who have been engaged to assist NSWALC with its work. Though consultants are not considered public officials under the PID Act, they can still use the procedures in this policy to make a report (a voluntary PID). However, they are not entitled to the relevant protections of a public official under the PID Act.
- people who have received services from NSWALC and want to make a complaint about those services.
- people, such as contractors, who provide services to an agency. For example, employees of a company that sold computer software to NSWALC.

This means that if you are not a public official, this policy does not apply to your complaint (there are some circumstances where a complaint can be deemed to be a voluntary PID, see section 1(i) of this policy for more information).

However, you can still make a complaint to NSWALC. This can be done by:

- Email: [complaints@alc.org.au](mailto:complaints@alc.org.au)
- Post: PO box 1125, Parramatta NSW 2124
- Phone: 02 6124 3565

For more information, please visit <https://alc.org.au/complaints/>.

## Compliance with the PID Act

This policy will be reviewed by the NSWALC Governance Team every two years. For any advice or guidance about this review, if an error or issue is found in the policy, please contact the Governance Team.

The Governance Team is responsible for monitoring the policy and considering whether it is meeting its purpose.

# What is contained in this policy?

This policy will provide you with information on the following:

- ways you can make a voluntary PID to NSWALC under the PID Act
- the names and contact details for the nominated disclosure officers in NSWALC
- the roles and responsibilities of people who hold particular roles under the PID Act and who are employees of NSWALC
- what information you will receive once you have made a voluntary PID
- protections available to people who make a report of serious wrongdoing under the PID Act and what we will do to protect you
- methods of reporting to external parties such as the NSW Ombudsman;
- NSWALC procedures for dealing with disclosures
- NSWALC procedures for managing the risk of detrimental action and reporting detrimental action
- NSWALC record-keeping and reporting requirements
- how NSWALC will ensure it complies with the PID Act and this policy.

This policy is current as at March 2024. This policy will be reviewed every 2 years to ensure it remains comprehensive, compliant and consistent with NSWALC's values and legislative obligations. For more information about the review process, please contact the Governance Unit via email: [Governance@alc.org.au](mailto:Governance@alc.org.au)

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

- confidentially contact the nominated disclosure officers within NSWALC:
  - Stevie Hayes by phone: 02 9689 4452 or email: [Stevie.Hayes@alc.org.au](mailto:Stevie.Hayes@alc.org.au); or
  - Vicky Hatzis Email: [Vicky.Hatzis@alc.org.au](mailto:Vicky.Hatzis@alc.org.au) and Phone: 02 9689 4509
- contact the PID Advice Team within the NSW Ombudsman by phone: (02) 9286 1000 or email: [pidadvice@ombo.nsw.gov.au](mailto: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.

## 1. How to make a report of serious wrongdoing

### (a) 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 we follow our own policies such as:

- Fraud and Corruption Policy;
- Fraud and Corruption Procedure;
- Policy and Procedure for Responding to Complaints;
- Grievance and Dispute Resolution Policy and Procedures;

Despite our legislative obligations under the PID Act, this policy is designed to complement normal communication channels between NSWALC staff and their supervisors. Staff are encouraged to raise matters of concern at any time with their supervisor. While some of these reports may not have the necessary features of PID and will not be dealt with under this policy, they will nonetheless be taken seriously and dealt with in accordance with NSWALC's most appropriate complaint handling procedure.

For the avoidance of doubt, this policy is not intended to be used for staff grievances, which includes a problem, concern or complaint about work, a person with whom the staff members works, or the work environment. Staff grievances should be raised in accordance with the procedures set out in the *Grievance and Dispute Resolution Policy and Guidelines (Grievance and Dispute Policy)*. If a staff member makes a report under this policy which is substantially a grievance, the matter will be referred to the People and Workplace Unit to be dealt with in accordance with the Grievance and Dispute Policy.

It is important that we quickly recognise that we have received a PID. This is because once a PID is received, the person who has made the report is entitled to certain protections and we have certain decisions that we have to make on how we will deal with the PID and how we will protect and support the person who has made the report.

