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**NSW Police Force**

# **Public Interest Disclosures**

**Standard operating procedures for the principal officer,  
nominated disclosures coordinator &  
nominated disclosures officers**

**Professional Standards Command**

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## **Public Interest Disclosures - Standard operating procedures for the principal officer, nominated disclosures coordinator & nominated disclosures officers**

These standard operating procedures (**SOPs**) provide the steps to be taken by nominated members of the NSW Police Force in the management of public interest disclosures (**PIDs**) in the NSW Police Force, as per the requirements of the *Public Interest Disclosures Act 1994* (the **PID Act**).

They should be read in conjunction with the *Public Interest Disclosures – Guidelines for the NSW Police Force*, which provide definitions of terminology and relevant member roles.

### **Essential Summary**

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The principal officer, nominated disclosures coordinator and nominated disclosures officers, are the only officers within the NSW Police Force who are authorised to receive PIDs. The holders of these positions are listed below:

- principal officer: Commissioner of Police.
- nominated disclosures coordinator, being the Manager, Complaint Services, Professional Standards Command.
- nominated disclosures officers:
  - Assistant Commissioner, Professional Standards Command
  - All professional standards managers, except the professional standards manager attached to the Professional Standards Command
  - Manager, Administrative Officer Conduct Unit, Professional Standards Command.

# Document Control Sheet

## Document Properties

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3	April 2014	Corporate Advice – Policy and Projects (CAPP), Professional Standards Command	As per TRIM: D/2014/56090
4	January 2016	Misconduct Prevention Unit	Protective Marking added to document
5	June 2017	CAPP, Professional Standards Command	PIDs to be reported in writing only. NSWPF PID Database has been centralised and will be managed by the Nominated Disclosures Coordinator only.
6	December 2017	CAPP, Professional Standards Command	Update of document classification under GIPA Act 2009
7	11 January 2021	Professional Standards Command	Update security classifications
8	June 2022	Corporate Advice, Policy & Research (CAPR), Professional Standards Command	<ul style="list-style-type: none"> <li>• Minor amendments to comply with document standards</li> <li>• Replace references to NSW Ombudsman with LECC where required</li> <li>• Update link to Ombudsman reporting template</li> <li>• Add bullet points to systemic issues receipt process</li> <li>• Appendix 4 replaced with reference to Form P1136</li> </ul>

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## 1. Scope

These standard operating procedures (**SOPs**) provide the steps to be taken by nominated members of the NSW Police Force in the management of public interest disclosures (**PIDs**) in the NSW Police Force, as per the requirements of the *Public Interest Disclosures Act 1994 (the PID Act)*. They should be read in conjunction with the *Public Interest Disclosures – Guidelines for the NSW Police Force*, which provide definitions of terminology and relevant member roles.

As defined by section 4A of the PID Act, a public official is an individual who is an employee, or is otherwise in the service of a NSW public authority. For the NSW Police Force this means all police officers and administrative employees, as well as all temporary staff, contractors and Volunteers in Policing (**VIPs**).

For the purposes of this document, the term '**member of the NSW Police Force**' or '**member**' will be used to cover all public officials within the NSW Police Force. Also, the steps outlined below have been written primarily for nominated disclosures officers. However, they should also be used by the Commissioner of Police as the principal officer, or by the nominated disclosures coordinator if a report is made to them directly.

## 2. Procedures

### 2.1 Steps in the NSW Police Force assessment & management of a public interest disclosure

The following are the steps to be taken by the nominated disclosures coordinator or nominated disclosures officers in assessing and managing a PID.

The nominated disclosures coordinator and nominated disclosures officers should be aware that in terms of timeframes, the PID Act specifies that a PID should be acknowledged within 45 days of it being received with a copy of the *Public Interest Disclosures - Guidelines for the NSW Police Force* attached. It also requires that the reporter be contacted within six months of having made the report to inform them of what action will be taken or is proposed to be taken.

However, given that NSW Police Force timeframes are more stringent than PID timeframes, and given that timeframes for misconduct matters are captured by the IAPro database, the NSW Police Force will adhere to NSW Police Force timeframes in the acknowledgement and management of PIDs.

#### 2.1.1 Receipt

- The Commissioner of Police, the nominated disclosures coordinator and nominated disclosures officers are the only officers authorised to receive disclosures for the NSW Police Force for the purposes of the PID Act.
- PIDs must be made in writing. The NSW Ombudsman has uploaded a reporting template for use by internal reporters at:

[https://www.ombo.nsw.gov.au/\\_data/assets/word\\_doc/0019/12196/Template-Internal-Reporting-Form.DOCX](https://www.ombo.nsw.gov.au/_data/assets/word_doc/0019/12196/Template-Internal-Reporting-Form.DOCX)

- The Commissioner of Police must forward an internal report to their professional standards manager, being the designated nominated disclosures officer for the Commissioner's Office, within three days for assessment.
- If a PID is received by a member who is not authorised to receive them, they must not forward it to a nominated disclosures officer themselves. Instead, they must advise the internal reporter to report the matter to a nominated disclosures officer.
- If a PID is received about another NSW agency, the nominated disclosures officer must inform the member making the PID that they must make the report to the relevant agency, according to that agency's PID policy and procedures or alternatively, they must make the report to a relevant investigative agency, as defined by section 4 of the PID Act. The nominated disclosures officer should make an appropriate record of the initial report and of the advice being given to the member.

### 2.1.2 Assessment

- While assessments are made at face value using the information provided by the internal reporter, the nominated disclosures officer may need to undertake some preliminary enquiries in order to complete the assessment form. Assessment form [\[P1136\]](#) will assist with this process.
- The nominated disclosures officer must carry out an assessment of the possibility of reprisals at the outset, in conjunction with the internal reporter.
- If the report is not assessed as meeting the threshold for a PID, it must still be examined and assessed as a potential misconduct matter under the *Police Act 1990*.
- Under section 25 of the PID Act, investigative authorities such as the Law Enforcement Conduct Commission are able to refer matters which they have assessed as being PIDs to the Professional Standards Command or other relevant command. Under section 25(8), a matter referred as a PID under this section remains a PID after it is referred and a nominated disclosures officer receiving such a referral will be required to treat the report as a PID.

### 2.1.3 Administrative steps at receipt and assessment of a PID report

- As per section 6(D)(1A) of the PID Act, the nominated disclosures officer must send a letter of acknowledgement and a copy of the NSW Police Force *Public Interest Disclosures – Guidelines for the NSW Police Force* to the internal reporter. This must be done within seven days of the report being received. A form letter is attached at Appendix 1 for this purpose.
- The nominated disclosures officer must report the matter to the nominated disclosures coordinator, who will record the matter in the centralised NSW Police Force database held by the Professional Standards Command. Nominated disclosures officers will be required to provide the nominated disclosures coordinator with contemporary information on PID progress, in order to allow the nominated disclosures coordinator to keep the PID database up to date and to generate up to date reports as required.

- The nominated disclosures coordinator must examine the report to assess whether it meets the threshold test for a PID. The nominated disclosures coordinator will then write to the internal reporter to inform them of the outcome of the assessment within 21 days of the matter having been received. Form letters are attached at **Appendix 2 and 3** for this purpose. However, it should be noted that these form letters are to be used as a guide only and that each letter will need to be tailored to the individual circumstances of each report.
- If the matter is not assessed as a PID, but will be dealt with under other legislation, the nominated disclosures officer will need to provide this information to the nominated disclosures coordinator for inclusion in the PID database.
- If a PID is made about the conduct of a sworn officer, the matter must be:
  - receipted and caveated on IAPro within seven days. The 'Public Interest Disclosure' button must be ticked at entry. The date of receipt will be deemed to be the date received by the nominated disclosures officer.
  - triaged and referred to the relevant CMT to determine the most appropriate way to respond to the issues raised by the PID and to assess the matter for investigation, if it is not declined.
  - investigated under the provisions of Part 8A of the *Police Act 1990* (**the Police Act**), if it is decided that the matter requires investigation.
  - signed off by the relevant commander if it is decided that the matter will be declined, with the record including the reasoning behind the decision.
- If a PID is made about an administrative employee, temporary staff member, ministerial employee, contractor or volunteer:
  - receipted and caveated on IAPro within seven days. The 'Public Interest Disclosure' button must be ticked at entry. The date of receipt will be deemed to be the date received by the nominated disclosures officer.
  - the PSC CMT must refer the disclosure to the Manager, Administrative Officer Conduct Unit (**AOCU**). If necessary, the matter will be investigated under Part 5 of the *Government Sector Employment Act 2013* (**the GSE Act**); and
  - the matter will be added to the AOCU database as a PID.
- If a PID is made about a systemic issue which does not relate to a specific member of the NSW Police Force, the matter must be:
  - receipted and caveated on IAPro within seven days. The 'Public Interest Disclosure' button must be ticked at entry. The date of receipt will be deemed to be the date received by the nominated disclosures officer.
  - triaged and referred to the relevant CMT to determine the most appropriate way to respond to the issues raised by the PID and to assess the matter for investigation, if it is not declined.
  - investigated under the provisions of Part 8A of the *Police Act 1990* (**the Police Act**), if it is decided that the matter requires investigation.
  - signed off by the relevant commander if it is decided that the matter will be declined, with the record including the reasoning behind the decision.