## **(b) When will a report be a PID?**

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

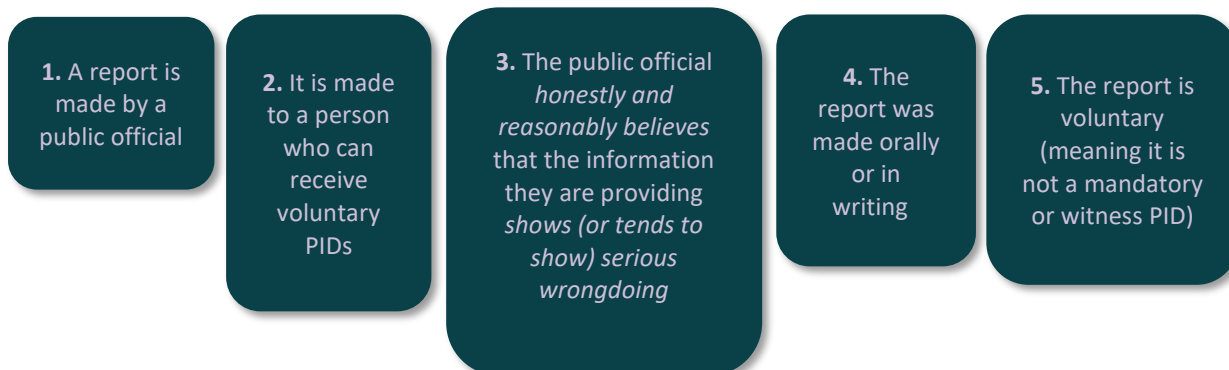
2. *Voluntary PID*: This is a PID where a report has been made by the public official because they decided, of their own accord, to come forward and disclose what they know.
3. *Mandatory PID*: This is a PID where the public official has made a report about serious wrongdoing because they have a legal obligation to make that report, or because making that report is an ordinary aspect of their role or function in an agency. Under NSWALC's Fraud and Corruption Policy, councillors and staff must report all suspected cases of fraud and corruption. However, reports made in accordance with the Fraud and Corruption Policy may still be voluntary PIDs.
4. *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.

This policy mostly relates to making a voluntary PID and how we will deal with voluntary PIDs. People who make a mandatory PID or a witness PID are still entitled to protection. More information about protections is available in section 2 of this policy.

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 involve a public official making a report because they have information that they believe shows (or tends to show) serious wrongdoing, where they are not under a legal obligation to make that report and where it is not an ordinary part of their role to report such wrongdoing.

A report is a voluntary PID if it has *all* of the following five features:



You will not be expected to prove that what you reported actually happened or is serious wrongdoing. You *do* have to honestly believe, on reasonable grounds, that the information you are reporting shows or tends to show serious wrongdoing.

Even though you 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 do not identify that you have made a voluntary PID, you will still be entitled to the protections under the PID Act.

If you make a report and believe 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 we make seek to conciliate the matter. You may also contact the NSW Ombudsman. Further information on rights to internal review and conciliation is found in section 7 of this policy.

### **(c) Who can make a voluntary PID?**

Any public official can make a voluntary PID — see ‘Who this policy applies to’. You are a public official if:

- you are employed by NSWALC
- you are a contractor, subcontractor or volunteer who provides services, or exercises functions, on behalf of NSWALC, or
- you work for an entity (such as a non-government organisation) who is contracted by NSWALC to provide services or exercise functions on behalf of NSWALC — if you are involved in undertaking that contracted work.

Note that a person providing consulting services to NSWALC is not considered a public official for the purposes of the PID Act. However, they are still permitted to make complaints to the nominated Disclosure officers but may not be entitled to protections under the PID Act.

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 we may receive PIDs from public officials outside our 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. Annexure B of this policy has a list of integrity agencies.