- When a PID is referred to the relevant CMT, the confidentiality provisions that will apply will be those under section 22 of the PID Act.

#### 2.1.4 Investigation

A PID about a police officer is also misconduct information under Part 8A of the Police Act. A PID about an unsworn member of the NSW Police Force is also a complaint under the GSE Act. As such, if these matters are assessed as PIDs requiring investigation, they will be investigated under the provisions of Part 8A of the Police Act or Part 5 of the GSE Act, as relevant. Reports of systemic wrongdoing that do not focus on individual members will be otherwise investigated and the nominated disclosure officer who received and assessed the report as being a PID will appropriately allocate the matter for investigation.

#### 2.1.5 Investigation Timeframes

Timeframes for PID investigations will be the same as per investigations under Part 8A of the Police Act or Part 5 of the GSE Act, as relevant. However, section 27 of the PID Act states that the NSW Police Force must advise the internal reporter within six months of the report having been made of the action taken or proposed to be taken in respect of the disclosure. Therefore, if the matter is particularly complex, there is an overall timeframe of six months to completion. In these cases, investigators must make requests for extensions as per usual investigatory practice.

Nominated disclosures officers should be aware that under section 19 of the PID Act, an internal reporter is able to make their report to a Member of Parliament or journalist after six months, under specific circumstances, being that the member must have already made substantially the same disclosure to one of the following:

- the principal officer, being the Commissioner of Police
- the nominated disclosures coordinator
- nominated disclosures officer
- an investigating authority, in accordance with the PID Act.

**and**

the NSW Police Force or investigating authority that received the disclosure must have:

- decided not to investigate the matter; or
- decided to investigate the matter, but not completed the investigation within six months of the original report having been made; or
- investigated the matter but not recommended any action as a result; or
- not told the internal reporter within six months of the disclosure being made whether the matter will be investigated.

Further, the internal reporter must have reasonable grounds for believing that the disclosure was 'substantially true and it is in fact substantially true' when



making a report to a member of parliament or journalist, in order to be protected under the PID Act.

### 2.1.6 Member Support

Commanders will provide primary support for all members of the NSW Police Force affected by a disclosure. As part of the risk assessment of possible reprisal action, the nominated disclosures officer will contact the relevant commander or commanders. They will also contact the Manager, Internal Witness Support Unit (**IWSU**) and inform of the disclosure, if necessary. The matter will be assessed by that unit and dealt with as per the *Internal Witness Support Guidelines* and eligibility to join the IWSU program will be assessed as per usual processes. The internal reporter and any witnesses will also be supported by their commanders.

Other members who may be affected by the report, but who are not eligible for IWSU assistance, (including the subject officer) are to be supported by their commander. All members affected by the disclosure are also able to seek assistance from other authorised sources, such as the Employee Assistance Program (**EAP**), peer support officers, NSW Police Force chaplains or their general practitioner.

If there are multiple members who are making a report of the same occurrence of wrongdoing, they must all make individual PID reports to be protected by the provisions of the PID Act. In such cases, each individual disclosure may be brought together under one investigation, unless there are cogent reasons for this not to occur. The investigator must make a record of the reasoning behind the decision to investigate the disclosures together or separately.

## 2.2 Responding to reprisals

Nominated disclosures officers who receive a PID must respond to related reports of detrimental action, including reports of misdirected reprisal action. If the Commissioner of Police or nominated disclosures coordinator are advised of detrimental action, they must notify the relevant nominated disclosures officer immediately. However, if the nominated disclosures coordinator has managed the original report of wrongdoing, then they must respond to any related reprisal action for that report.

If the nominated disclosures officer is advised of detrimental action, they must immediately:

- advise the internal reporter's commander, who has the primary responsibility for ensuring that the internal reporter is protected from reprisals and who may choose to take interim risk management action, if necessary
- advise all other commanders who have carriage of the matter or who have members affected by the matter and who may also choose to take interim risk management action, if necessary
- advise the relevant complaint management team
- advise the nominated disclosures coordinator.

The nominated disclosures officer must allocate the matter to an appropriate investigator, who will keep the member who made the complaint of reprisal action informed of progress and of the outcome of the investigation, as per Part 8A or equivalent.

Nominated disclosures officers should be aware that if a member feels that any reprisal action is not being dealt with effectively, they have the right to contact the Law Enforcement Conduct Commission. As such, it is important to ensure that members of the NSW Police Force that have made an allegation of reprisal action are given regular updates on the progress of the investigation and are told of the investigation outcome.

Under section 20(5) of the PID Act, after an investigation into reprisal action has been completed or discontinued, the NSW Police Force must refer any evidence of the offence to the Law Enforcement Conduct Commission. If an investigation finds that reprisal action has taken place, the matter must be referred to the Office of the Director of Public Prosecutions. Under section 20(3) of the PID Act, proceedings for an offence of reprisal action may be instituted at any time within three years after the offence is alleged to have been committed.

### 2.3 Statutory Reporting

The nominated disclosures coordinator and nominated disclosures officers must keep accurate and timely records of PID reports as they are received, managed and completed. The nominated disclosures coordinator is responsible for managing the NSW Police Force database and nominated disclosures officers are responsible for providing accurate and timely information to the nominated disclosures coordinator for inclusion in the PID database. The nominated disclosures coordinator is responsible for all statutory PID reporting.

There are two types of reports mandated by the PID Act, as described below. The *Public Interest Disclosures Regulation 2011* outlines the information that must be included in these reports. These reports will be made via the Commissioner of Police for the Commissioner's information.

As of 1 January 2014 PIDs are categorised as being one of three types, as per the requirements of the *Public Interest Disclosures Amendment (Reporting) Regulation 2013*. PIDs will be categorised as:

- PIDs made by public officials in performing their day to day functions as such public officials; or
- PIDs not included in (1) above that are made under a statutory or other legal obligation; or
- all other PIDs.

These three categories will be reflected in the PID reporting databases used by the nominated disclosures coordinator.

### 2.3.1 Six-monthly reports

Section 6CA of the PID Act requires that a six-monthly report of PIDs be made to the NSW Ombudsman. These reports must be made within 30 days of the six-monthly due dates, being 30 June and 31 December of any year.

They must provide statistical information as per the NSW Ombudsman's requirements. The NSW Ombudsman has set up a secure online reporting tool for the making of six-monthly statistical reports.

### 2.3.2 Annual report

Section 31 of the PID Act requires that an annual report on PIDs be produced for the Minister for Police within four months of the end of each financial year and tabled in Parliament. A copy of this report is to be provided to the NSW Ombudsman.

The NSW Ombudsman has written a guide to writing PID annual reports, entitled *Reporting annually on public interest disclosures* which is available on the NSW Ombudsman's website.

## 2.4 Assistance for nominated disclosures officers

Nominated disclosures officers requiring assistance in any step of the PID process should contact the nominated disclosures coordinator for information and advice. The nominated disclosures coordinator will coordinate feedback and provide opportunities for nominated disclosures officers to discuss issues arising at appropriate meetings eg. professional standards managers' forums.