## (d) 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 here). Serious wrongdoing is defined in the PID Act as:

- *corrupt conduct* — such as:
  - a public official accepting a bribe;
  - the improper use of knowledge, power or position for personal gain or the advantage of others;
  - acting dishonestly or unfairly, or breaching public trust;
  - being influenced by a member of public to use their position in a way that is dishonest, biased or breach public trust.
- *serious maladministration*: this includes conduct which is unlawful, unreasonable, unjust, oppressive or improperly discriminatory or based on improper motives — such as an agency implementing policies and procedures which are contrary to its governing legislation and result in a misuse of that agency's powers.
- *a government information contravention*: this includes conduct in contravention of the *Government Information (Public Access) Act 2009* (Cth) — such as destroying, concealing or altering records to prevent them from being released under a Government Information Public Access application or failure to exercise functions in accordance with the *Health Records and Information Privacy Act 2002*.
- *a privacy contravention* — is a failure, other than a trivial failure, by an agency or public official to exercise functions in accordance with the *Privacy and Personal Information Protection Act 1998*, such as unlawfully accessing a person's personal information on a NSWALC database.
- *a local government pecuniary interest contravention*.
- *a serious and substantial waste of public money* — such as an agency:
  - not following a competitive tendering processes
  - failing to have adequate monitoring and accounting processes and procedures in place to manage significant public funds

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

## (e) Who can I make a voluntary PID to?

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

### ***Making a report to a public official who works for NSWALC***

You can make a report inside NSWALC to:

- The Disclosure Co-ordinator
- a Disclosure Officer for NSWALC

The titles of the Disclosure Co-ordinator and Disclosure Officers for NSWALC and their contact details can be found at Annexure A of this policy.

In addition to the persons in Annexure A, you can also make a report directly to your manager — this is the person who directly, or indirectly, supervises you. It can also be the person who you directly, or indirectly, report to. You may have more than one manager. Your manager will:

- ensure you are encouraged and supported in making a report;
- 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;
- monitor the workplace for any suspected risk of detrimental action that may occur following the report;
- implement local management strategies, in consultation with the Disclosures Coordinator, to minimise the risk of detrimental action or workplace conflict in relation to a report.

### ***Making a report to a recipient outside of NSWALC***

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 Annexure B 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 NSWALC, it is possible that your disclosure will be referred back to us so that appropriate action can be taken. To the extent possible, we will also provide appropriate support and assistance to staff who report outside of NSWALC, if we are made aware that this has occurred.

### ***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 as set out in this policy.
- 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:

- after 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.

Where you report wrongdoing to a person or authority not listed above, or do not do so in accordance with this policy, you will not be protected under the PID Act. You may also, depending on the circumstances, be in breach of your obligations to NSWALC under relevant codes of conduct, employment agreements etc. We recommend you seek independent legal advice where you intend to make a report to a person or entity not contemplated by this policy.

## **(f) 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. We recommend staff download and complete the *NSWALC Internal Reporting Form* (available on the Intranet <http://intranet/pp/Pages/Category.aspx> . Irrespective of form, having a report in writing reduces the risk of any confusion or misinterpretation, and can significantly assist us when carrying out an investigation.
- *orally* — have a private discussion with a person who can receive voluntary PIDs. This can be face-to-face, via telephone or virtually. Where the report is made in person, the receiver of the PID will then make a comprehensive record of the report and ask you to sign the record. (except for anonymous reports). You may request a copy of the record.
- *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, or provide updates on the investigation, if we cannot contact you for further information. It is also very difficult for us to provide support services or protection in circumstances where the report is made anonymously.

## **(g) 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.

## **(h) 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.

## **(i) Deeming that a report is a voluntary PID**

The CEO or their delegate can, in certain circumstances, determine 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 the Disclosure Coordinator or their delegate 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 CEO or their delegate. For more information about the deeming power, see the Ombudsman's guideline 'Deeming that a disclosure is a voluntary PID'.

## **(j) Who can I talk to if I have questions or concerns?**

If you have any questions or concerns, please contact a nominated Disclosure Officer (see Annexure A). Any questions or concerns raised with this person will be kept confidential.

Or you can contact the PID Advice Team within the NSW Ombudsman by phone: (02) 9286 1000 or email: [pidadvice@ombo.nsw.gov.au](mailto:pidadvice@ombo.nsw.gov.au)

# **2. Protections**

## **(a) 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 NSWALC that concerns serious wrongdoing relating to NSWALC has been made, NSWALC 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.