## 2.5 A guide for the initial meeting with an internal reporter

The following points are to assist the nominated disclosures officer in their initial meeting or discussion with the internal reporter.

Inform the internal reporter:

- they will be sent a written acknowledgement of their report and copy of the *Public Interest Disclosures – Guidelines for the NSW Police Force* within seven days.
- they will be sent further correspondence within 21 days, which will advise whether the report has been assessed as being a PID. It will also advise how the disclosure is to be dealt with by the NSW Police Force.
- if the matter is to be investigated, they will be contacted with the name of the investigator, once allocated. That investigator will contact them with any likely timeframes for any investigation and with regular updates.
- their identity will be kept confidential if possible. If there is any reason why this cannot be the case, or why it cannot continue, they will be advised prior to their identity being made known eg. if it is required for the investigation to progress or if the internal reporter will need to give evidence in a criminal matter.
- within six months of the original report having been made, they will be provided with written information about the final outcome of the matter and if relevant, advice

about whether the internal reporter will be involved as a witness in any further matters, such as in disciplinary or criminal proceedings.

Provide the internal reporter with:

- information about available support services.

Ask the internal reporter the following questions in order to initiate a risk assessment:

- How would you like to be contacted eg. home email, mobile phone, certain times of day, etc?
- What are your expectations now that you have made the report?
- Is anyone else aware of the matter? If so, whom?
- Have you discussed the matter with anyone else? If so, with whom?
- Have you made the report to anyone else? If so, to whom?
- Do you anticipate reprisals or negative consequences in the workplace as a result of the report? Are there any existing workplace issues or tensions that may be exacerbated by the report? If so, please give details.

### **3. Further information**

For further information on these SOPs and the corresponding *Public Interest Disclosure - Guidelines for the NSW Police Force*, contact the Corporate Advice, Policy & Research Team, Professional Standards Command.

## Appendix 1 – Letter of receipt

Dear [name]

I am writing to acknowledge receipt of your report of [brief description of report] at [location/unit where alleged conduct occurred] on [date of incident/s].

As a nominated disclosures officer for the NSW Police Force, I will assess your report as per the provisions of the *Public Interest Disclosure Act 1994*.

I will contact you again in the following weeks with the outcome of my assessment. In the meantime, please find attached a copy of the *Public Interest Disclosures – Guidelines for the NSW Police Force* for your information.

Sincerely

[name]

[title]

Nominated Disclosures Officer

## Appendix 2 - Assessment letter (if a PID)

Dear [name]

I am writing to inform you that as a nominated disclosures officer for the NSW Police Force, I have assessed your report of [brief description of report] at [location/unit where alleged conduct occurred] on [date of incident/s] as per the provisions of the *Public Interest Disclosures Act 1994* (the PID Act).

I have considered the information provided and determined that the report is a public interest disclosure. The matter will now be sent for triage [where?] and appropriate [investigation]. Your commander [name] has been informed of the disclosure and will provide you with support as required.

I would like to take this opportunity to thank you for reporting this matter. Reporting such matters is in the public interest and is important in maintaining the integrity of the NSW Police Force.

If you have any questions regarding any of the above information, please don't hesitate to contact me.

Sincerely

[Name]

[Title]

Nominated Disclosures Officer

## Appendix 3 - Assessment letter (if NOT a PID)

Dear [name]

I am writing to inform you that as a nominated disclosure officer for the NSW Police Force, I have assessed your report of [brief description of report] at [location/unit where alleged conduct occurred] on [date of incident/s] as per the provisions of the *Public Interest Disclosures Act 1994* (the PID Act).

I have considered the information provided and determined that the report does not meet the threshold for a public interest disclosure. [add reason for decision here]. Nevertheless, your matter will be assessed for appropriate investigation, as required.

I would like to take this opportunity to thank you for reporting this matter, which will assist in maintaining the integrity of the NSW Police Force.

If you have any questions regarding any of the above information, please don't hesitate to contact me.

Sincerely

[Name]

[Title]

Nominated Disclosures Officer