- *Mandatory reporting*

Mandatory reporting is where the public official has made a report of serious wrongdoing because they have a legal duty to make that report, or because making that report is an ordinary aspect of their role or function in an agency. For instance, under NSWALC's Fraud and Corruption Policy, councillors and staff must report all suspected cases of fraud and corruption.

- *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.

## **(b) Protections for 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
<b>Detrimental action</b> — 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.	✓	✓
<b>Right to compensation</b> — A person can initiate proceedings and seek compensation for injury, damage or loss suffered as a result of detrimental action being taken against them.	✓	✓
<b>Ability to seek injunction</b> — 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.	✓	✓
<b>Immunity from civil and criminal liability</b> — 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"> <li>• breaching a duty of secrecy or confidentiality, or</li> <li>• breaching another restriction on disclosure.</li> </ul>	✓	✓

### 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 via NSWALC’s nominated Disclosure Officers by email or telephone:

Alternatively, you can report to an integrity agency. A list of integrity agencies is located at Annexure B of this policy.

### 4. General support

NSWALC will ensure that staff who have reported wrongdoing, regardless of whether their report amounts to a voluntary PID, are provided with access to complimentary professional support services such as stress management and counselling services.

Access to support may also be available for other staff involved in the internal reporting process where appropriate. Reporters and other staff involved in the process can discuss their support options with the Disclosure Coordinator.

Staff can contact the NSWALC employee assistance program (known as ‘ACCESSEAP’) through the following contact methods:

**Phone:** 1800 81 87 28

**Website:** [www.accesseap.com.au](http://www.accesseap.com.au)

**Email:** [info@accesseap.com.au](mailto:info@accesseap.com.au)

## 5. Roles and responsibilities of NSWALC employees

Certain people within NSWALC have responsibilities under the PID Act.

### (a) Head of Agency (CEO)

Head of Agency has ultimate responsibility for maintaining the internal reporting system and workplace reporting culture and ensuring that NSWALC complies with the PID Act. The Head of Agency is responsible for:

- fostering a workplace culture where reporting is encouraged;
- receiving disclosures from public officials;
- ensuring there are systems and strategies in place for appropriately assessing disclosures;
- ensuring NSWALC complies with this policy and the PID Act;
- referring actual or suspected corrupt conduct to the Independent Commission Against Corruption (ICAC);
- ensuring that NSWALC has 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 actioncomplying with yearly reporting obligations to the NSW Ombudsman.

The Head of Agency at NSWALC is the CEO.

### (b) Disclosure Coordinator

The Disclosure Coordinator is the preferred (but not exclusive) person to whom reports can be made, and is responsible for:

- receiving and assessing reports to determine whether or not a report should be treated as public interest disclosure;
- coordinating NSWALC's response to a report;
- where the identity of the reporter is known, providing updates and feedback to the reporter;
- assessing whether it is possible and appropriate to keep the reporter's identity confidential and communicating this with the reporter;
- assessing the risk of detrimental conduct and workplace conflict related to or likely to arise out of the report, and developing strategies to manage any identified risks;

- providing and coordinating support to staff involved in the reporting and investigation process;
- ensuring that NSWALC complies with the PID Act;
- providing reports to the NSW Ombudsman in accordance with NSWALC's reporting obligations under the PID Act, including referring any detrimental action offences to the Ombudsman to determine if an investigation is warranted.
- The Disclosure Officer will also refer any allegations of detrimental action or detrimental conduct to People and Workplace for investigation and where warranted, correction action.

The Disclosure Coordinator at NSWALC is the Governance Manager.

### **(c) Disclosure Officers**

Disclosure officers are key points of contact within the internal reporting system and are responsible for:

- receiving reports (either directly from public officials or reports passed on to them by managers) and ensuring they are dealt with appropriately;
- carry out a preliminary assessment and forward reports to the Disclosure Coordinator for full assessment;
- providing advice about the reporting system and this policy;
- making arrangements to ensure staff can make reports privately and discretely
- ensuring that any oral reports that have been received are, where possible, recorded in writing and are signed and date by the reporter.

The two Governance Officers are the Disclosure Officers at Head Office. Zone Directors and the Yarpa Director will also act as Disclosure Officers in their offices.

Staff can make confidential disclosures by filling in the Public Interest Disclosure Internal Report Form and leaving the 'details of reporter' section blank.

### **(d) Managers**

Managers play an important role in managing the immediate workplace of those involved in or affected by the internal reporting process. The responsibilities of managers include:

- encouraging staff to report known or suspected wrongdoing within the organisation through providing training for staff about how to make reports;
- passing on reports they receive to a Disclosure Officer; coordinating with the Disclosure Coordinator and Disclosure Officers to implement local management strategies to minimise the risk of detrimental action or workplace conflicts; and

All Managers will receive training in line with the PID Act, alongside the Disclosure Coordinator and nominated Disclosure Officers.

### **(e) All employees**

All employees play an important role in contributing to a workplace where known or suspected wrongdoing is reported and dealt with appropriately. All employees must:



- report all known or suspected serious wrongdoing or other misconduct and support those who have made reports;
- 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 NSWALC; and
- treat any person dealing with or investigating reports of serious wrongdoing with respect.

All employees must not, in any circumstances:

- victimise, harass or take detrimental action against any person who has made, may in the future make, or is suspected of having made, a PID; and
- make reports which the employee knows is false or misleading.

Employees should be aware that it is a criminal offence under the PID Act to wilfully make a false or misleading statement when reporting wrongdoing. Such conduct may also be a breach of the NSWALC Code of Conduct and may result in disciplinary action.

## 6. How we will deal with voluntary PIDs

### (a) How we will acknowledge that we have received a report and keep the person who made it informed

When a Disclosure Coordinator or other Disclosure Officer of NSWALC receives a report which is a voluntary PID, or looks like it may be a voluntary PID, the person who made the report will receive the following information (if their identity can be known and they can be contacted, if the identity of the PID maker is not known but they can be contacted it will not be an anonymous PID and the maker is entitled to receive acknowledgments and updates):

- **You will receive an acknowledgment via email 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 deal with the report
  - provide clear information on how you can access this PID policy
  - provide you with details of a contact person and available supports
  - provide you an estimated timeframe within which you will receive further updates.
- **If the report is a voluntary PID, we will inform you via email/letter 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.
  - The Disclosure Coordinator or officer will also engage with the maker of the report whether there is any risk of detrimental action and whether they need support.

- **If we decide to investigate the serious wrongdoing, we 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 the contact person who was nominated when you made the report.**
  - 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 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.

## **(b) How we will deal with voluntary PIDs**

Once a report that may be a voluntary PID is received we 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 it is a voluntary PID, we will ensure that we comply with the requirements in the PID Act.

The initial assessment will be undertaken by the Disclosure Officer and then the Disclosure Coordinator will undertake the final assessment.

### ***Report not a voluntary PID***

Even if the report is not a voluntary PID, it will still need to be dealt with in a manner consistent with our Grievance or Complaints policies, or through an alternate process.

If the report is not a voluntary PID, we will let you know that the PID Act does not apply to the report and how we will deal with the concerns raised in the report.

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. Further, you are able to request an internal review or request that the matter be conciliated.

NSWALC's General Counsel will undertake any internal reviews requested in accordance with this policy.

We can, but do not have to, request the NSW Ombudsman to conciliate the matter.

### ***Cease dealing with report as voluntary PID***

We may stop dealing with a voluntary PID because it is not actually a voluntary PID (meaning it does not have all the features of a PID). We will notify you of our decision, including the reasons why the report does not amount to a voluntary PID.

### ***Where the report is a voluntary PID***

If the 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 involved, or the agency engaged, in serious wrongdoing. There may be circumstances where we believe an investigation is not warranted — for example, if the conduct has previously been investigated.
- 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.
- 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.

## **(c) 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 NSWALC 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 contact you prior to disclosing your identity to discuss the circumstances regarding the disclosure.

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 reporter's identity or information that could identify them;
- ensuring that any staff involved in the investigation or handling of a report (including witnesses) maintain confidentiality and do not disclose any information about the report except to those responsible for handling the report/investigation.

If confidentiality cannot be maintained or is unlikely to be maintained, we will work together with you to develop a plan to support and protect you from any real or suspected risk of detrimental action as a result of the report.

NSWALC will take steps to safeguard people's privacy by:

- updating NSWALC's risk assessment and risk management plan;
- implementing strategies to minimise the risk of detrimental action;
- providing additional supports to the person who has made the PID; and
- reminding 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.

#### **(d) How NSWALC 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:

- conducting a thorough risk assessment to identify the risk of detrimental action, as well as any indirect but related risks of workplace conflict or personal difficulties;
- identifying appropriate strategies to deal with identified risks and agree appropriate levels of protection and support with the staff member;
- where a significant risk is identified:
  - relocating the reporter or the staff member;
  - transferring the reporter or the staff member to another position for which they are qualified;

- granting the reporter or staff member leave of absence during the period in which the report is investigated.

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.

## **(e) How we will deal with allegations 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)
- investigate the allegation thoroughly to determine the appropriate course of action, which may include conducting an investigation
- take appropriate disciplinary action against anyone that has taken detrimental action (see below for corrective actions that can occur)
- refer any evidence of a detrimental action offence to the 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.

If staff members allege they are the subject of detrimental conduct, we will take all steps possible to keep the staff member informed of the progress and outcome of any investigation or other action taken in response to the allegation.

NSWALC nominated Disclosure Officers will be responsible for referring any detrimental action offences to the Ombudsman to determine if an investigation is warranted. The Disclosure Officer will also refer any allegations of detrimental conduct to People and Workplace for investigation and where warranted, corrective action.

## **(f) What NSWALC 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, NSWALC 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.

## **7. Review and dispute resolution**

### **(a) Internal review**

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

- that NSWALC is 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, including by ensuring that the review is dealt with by a person that was not substantially involved in the original decision under review.

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. The application should state the reasons why you consider the decision should not have been made. You may also submit any other relevant material with your application.

NSWALC's General Counsel will undertake the internal review. All applications for an internal review should be sent to [Legal@alc.org.au](mailto:Legal@alc.org.au). The timeframe for a review will be 20 business days.

### **(b) Voluntary dispute resolution**

If a dispute arises between NSWALC 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 NSWALC and the maker of the report are willing to resolve the dispute.

## 8. Other agency obligations

### (a) Record-keeping requirements

NSWALC must keep full and accurate records with respect to all information received in connection with the PID Act. This ensures that NSWALC complies with its obligations under the *State Records Act 1998*.

The information will be kept in a password protected computer and folder and stored for seven years.

### (b) Reporting of voluntary PIDs and NSWALC annual return to the Ombudsman

Each year NSWALC's Governance Team provides an annual return to the NSW Ombudsman which includes:

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

### (c) How we will ensure compliance with the PID Act and this policy

NSWALC is strongly committed to creating an environment of trust where staff are comfortable and confident to report wrongdoing. To ensure we comply with the PID Act and this policy, NSWALC will:

- Deal with reports thoroughly and impartially, and will take appropriate action to address any form of wrongdoing;
- Ensure managers and supervisors at all levels understand the necessity of fostering an environment that encourages reporting, are familiar with this policy and are aware of the needs and concerns of those who report wrongdoing;
- Conduct regular reviews of this policy to ensure it is relevant and effective, taking into the changing needs of those who report;
- Provide staff with adequate resources to:
  - encourage reporting;
  - protect and support reporters;
  - provide training for staff on how to report;
  - properly assess and investigate allegations;
  - manage any workplace stressors or conflicts identified in an allegation concerning a report; and
  - appropriately address any identified problems or issues with the internal reporting processes.

The Governance Team will be responsible for ensuring NSWALC's compliance with its PID Policy and Procedures and for undertaking reviews every two years.

## Annexure A — Titles of disclosure officers for NSWALC

### Head of Agency/NSWALC CEO

Yuseph Deen, Chief Executive Officer

Email: [Yuseph.Deen@alc.org.au](mailto:Yuseph.Deen@alc.org.au)

Phone: 02 9689 4444

### General Counsel

Email: [Legal@alc.org.au](mailto:Legal@alc.org.au)

### Disclosure Coordinator

Governance Manager

Email: [Governance@alc.org.au](mailto:Governance@alc.org.au)

### Disclosure Officers

Governance Officers

Email: [Governance@alc.org.au](mailto:Governance@alc.org.au)

Zone Directors will be the nominated Disclosure Officers in their offices:

- Eastern Zone
- Central Zone
- Far Western Zone
- Northern Zone
- Southern Zone

Yarpa Director is the nominated Disclosure Officer in their office.

## Annexure B — List of integrity agencies

Integrity agency	What they investigate	Contact information
<b>The NSW Ombudsman</b>	Most kinds of <b>serious maladministration</b> by most agencies and public officials (but not NSW Police, judicial officers or MPs)	<b>Telephone:</b> 1800 451 524 between 9am to 3pm Monday to Friday <b>Writing:</b> Level 24, 580 George Street, Sydney NSW 2000 <b>Email:</b> <a href="mailto:info@ombo.nsw.gov.au">info@ombo.nsw.gov.au</a>
<b>The Auditor-General</b>	<b>Serious and substantial waste of public money</b> by auditable agencies	<b>Telephone:</b> 02 9275 7100 <b>Writing:</b> GPO Box 12, Sydney NSW 2001 <b>Email:</b> <a href="mailto:governance@audit.nsw.gov.au">governance@audit.nsw.gov.au</a>



<b>Independent Commission Against Corruption</b>	<b>Corrupt conduct</b>	<p><b>Telephone:</b> 02 8281 5999 or toll free on 1800 463 909 (callers outside Sydney) between 9am and 3pm, Monday to Friday</p> <p><b>Writing:</b> GPO Box 500, Sydney NSW 2001 or faxing 02 9264 5364</p> <p><b>Email:</b> <a href="mailto:icac@icac.nsw.gov.au">icac@icac.nsw.gov.au</a></p>
<b>The Inspector of the Independent Commission Against Corruption</b>	<b>Serious maladministration</b> by the ICAC or the ICAC officers	<p><b>Telephone:</b> 02 9228 3023</p> <p><b>Writing:</b> PO Box 5341, Sydney NSW 2001</p> <p><b>Email:</b> <a href="mailto:oiicac_executive@oiicac.nsw.gov.au">oiicac_executive@oiicac.nsw.gov.au</a></p>
<b>The Law Enforcement Conduct Commission</b>	<b>Serious maladministration</b> by the NSW Police Force or the NSW Crime Commission	<p><b>Telephone:</b> 02 9321 6700 or 1800 657 079</p> <p><b>Writing:</b> GPO Box 3880, Sydney NSW 2001</p> <p><b>Email:</b> <a href="mailto:contactus@lecc.nsw.gov.au">contactus@lecc.nsw.gov.au</a></p>
<b>The Inspector of the Law Enforcement Conduct Commission</b>	<b>Serious maladministration</b> by the LECC and LECC officers	<p><b>Telephone:</b> 02 9228 3023</p> <p><b>Writing:</b> GPO Box 5341, Sydney NSW 2001</p> <p><b>Email:</b> <a href="mailto:oiiecc_executive@oiiecc.nsw.gov.au">oiiecc_executive@oiiecc.nsw.gov.au</a></p>
<b>Office of the Local Government</b>	<b>Local government pecuniary interest contraventions</b>	<p><b>Email:</b> <a href="mailto:olg@olg.nsw.gov.au">olg@olg.nsw.gov.au</a></p>
<b>The Privacy Commissioner</b>	<b>Privacy contraventions</b>	<p><b>Telephone:</b> 1800 472 679</p> <p><b>Writing:</b> GPO Box 7011, Sydney NSW 2001</p> <p><b>Email:</b> <a href="mailto:ipcinfo@ipc.nsw.gov.au">ipcinfo@ipc.nsw.gov.au</a></p>
<b>The Information Commissioner</b>	<b>Government information contraventions</b>	<p><b>Telephone:</b> 1800 472 679</p> <p><b>Writing:</b> GPO Box 7011, Sydney NSW 2001</p> <p><b>Email:</b> <a href="mailto:ipcinfo@ipc.nsw.gov.au">ipcinfo@ipc.nsw.gov.au</a></p>